

TEXAS ETHICS COMMISSION

IN THE MATTER OF
EDDIE JOHN VOGT,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-250211

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission met on July 14, 2005, to consider sworn complaint SC-250211. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.063 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. Allegations

1. The complaint alleges that the respondent failed to file the semiannual campaign finance reports due January and July 2003, January and July 2004, and January 15, 2005, in violation of section 254.063 of the Election Code.
2. The complaint also alleges that the respondent failed to account for the payment of a March 2002, \$2,000 loan in violation of section 254.031 of the Election Code.
3. The complaint also alleges that the respondent failed to fill in the boxes asking for the number of pages of the report and for the filer's name on his April 1, 2002, runoff report and on his July 15, 2002, semiannual report.

III. Facts Supported by Credible Evidence

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

1. The respondent is a county judge.
2. The respondent submitted an affidavit stating that it was his belief that if he did not accept more than \$500 in political contributions or make more than \$500 in political expenditures that he was not required to file semiannual reports. His affidavit states that he now understands that he is subject to the semiannual filing requirement and that he will file all previous reports not filed and file future reports on a timely basis. The respondent submitted

copies of the semiannual reports due from January 2003 through January 2005. They all show no activity. They are all file-stamped as filed on March 4, 2005, with the county clerk. His affidavit states that he missed the section on entering his name and the number of pages on the reports. The respondent filed a corrected July 15, 2002, semiannual report on May 17, 2005, disclosing the repayment of a March 2002 loan.

IV. Findings and Conclusions of Law

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

1. Because the respondent has never filed a final report terminating his campaign treasurer appointment he is still a candidate. ELEC. CODE §§ 251.001 and 254.065. A candidate is required to file a semiannual report by January 15 and July 15 of each year. *Id.* § 254.063. The respondent admits he did not file the July 15, 2003, January 15, 2004, July 15, 2004, and January 15, 2005, semiannual reports because he did not think he was required to. Therefore, there is credible evidence that the respondent violated section 254.063 of the Election Code with regard to those reports.
2. A person commits an offense that is a Class C misdemeanor if the person knowingly fails to include required information in a campaign finance report. *Id.* § 254.041. Ethics Commission rules prohibit the commission from considering an allegation barred from criminal prosecution by operation of the applicable statute of limitations. Ethics Commission Rules § 12.5(3). The statute of limitations for Class C misdemeanors is two years from the date of the commission of the offense. Code of Criminal Procedure Article 12.02. Allegations relating to the two reports filed before February 11, 2003, are based on alleged offenses that occurred more than two years before the complaint was filed (February 11, 2005), and are therefore not within the commission's sworn complaint jurisdiction.

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 a candidate is required to file a semiannual report by January 15 and July 15 of each year. The respondent agrees to comply with this requirement of the law.

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 of the 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, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a \$400 civil penalty for the violations described under Sections III and 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-250211.

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

Judge Eddie John Vogt, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director