

TEXAS ETHICS COMMISSION

IN THE MATTER OF

ALBERT E. "AL" EDWARDS,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-2802105

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 10, 2008, to consider sworn complaint SC-2802105. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.064 and 254.183 of the Election Code, laws 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 exceeded the \$500 limit for modified reporting and subsequently failed to timely file his 30-day pre-election campaign finance report for the March 4, 2008, primary election.

III. Facts Supported by Credible Evidence

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

1. During the time in question, the respondent was a former state representative and a candidate for that office.
2. On January 14, 2008, the respondent filed a campaign treasurer appointment electing modified reporting.
3. The 30-day pre-election report for the March 4, 2008, primary election was due February 4, 2008.

4. On February 7, 2008, the respondent filed a 30-day pre-election report covering the period of January 1, 2008, through January 24, 2008. The report disclosed \$25,150 in political contributions, and \$11,773.90 in political expenditures.
5. Before the sworn complaint was filed, the respondent filed an affidavit with the commission seeking a waiver or reduction of the administrative penalty that was assessed because the report was filed late.
6. At its April 2008 meeting, the commission considered but declined the respondent's request for a waiver or reduction of the \$500 late-filing penalty.
7. On May 19, 2008, the commission received payment of the \$500 late-filing penalty.

IV. Findings and Conclusions of Law

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

1. An opposed candidate who does not intend to accept political contributions that in the aggregate exceed \$500 or to make political expenditures that in the aggregate exceed \$500 in connection with the election may elect modified reporting. ELEC. CODE § 254.181.
2. If the candidate exceeds \$500 in political contributions or political expenditures before the due date for a 30-day pre-election report, the candidate shall file that report by the due date. ELEC. CODE § 254.183.
3. The 30-day pre-election report must be received by the authority with whom the report is required to be filed no later than the 30th day before election day and cover the period beginning 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 under this chapter, as applicable, and continuing through the 40th day before election day. ELEC. CODE § 254.064(b).
4. The respondent elected modified reporting. The evidence indicates that the respondent filed a 30-day pre-election report disclosing activity that exceeded the \$500 maximum limits to qualify for modified reporting. Thus, the respondent was required to timely file the 30-day pre-election report. The report was due on February 4, 2008. The respondent filed the report on February 7, 2008, three days late. Therefore, there is credible evidence that the respondent violated sections 254.064 and 254.183 of the Election Code.
5. The commission considered the late filing of the report at issue in the administrative process and assessed and collected a \$500 penalty. Historically, the commission does not assess an

additional late filing penalty in the sworn complaint process for a report that has been considered for that same reason in the administrative process.

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 if a candidate elects modified reporting and exceeds \$500 in political contributions or political expenditures before the due date for a 30-day pre-election report, the candidate shall file that report by the due date. The respondent also acknowledges that the 30-day pre-election report must be received by the authority with whom the report is required to be filed no later than the 30th day before election day and cover the period beginning 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 under this chapter, as applicable, and continuing through the 40th day before election day. 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. No Sanction

After considering the seriousness of the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, the sanction necessary to deter future violations, and prior commission action on this issue through the administrative process, the commission imposes no civil penalty.

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-2802105.

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

Albert E. "Al" Edwards, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director