

TEXAS ETHICS COMMISSION

IN THE MATTER OF
KENNETH FARRIMOND,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31105133

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 11, 2011, to consider sworn complaint SC-31105133. A quorum of the commission was present. The commission determined that there is credible evidence of violations 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 pre-election 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 an opposed candidate for city council of Olmos Park, Texas in a May 14, 2011, election.
2. The complaint alleged that the respondent failed to file pre-election reports that were due on April 14, 2011, and May 6, 2011.
3. The respondent filed a campaign treasurer appointment with the city secretary of Olmos Park on March 11, 2011. The appointment indicated that the respondent sought the office of "city council person" and did not choose to follow the modified reporting schedule.
4. The respondent filed a 30-day pre-election report on May 10, 2011. The report covered the period from March 30, 2011, to April 14, 2011, and disclosed the following:

- \$0 in total political contributions of \$50 or less
 - \$5,274.42 in total political contributions
 - \$0 in total political expenditures of \$50 or less
 - \$3,799.69 in total political expenditures
 - \$1,474.73 in total political contributions maintained
 - \$0 in total principal amount of outstanding loans
5. On May 12, 2011, the respondent filed an 8-day pre-election report that covered the period from April 15, 2011, to May 11, 2011, and disclosed the following:
- \$0 in total political contributions of \$50 or less
 - \$850 in total political contributions
 - \$0 in total political expenditures of \$50 or less
 - \$497.41 in total political expenditures
 - \$601.80 in total political contributions maintained
 - \$0 in total principal amount of outstanding loans
6. The respondent filed a final report on May 19, 2011. The report covered the period from March 30, 2011, to May 19, 2011, and disclosed the following:
- \$0 in total political contributions of \$50 or less
 - \$4,900 in total political contributions
 - \$0 in total political expenditures of \$50 or less
 - \$4,836.68 in total political expenditures
 - \$63.32 in total political contributions maintained
 - \$0 in total principal amount of outstanding loans
7. The final report disclosed two political expenditures totaling approximately \$540 with dates of May 14, 2011. All of the remaining political contributions and political expenditures in the final report were disclosed in pre-election 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). 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. The report covers 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. *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. 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. The respondent filed a campaign treasurer appointment as a candidate for city council of the City of Olmos Park on March 11, 2011. The respondent was opposed by a candidate whose name appeared on the ballot in the election. The respondent was not entitled to use the modified reporting schedule. Thus, the respondent was required to file a 30-day pre-election report no later than April 14, 2011. The report was not filed until May 10, 2011. Therefore, there is credible evidence that the respondent violated section 254.064(b) of the Election Code.
3. The respondent was also required to file an 8-day pre-election report no later than May 6, 2011. The report was not filed until May 12, 2011. Therefore, there is credible evidence that the respondent violated section 254.064(c) 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, 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 received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers 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 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. The report covers the period beginning the 39th day before election day and continuing through the 10th 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. 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.

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-31105133.

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

Kenneth Farrimond, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director