

# TEXAS ETHICS COMMISSION

IN THE MATTER OF

GARY RITCHIE,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31010374

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on February 23, 2011, to consider sworn complaint SC-31010374. 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 proposed this resolution to the respondent.

### II. Allegations

The complaint alleged that the respondent failed to timely file a campaign finance report, failed to disclose address and campaign treasurer information in the report, and used the incorrect form to file the report.

### III. Facts Supported by Credible Evidence

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

1. The respondent was an opposed incumbent candidate for Justice of the Peace, Precinct 6, Tarrant County, in the November 2, 2010, general election.
2. The complaint included a copy of the respondent's 8-day pre-election report that indicated it was received by the county at 3:48 PM on October 26, 2010, and was notarized on October 25, 2010. The report covered the period from September 3, 2010, to October 23, 2010, and disclosed the following:
  - \$0 in total political contributions of \$50 or less
  - \$2,850 in total political contributions

- \$200.10 in total political expenditures of \$50 or less
  - \$1,189.01 in total political expenditures
  - \$4,044.63 in total political contributions maintained
  - \$0 in outstanding loans
3. The cover page of the report disclosed the name of the respondent's campaign treasurer, but the sections of the form used to disclose the mailing address and phone number of the candidate and the campaign treasurer included marks that suggested that those sections of the form contained information that was obscured when the page was copied.
  4. The report was filed on the commission's JC/OH form, which is required to be used by candidates for and holders of offices specifically subject to the Judicial Campaign Fairness Act in title 15 of the Election Code.
  5. In response to the allegations, the respondent admitted that the report was filed a day after the deadline. He swore:

Over the years, the Elections Administrator's Office has, as a courtesy, emailed office holders in this County a reminder when reports are due. In the email I received concerning the report due 30 days prior to the election, the "8<sup>th</sup> day" requirement was also included as a reminder, and I missed it. I was a day late and I accept full responsibility. The distractions of running a re-election campaign may be a contributing factor, but certainly not an excuse.
  6. The respondent denied that he failed to include his address and his campaign treasurer's address and phone number in the report. He included an affidavit from the respondent's campaign treasurer, which stated, in pertinent part:

I prepared that Campaign Finance Report and included all the required information as always. Attached is a certified copy of the Campaign Finance Report file-marked on October 26, 2010, as proof.

On the copy submitted by [the complainant], it appeared to have the addresses and telephone numbers of the officeholder and the treasurer blanked-out.
  7. The campaign treasurer also swore that she spoke with an employee in the Tarrant County Elections Office, who informed her that the addresses and phone numbers are redacted from electronic copies. The respondent submitted a copy of the report at issue that included the respondent's full address and the full address and phone number of the campaign treasurer.

8. The respondent also swore that he was confused about which form is required to be used for his office and that other candidates for justice of the peace in Tarrant County used the same form (JC/OH) to file their reports.

#### IV. Findings and Conclusions of Law

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

1. 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 two reports. ELEC. CODE § 254.064(a). A 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. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. *Id.* § 254.064(c).
2. Each report by a candidate must include the candidate's full name and address and the campaign treasurer's name, residence or business street address, and telephone number. *Id.* §§ 254.061(1), (2).
3. Each report filed under this chapter with an authority other than the commission must be in a format prescribed by the commission. *Id.* § 254.036(a).
4. All reports must be filed in a format prescribed by the commission. Ethics Commission Rules § 20.19.
5. The respondent was an opposed candidate in the November 2, 2010, general election and was required to file a pre-election campaign finance report by October 25, 2010. The report was filed on October 26, 2010. Therefore, there is credible evidence that the respondent violated section 254.064(c) of the Election Code by filing a late pre-election report.
6. The report at issue included the respondent's address and the campaign treasurer's address and telephone number at the time it was filed with the county. Therefore, there is credible evidence that the respondent did not violate sections 254.061(1) or (2) of the Election Code.
7. The respondent filed the report at issue on the commission's JC/OH form instead of the C/OH form. The JC/OH form is used by candidates for and holders of certain judicial offices, which does not include the office of justice of the peace. However, all of the information required by the C/OH form is also required by the JC/OH form. Thus, using the JC/OH form instead of the C/OH form would not have caused the respondent to omit required information and did not substantially affect disclosure. Therefore, there is credible

evidence that the respondent did not violate section 254.036(a) of the Election Code or section 20.19 of the Ethics Commission Rules.

### **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, 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 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 \$250 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-31010374.

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

\_\_\_\_\_  
Gary Ritchie, Respondent

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

Texas Ethics Commission

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