

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
FRED KEEFER,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-280259

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on October 13, 2008, to consider sworn complaint SC-280259. 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 and section 571.1242 of the Government 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. Allegation

The complaint alleges that the respondent failed to file a 30-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 was a candidate in the March 2008 Democratic primary election for the office of Constable, Precinct Four in Milam County.
2. The respondent filed a campaign treasurer appointment on September 13, 2007, in which he selected modified reporting. The respondent filed a report marked as a January 2008 semiannual report on January 15, 2008, disclosing \$20 in political contributions and \$864.64 in political expenditures.
3. The respondent had an opponent on the ballot in the March 2008 primary election.
4. The 30-day pre-election report for the March 2008 primary election was due on February 4, 2008.

5. The respondent filed a report marked as an 8-day pre-election report on February 25, 2008. The report covered a period beginning on January 1, 2008, and ending on February 23, 2008. The report disclosed \$468 in political contributions and \$1,430.05 in political expenditures.
6. The respondent filed a corrected report on March 20, 2008, covering a period beginning on January 1, 2008, and ending on February 23, 2008. The report lists under explanation of correction, "Checked box to included [sic] 30th day before election report." The report contains a copy of Form C/OH with both the 30th day before election and the 8th day before election boxes checked, but with no other changes made.
7. The respondent received notice of sworn complaint SC-280259 on March 8, 2008.
8. The respondent failed to file a response to sworn complaint SC-280259 despite written notice and both written and telephone communications with the Texas Ethics Commission.

#### **IV. Findings and Conclusions of Law**

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

1. 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 two reports. The first report must be filed not later than the 30th day before election day. The second report must be filed no later than the 8th day before election day. ELEC. CODE § 254.064.
2. An opposed candidate is not required to file pre-election campaign finance reports if the candidate 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 and elects modified reporting. ELEC. CODE § 254.181.
3. If an opposed candidate exceeds \$500 in political contributions or \$500 in political expenditures the candidate must file pre-election reports. ELEC. CODE § 254.183.
4. The respondent was an opposed candidate in the March 2008 primary election. The respondent chose modified reporting when he filed his campaign treasurer appointment. The respondent exceeded the \$500 threshold for political expenditures and was required to file a 30-day pre-election report by February 4, 2008.
5. The respondent filed an 8-day pre-election report and on March 20, 2008, made a correction to that report to designate it as his 30-day pre-election report. Therefore, there is credible evidence of a violation of section 254.064 of the Election Code.

6. A respondent must respond to the notice of a Category One violation not later than the 10th business day after the date the respondent receives the notice. Failure to respond to a notice of sworn complaint within the time required is a separate Category One violation. GOV'T CODE § 571.1242.
7. The respondent received the sworn complaint notice on March 8, 2008. The notice stated that the respondent was required to respond within 10 business days from receipt of the notice. As of the date of this order, the respondent has not filed a response. Therefore, there is credible evidence of a violation of section 571.1242 of the Government 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 opposed candidate who selects modified reporting and exceeds \$500 in political contributions or political expenditures shall file pre-election reports as required by statute. The respondent also 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 candidate must file pre-election reports 30 days and 8 days before the election. Finally, the respondent acknowledges that a respondent must respond to a sworn complaint notice of a Category One violation within 10 business days of receiving the notice of the sworn complaint. 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 \$300 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 \$300 civil penalty no later than July 17, 2009, and agrees to waive any right to a hearing related to this sworn complaint. The respondent agrees that if the full amount of the civil penalty is not received by the Texas Ethics Commission by July 17, 2009, 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-280259.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Fred Keefer, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
David A. Reisman, Executive Director