

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JAMES SMITH,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2605146

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 2, 2007, to consider sworn complaint SC-2605146. 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. Allegations

The complaint alleges that the respondent failed to report contributions on his 30-day pre-election campaign finance report. The complaint also alleges that the respondent failed to timely file his 8-day pre-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's April 13, 2006, 30-day pre-election campaign finance report filed with the school district disclosed no political contributions. All political expenditures disclosed on this report are disclosed as political expenditures from personal funds.
2. The respondent did not accept any political contributions during the period covered by the 30-day pre-election campaign finance report.
3. The respondent's 8-day pre-election campaign finance report was due on May 5, 2006.
4. The records of the school filing authority show that the 8-day pre-election campaign finance report was filed on May 17, 2006, which was after the election.

5. That report disclosed \$1,500 of political contributions, \$6,144 of political expenditures, and \$1,000 of cash-on-hand.

IV. Findings and Conclusions of Law

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

1. Each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).
2. The respondent did not accept any political contributions during the period covered by the April 13, 2006, 30-day pre-election campaign finance report. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code.
3. For each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file a report not later than the eighth day before election day. ELEC. CODE § 254.064.
4. The respondent was an opposed candidate in the May 13, 2006, election. The respondent failed to file his 8-day pre-election campaign finance report until four days after the election. Therefore, there is credible evidence of a violation of section 254.064 of the 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 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 in addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file a report not later than the eighth day before election day. The respondent agrees to 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 \$500 civil penalty for the violation 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-2605146.

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

James Smith, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director