

TEXAS ETHICS COMMISSION

IN THE MATTER OF
RUSSELL JONES,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-200425

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 16, 2000, and voted to accept jurisdiction of Sworn Complaint SC-200425 filed against Russell Jones, Respondent. The commission met again on August 11, 2000, to consider Sworn Complaint SC-200425. A quorum of the commission was present at both meetings. Based on the investigation conducted by commission staff, the commission determined that there is credible evidence of violations of Sections 254.063 and 254.183, 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 alleges that the respondent, a school board candidate, filed an incomplete campaign treasurer appointment and failed to file campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. The respondent was an unsuccessful candidate for school board who was opposed in the May 1, 1999, election.
2. The complainant provided a copy of a letter from the manager of a local radio station. The letter states that the respondent “ran \$85.00 worth of political radio advertising in the 1999 . . . Board of Trustees Election.”

3. The complainant also provided a copy of a letter from the local newspaper that states that the respondent “spent \$495.00 on his political advertisements at (the paper) during the period of March 24, 1999 – April 20, 1999.” The letter included copies of six invoices from the newspaper, in the respondent’s name, for political advertising.
4. The school district’s filing authority certified that the respondent has not filed any campaign finance reports.
5. The filing authority’s records reflect that the respondent filed a campaign treasurer appointment in 1999 appointing himself as treasurer and stating his intent to not accept or spend more than \$500 in connection with the election. In a facsimile transmission dated April 16, 1999, the respondent sent the first page of an amended campaign treasurer appointment naming a new campaign treasurer.
6. In a written response, the respondent states that on approximately May 3, 1999, he exceeded the \$500 modified reporting limit by \$12 when he purchased radio advertising. The respondent states that he was in error and did not realize that he had exceeded \$500. The respondent pleads “no contest” to the allegations against him.

IV. Findings and Conclusions of Law

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

1. A candidate is required to include on his or her campaign treasurer appointment the information specified by 252.002 and 252.0032. A candidate may also elect to file under a modified reporting schedule when filing a campaign treasurer appointment.
2. The respondent filed a campaign treasurer appointment in connection with the 1999 election and changed his treasurer appointment at a later date but filed only the first page of the campaign treasurer appointment form and did not re-file the modified reporting declaration page. The respondent, however, is only required to report changes to his campaign treasurer appointment and was not required to re-file a modified reporting declaration unless he wished to change his selection.
3. Therefore, there is credible evidence that the respondent did not violate Sections 252.002 and 252.0032, Election Code, for failing to file all the information required on his campaign treasurer appointment.
4. An opposed candidate must file pre-election reports by the 30th day and the 8th day before the election. Section 254.064, Election Code.

5. The pre-election reports are not required if a candidate files a written declaration of his intent not to exceed \$500 in political contributions or political expenditures in the election. Section 254.182, Election Code.
6. An opposed candidate who exceeds \$500 in political contributions or expenditures before a filing deadline must file the applicable pre-election reports. If a candidate exceeds the \$500 maximum after a pre-election filing deadline, the candidate must file a report within 48 hours after the maximum is exceeded. Section 254.183, Election Code.
7. The respondent filed a written declaration of his intent not to exceed \$500 in political contributions or expenditures. The billing statements, however, show that the respondent exceeded the \$500 maximum, and the respondent admits that he exceeded the maximum on approximately May 3, 1999, by \$12.
8. Therefore, there is credible evidence that the respondent violated Section 254.183, Election Code, by failing to file a 48-hour pre-election report.
9. A candidate must file semiannual campaign finance reports in January and July of each year. Sections 254.063, Election Code.
10. The respondent never filed a final report and, therefore, he continued to have a campaign treasurer appointment on file for the reporting periods covered by the July 1999 and January 2000 semiannual reports. The respondent, however, failed to file semiannual campaign finance reports for July 1999 and January 2000.
11. Therefore, there is credible evidence that the respondent violated Section 254.063, Election Code, by failing to file semiannual campaign finance reports.

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 described under Section III and the commission's findings and conclusions of law described 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, and further waives any right to a post-hearing procedure established or provided by law.

3. The respondent acknowledges that an opposed candidate who exceeds the \$500 maximum after a pre-election filing deadline must file a report within 48 hours after the maximum is exceeded, and that a candidate must file semiannual campaign finance reports in January and July of each year. 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 described under Section IV, Paragraphs 7 and 10, 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 violations that the commission has determined are 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 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 \$200 civil penalty for the violations described under Section IV, Paragraphs 7 and 10.

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-200425;
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 \$200 civil penalty to the

Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than September 8, 2000; and

- 4. that the executive director shall promptly refer SC-200425 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-200425 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 2000.

Russell Jones, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director