

TEXAS ETHICS COMMISSION

IN THE MATTER OF
PRINCE H. MCDOWELL,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-270221

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 25, 2007, to consider sworn complaint SC-270221. A quorum of the commission was present. The commission determined that there is credible evidence of a violation 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

The complaint alleges that the respondent failed to file semiannual campaign finance reports, or in the alternative, failed to file reports of unexpended contributions.

III. Facts Supported by Credible Evidence

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

1. The respondent was an unsuccessful candidate for Lancaster City Council in an election held on May 7, 2005.
2. On May 2, 2005, the respondent filed an 8-day pre-election report disclosing contributions totaling \$1,500, expenditures totaling \$442.63, and contributions maintained totaling \$375.
3. The period covered by the 8-day pre-election report was April 8, 2005, through April 29, 2005.
4. The 8-day pre-election report was not designated as a final report.
5. As of the date of the complaint, the 8-day pre-election report filed May 2, 2005, was the last report filed by the respondent.

6. The respondent filed a final report with the local filing authority on April 12, 2007, covering the period of March 5, 2005, through July 15, 2005. The report was incomplete and failed to cover the correct period.

IV. Findings and Conclusions of Law

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

1. A candidate shall file two semiannual campaign finance reports for each year. The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed and continuing through June 30. The second report shall be filed not later than January 15. The report covers the period beginning July 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, and continuing through December 31. ELEC. CODE § 254.063.
2. An unsuccessful candidate remains a candidate for purposes of title 15 of the Election Code reporting requirements until the candidate files a final report. ELEC. CODE § 254.065.
3. The respondent did not file a final report after the May 2005 election. Therefore, the respondent was required to file the July 2005, January 2006, July 2006, and January 2007 semiannual reports. The respondent did not file those reports. Therefore, there is credible evidence of violations of section 254.063 of the Election Code.
4. A former officeholder or candidate shall file an annual report of unexpended contributions not earlier than January 1 or later than January 15 of each year following the year in which the person files a final campaign finance report. ELEC. CODE §§ 254.201, 254.202. In addition, a report of final disposition is due not later than six years and 30 days after a person ceases to be an officeholder or candidate who files a final campaign finance report. ELEC. CODE § 254.205.
5. The respondent was an unsuccessful candidate and never filed a final campaign finance report. Thus, the respondent was not required to file reports of unexpended contributions or a report of final disposition. Therefore, there is credible evidence of no violation of sections 254.201, 254.202, and 254.205 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 an unsuccessful candidate remains a candidate for purposes of title 15 of the Election Code reporting requirements until the candidate files a final report. The respondent acknowledges that a candidate shall file two semiannual campaign finance reports for each year. The first report shall be filed not later than July 15. The report covers the period beginning January 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed and continuing through June 30. The second report shall be filed not later than January 15. The report covers the period beginning July 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, and continuing through December 31. The respondent agrees to comply with these requirements 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 \$500 civil penalty.

The respondent agrees that the Texas Ethics Commission, P. O. Box 12070, Austin, Texas 78711, must receive from the respondent full payment of the \$500 civil penalty no later than March 17, 2008, and agrees to waive any right to a hearing related to this sworn complaint. The respondent agrees that if the full amount is not received by March 17, 2008, the matter of the collection of the civil penalty will be referred to the Office of the Attorney General of Texas.

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-270221.

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

Prince H. McDowell, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director