

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ALEX VIDALES,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-980546

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 9, 1998, to consider Sworn Complaint SC-980546 filed against Alex Vidales, Respondent. A quorum of the commission was present. The commission voted to accept jurisdiction of this complaint. Based on the investigation conducted by commission staff, the commission determined there is credible evidence of violations of Sections 254.063 and 254.064, Election Code, laws 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. Allegations

The complainant alleged that the respondent, an opposed candidate for trustee of an independent school district, failed to timely file semiannual and pre-election reports.

III. Facts Supported by Credible Evidence

Credible evidence available to the commission supports the following findings of fact:

1. The respondent was a successful candidate for trustee of an independent school district who ran opposed in a May 3, 1997, election. The respondent filed a campaign treasurer appointment and one campaign finance report with the secretary or presiding officer of the school district's board.
2. The respondent's campaign treasurer appointment contained no modified reporting declaration and was filed on February 6, 1997. The respondent's campaign finance report was designated as a 30-day before election report, an 8-day before election report, a July 15 semiannual report, and a final report, and it was filed on May 6, 1998.
3. The report covered a period beginning on February 6, 1997, and ending on June 30, 1997, and it disclosed contributions totaling \$1,350 and expenditures totaling \$1,361.

IV. Conclusions of Law

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

1. Opposed candidates must file both semiannual and pre-election reports. Semiannual reports are due twice a year in January and July. Section 254.063, Election Code. Pre-election reports are due 30 days and 8 days before an election. Section 254.064, Election Code. The respondent's 30-day before election report, due April 3, 1997, 8-day before election report, due April 25, 1997, and July semiannual report, due July 15, 1997, were each filed late on May 6, 1998. The respondent's January semiannual report, due January 15, 1998, has not been filed. There is credible evidence that the respondent violated Sections 254.063 and 254.064, Election Code.
2. A person filing with the commission would be subject to a fine of \$10,300—\$10,000 for the late 8-day before election report and \$100 each for the late 30-day before election report and July and January semiannual reports. Sections 18.85, 18.87, 18.91(c), and 18.95(b), Texas Ethics Commission Rules.

V. Representations and Agreement by 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 III and the commission's findings and conclusions of law detailed under Section IV, 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 a candidate for trustee of an independent school district is required to timely file campaign finance reports. 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 violations detailed in Section IV, Paragraph 1, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

VI. Confidentiality

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

VII. Sanction

After considering the seriousness of the violations described under Sections III and IV, including the nature, circumstances, consequences, extent, and gravity of the violations; after considering the fact that no previous violations by this respondent are known to the commission; and after considering the sanction necessary to deter future violations, the commission imposes a \$500 civil penalty for the violations described under Section IV, Paragraph 1.

VIII. Order

The commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to the respondent;
2. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-980546;
3. 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 \$500 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than November 16, 1998; and
4. that the executive director shall promptly refer SC-980546 either to 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-980546 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 1998.

Alex Vidales, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director