

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ELIAS MALDONADO,
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-2811376

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 6, 2009, to consider sworn complaint SC-2811376. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.063 and 254.064 of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaint alleges that the respondent failed to timely file campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. The respondent was a successful incumbent candidate for Maverick County Commissioner, Precinct 1, in a primary election held on March 4, 2008; a primary runoff election held on April 8, 2008; and a general election held on November 4, 2008. The respondent was unopposed in the general election. The complaint alleged that the respondent failed to file campaign finance reports for the elections in 2008.
2. Maverick County received the respondent's campaign treasurer appointment on January 3, 2008. The appointment indicates that the respondent signed the appointment on December 29, 2007. The respondent did not elect modified reporting in his appointment. The respondent did not file any additional campaign finance reports with the county until his final report was filed on December 19, 2008, after the complaint was filed.
3. The respondent's final report covered a period from November 1, 2007, to April 30, 2008. It disclosed the following:

- \$7,000 in total political contributions
 - \$10,104.78 in total political expenditures
 - \$3,104.78 in total principal amount of outstanding loans
4. In response to the allegations, the respondent swore that he filed his campaign finance reports, that “this was an oversight on my part,” and that he “did not have any intention to avoid the election code procedures.”

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 a campaign finance report by January 15 and July 15 of each year. ELEC. CODE § 254.063.
2. 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. *Id.* § 254.064(a). The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. *Id.* § 254.064(b). The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. *Id.* § 254.064(c). An opposed candidate in a runoff election shall file one report for that election and the report must be received by the authority with whom the report is required to be filed not later than the eighth day before runoff election day. *Id.* § 254.064(e). If a candidate selects modified reporting and does not exceed a statutory threshold, the candidate is not required to file pre-election reports. *Id.* § 254.181(a).
3. On January 3, 2008, the respondent filed a campaign treasurer appointment with the Maverick County Clerk. As an opposed candidate in both the March 4, 2008, primary election and the April 8, 2008, primary runoff election, the respondent was not entitled to file under the modified reporting schedule. Thus, the respondent was required to file 30-day and 8-day pre-election reports for the primary and a pre-election report for the runoff. The respondent did not file the required reports until December 19, 2008. Therefore, there is credible evidence that the respondent violated section 254.064 of the Election Code.
4. The respondent maintained his campaign treasurer appointment through the general election, in which he was unopposed. Thus, the respondent was required to file a report by July 15, 2008, but was not required to file any pre-election reports for the November 4, 2008, general election. The respondent did not timely file the July 2008 semiannual report. Therefore, there is credible evidence that the respondent violated section 254.063 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 a candidate shall file a campaign finance report by January 15 and July 15 of each year. The respondent also acknowledges that, 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 that must be received by the authority with whom the report is required to be filed not later than the 30th day before election day and a report that must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The respondent also acknowledges that an opposed candidate in a runoff election shall file one report for that election and the report must be received by the authority with whom the report is required to be filed not later than the eighth day before runoff 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. 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 \$2,000 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-2811376.

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

Elias Maldonado, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director