

TEXAS ETHICS COMMISSION

IN THE MATTER OF
STEPHEN P. ODOM,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-220463

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on July 12, 2002, and voted to accept jurisdiction of Sworn Complaint SC-220463 filed against Stephen P. Odom, Respondent. The commission met again on August 16, 2002, to consider Sworn Complaint SC-220463. 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 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. Allegations

The complainant alleges that the respondent failed to timely file an 8-day before election campaign finance report.

III. Facts Supported by Credible Evidence

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

1. The respondent was a candidate for justice of the peace in Callahan County.
2. The complainant submitted a copy of the respondent's 8-day before election report.
3. The 8-day before election report shows that it was filed with the local filing authority on April 2, 2002.
4. The respondent reported accepting \$500 in un-itemized campaign contributions and making \$558.19 in political expenditures during the reporting period.

5. The respondent submitted a sworn response in which the respondent states that he filed the 8-day before election report one day late because the respondent brought his invalid son home from a fifty-seven day hospital stay on April 1 and that the respondent had to stay with his son that day.

IV. Findings and Conclusions of Law

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

1. An opposed candidate is required to file a report not later than the eighth day before the election. Section 254.064(c), Election Code.
2. For the April 9, 2002, primary runoff election, the 8-day before election report was due by April 1, 2002.
3. The respondent filed his report with the local filing authority on April 2, 2002.
4. There is credible evidence that the respondent violated Section 254.064, Election Code, by filing the 8-day before election report late.
5. Ethics Commission Rules authorize waiver of a fine for an untimely report if the report was filed late because of a medical emergency or condition that involved a family member of the filer. Ethics Commission Rule 18.23(a)(1).

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 is required to file a campaign finance report not later than the eighth day before the election. 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 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 a violation that the commission has determined is not technical or *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. No Sanction

After considering the seriousness of the violation described under Sections III and IV, including the nature, circumstances, consequences, extent, and gravity of the violation, after considering the fact that no previous violations by this respondent are known to the commission, after considering the fact that the report was late because of a medical condition involving the respondent's son, and after considering the sanction necessary to deter future violations, the commission imposes no civil penalty for the violation 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-220463;
3. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than September 13, 2002; and
4. that the executive director shall promptly refer SC-220463 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-220463 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 20__.

Stephen P. Odom, Respondent

EXECUTED ORIGINAL received by the commission on: _____.
Texas Ethics Commission

By: _____
Tom Harrison, Executive Director