

TEXAS ETHICS COMMISSION

IN THE MATTER OF

WILLIAM JOSEPH MOYLAN, JR.,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-240576

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission met on July 16, 2004, to consider sworn complaint SC-240576. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 254.064 of the Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegation

The complainant alleges that the respondent, an opposed, and ultimately unsuccessful, candidate for Weatherford City Council in a May 15, 2004, election, failed to file pre-election reports in connection with the election.

III. Facts Supported by Credible Evidence

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

1. The respondent was an opposed, and ultimately unsuccessful, candidate for Weatherford City Council in a May 15, 2004, election.
2. The respondent submitted an affidavit in which he swears that he thought he was not required to file pre-election reports because he did not intend to spend more than \$500 in his campaign. The Weatherford City Secretary provided a copy of a campaign treasurer appointment that the respondent filed on March 15, 2004. The appointment did not include the second page of the form. In order to select modified reporting and avoid the requirement to file pre-election reports, an opposed candidate must complete and submit the second page of the campaign treasurer appointment form.
3. The Weatherford City Secretary provided a copy of a report the respondent filed in June 2004. The report shows that the respondent accepted \$50 in political contributions and made political expenditures of \$125 in connection with the May 15, 2004, election.

IV. Findings and Conclusions of Law

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

1. An opposed candidate in an election is required to file a 30-day pre-election report and an 8-day pre-election report in connection with the election unless the candidate selects modified reporting and remains eligible for modified reporting. ELEC. CODE § 254.064; ch. 254, subch. G. An opposed candidate may select modified reporting if he does not intend to exceed \$500 in political contributions or political expenditures in connection with an election. ELEC. CODE §§ 254.181, 254.182.
2. Because the respondent did not select modified reporting, he was required to file a 30-day and an 8-day pre-election report. The respondent did not file any reports before the May 15, 2004, election. Therefore, there is credible evidence that the respondent violated section 254.064 of the Election Code by failing to file a 30-day and an 8-day pre-election report by the applicable filing deadline.

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 or 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 this sworn complaint.
2. The respondent consents to this order and agreed resolution and waives any right to further proceedings in this matter.
3. The respondent acknowledges that an opposed candidate in an election is required to file a 30-day pre-election report and an 8-day pre-election report in connection with the election unless the candidate selects modified reporting and remains eligible for modified reporting. The respondent agrees to fully comply with this requirement of the law.

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 commission.

VII. Sanction

After considering the seriousness of the violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$100 civil penalty for the violation described under Section IV.

VIII. Order

The commission hereby orders that if the respondent consents to the proposed resolution, this order and agreed resolution is a final and complete resolution of SC-240576.

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

William Joseph Moylan, Jr., Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Sarah Woelk, Acting Executive Director