

TEXAS ETHICS COMMISSION

IN THE MATTER OF
THOMAS G. JONES,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-200849

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on September 8, 2000, and voted to accept jurisdiction of Sworn Complaint SC-200849 filed against Thomas G. Jones, Respondent. The commission met again on November 10, 2000, to consider Sworn Complaint SC-200849. 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 Section 254.063, 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. Allegations

The complainant alleges that the respondent failed to file pre-election campaign finance reports for the March 1998 primary election, failed to file semiannual campaign finance reports during the calendar years 1999 and 2000, failed to maintain a record of all reportable activity, and knowingly made or authorized a political expenditure in violation of Chapter 253, Title 15, Election Code.

III. Facts Supported by Credible Evidence

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

1. At all times relevant to this complaint, the respondent was an opposed candidate for justice of the peace in the March 10, 1998, primary election, and was also the incumbent. He was successful in the primary election. The respondent was not opposed in the November 3, 1998, general election.
2. The respondent submitted a sworn response in which he states that:

Any and all filed campaign finance reports were prepared by Mr. Dodd. However, I have now determined that I will personally prepare and file all required campaign finance Reports. I do not believe the problems that exist are the result of willful conduct and/or conscious indifference for the disclosure rules and regulations.

Second, I deny, in all respects, Ms. Crenshaw's allegations that I violated Section 253.004 of the Texas Election Code in any manner described in her complaint.

3. At the Texas Ethics Commission's request, the Dallas County Elections Administrator furnished the Texas Ethics Commission copies of the respondent's January 1999, July 1999, January 2000, and July 2000 semiannual reports, which were all stamped as having been received on August 24, 2000, and none of which were signed. The Dallas County Elections Administrator certified that these reports constitute all of the reports filed by the respondent during that time period that are in his possession.

IV. Findings and Conclusions of Law

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

1. An opposed candidate must file pre-election reports by the 30th day and the 8th day before the election. Section 254.064, Election Code.
2. A person commits an offense that is a Class C misdemeanor if the person knowingly fails to file a report on time. Section 254.041, Election Code. Ethics Commission rules prohibit the commission from considering an allegation barred from criminal prosecution by operation of the applicable statute of limitations. Section 12.5(3), Ethics Commission Rules. The statute of limitations for Class C misdemeanors is two years from the date of the commission of the offense. Article 12.02, Code of Criminal Procedure. Allegations relating to the 30-day and 8-day before election campaign finance reports for the 1998 primary election are based on alleged offenses that occurred more than two years before the complaint was filed (August 4, 2000), and are therefore not within the commission's sworn complaint jurisdiction.
3. A candidate must file semiannual reports by January 15th and July 15th of each year. Section 254.063, Election Code. The respondent's affidavit states that he filed a campaign treasurer appointment in January 1990 and the records reflect that a campaign treasurer appointment has remained in effect since that time. Therefore, he has been a candidate since 1990 and was required to file semiannual campaign finance reports in 1999 and 2000.
4. The respondent's January 1999, July 1999, January 2000, and July 2000 semiannual reports are each stamped as having been received on August 24, 2000, by the Dallas County Elections Department. None of the reports are signed. The Dallas County Elections Administrator certified that he possessed no other reports filed by the respondent during the period in question. There is credible evidence that the reports were not filed by the due dates. Therefore, there is credible evidence that the respondent violated Section 254.063, Election Code.
5. Each candidate is required to maintain a record of all reportable activity. Section 254.001, Election Code. A filer is not required to file this record with the filer's report. The complainant did not submit any evidence that the respondent has failed to maintain a record

of all reportable activity. Therefore, there is no evidence that the respondent violated Section 254.001, Election Code.

6. A person may not knowingly make or authorize a political expenditure in violation of Chapter 253, Title 15, Election Code. Section 253.004, Election Code. The complainant did not submit any evidence that the respondent knowingly made or authorized a political expenditure in violation of Chapter 253, Election Code. The respondent denies that he violated Section 253.004, Election Code. There is no evidence that the respondent violated Section 253.004, Election Code.

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. 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, Paragraph 4, 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 civil penalty of \$800 for the violations described under Section IV, Paragraph 4.

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-200849;
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 \$800 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than December 8, 2000; and
4. that the executive director shall promptly refer SC-200894 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-200894 as proposed in this ORDER and AGREED RESOLUTION.

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

Thomas G. Jones, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____

Tom Harrison, Executive Director