

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
JOHNNY RODRIGUEZ,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-96053

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (commission) met on September 13, 1996, to consider sworn complaint SC-96053 filed against Johnny Rodriguez (respondent). A quorum of the commission was present. Based on the investigation conducted by commission staff to date, the commission determined there was credible evidence of a violation of Section 254.064, Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this agreed resolution to the respondent.

### II. Facts Supported by Credible Evidence

Credible evidence available to the commission would support the following findings of fact:

1. At all times relevant to this complaint, the respondent was a candidate for mayor.
2. The complaint alleges that the respondent violated Section 254.064, Election Code, by failing to timely file a 30-day before election report and an 8-day before election report.
3. The respondent failed to timely file the 30-day before election report and the 8-day before election report.
4. The complainant alleges that the respondent violated Section 254.065, Election Code, by failing to file a final report.
5. The respondent did not file a final report.

### III. Conclusions of Law

The facts described in Section II would support the following findings and conclusions of law:

1. Section 254.064, Election Code, requires an opposed candidate to file a 30-day before election report by the 30th day before election day and an 8-day before election report by the 8th day before election day. The respondent filed an affidavit with the commission stating that he was not aware that he had failed to sign the Candidate Modified Reporting Declaration, which would have entitled him to file only the semiannual reports. The respondent's pre-election reports were not timely filed, and thus there is credible evidence that the respondent violated Section 254.064, Election Code.
2. Section 254.065, Election Code, authorizes a candidate to file a final report if the candidate expects no further reportable activity in connection with his or her candidacy. That section does not require that a final report be filed by any certain date. The respondent was not required to file a final report, and thus there is credible evidence that the respondent did not violate Section 254.065, Election Code.

#### **IV. Representations and Agreement by the Respondent**

By signing this ORDER and AGREED RESOLUTION and returning it to the commission:

1. The respondent neither admits nor denies the facts detailed under Section II and the commission's findings and conclusions of law detailed under Section III, and consents to the entry of this ORDER and AGREED RESOLUTION solely for the purpose of resolving and settling this sworn complaint.
2. The respondent consents to the entry of this Order before any adversarial evidentiary hearings or argument before the commission, and before any formal adjudication of law or fact by the commission. The respondent waives any right to a hearing before the commission or an administrative law judge appointed by the commission, and further waives any right to a post-hearing procedure established or provided by law.
3. The respondent acknowledges that Section 254.064, Election Code, requires an opposed candidate to file a 30-day before election report by the 30th day before election day and an 8-day before election report by the 8th day before election day. The respondent agrees to fully and strictly comply with this requirement of the law.
4. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, the respondent understands and agrees that the commission will consider the respondent to have committed the violation detailed in Section III if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

#### **V. Confidentiality**

This ORDER and AGREED RESOLUTION describes an alleged violation that the commission has determined would be neither technical nor *de minimis*. Accordingly, this ORDER and AGREED RESOLUTION is not confidential under Section 571.140, Government Code, and may be disclosed by members and staff of the Texas Ethics Commission.

**VI. Sanction**

After considering the seriousness of the violation described under Sections II and III, including the nature, circumstances, consequences, extent, and gravity of the violation; that no previous violations by this respondent are known to the commission; and after considering the sanction deemed necessary to deter future violations, the commission imposes a \$100 civil penalty for the violation described under Section III, Paragraph 1.

**VII. Order**

The Texas Ethics Commission hereby ORDERS:

1. that the portion of this sworn complaint that alleges a violation described by Section III, Paragraph 2, is dismissed;
2. that this proposed AGREED RESOLUTION be presented to the respondent;
3. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-96053;
4. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original and the \$100 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than October 15, 1996; and
5. that the executive director shall promptly refer SC-96053 to either the commission or to an administrative law judge to conduct hearings on the commission's behalf and to propose findings of fact and conclusions of law to the commission in accordance with law if the respondent does not agree to the resolution of SC-96053 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

\_\_\_\_\_  
Johnny Rodriguez, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_  
DATE

Texas Ethics Commission

By: \_\_\_\_\_  
Tom Harrison, Executive Director