

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
MICHAEL S. WHITT,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-31406139

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (Commission) met on February 12, 2015, to consider sworn complaint SC-31406139. 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 did not file pre-election campaign finance reports as required by section 254.064 of the Election Code.

### III. Facts Supported by Credible Evidence

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

1. The complaint alleged that the respondent did not file his 30-day and 8-day pre-election reports for the May 10, 2014, uniform election.
2. The respondent was an opposed candidate for mayor in Haskell, Texas, in the May 10, 2014, uniform election. On or around February 24, 2014, the respondent filed a campaign treasurer appointment with the City of Haskell and elected to file reports on a modified reporting schedule.
3. In response to the complaint, the respondent filed the 30-day and 8-day pre-election reports for the May 10, 2014, uniform election with the Haskell City Secretary on July 10, 2014. The 30-day pre-election report disclosed total political contributions of approximately \$900, total political expenditures of approximately \$670, and total political contributions maintained of approximately \$230. The 8-day pre-election report disclosed total political contributions of \$0, total political expenditures of approximately \$630, and total political contributions maintained of \$0.

4. Based on the 30-day pre-election report filed for the May 10, 2014, uniform election, the respondent exceeded \$500 in political expenditures on or around March 14, 2014. Accordingly, the respondent was required to file the 30-day and 8-day pre-election reports. The 30-day pre-election report was due on April 10, 2014, and the 8-day pre-election report was due on May 2, 2014.

#### 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. An opposed candidate required to file pre-election reports may file a report under a modified reporting schedule instead 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. *Id.* § 254.181(a).
3. An opposed candidate that exceeds \$500 in political contributions or political expenditures in the election shall file reports as required by Subchapter C or E, as applicable. *Id.* § 254.183(a).
4. Based on the political expenditures disclosed on the respondent's 30-day pre-election report, the respondent exceeded the \$500 expenditure threshold on or around March 14, 2014, which was before the deadline for filing the 30-day and 8-day pre-election reports. Thus, the respondent was required to file the pre-election reports at issue.
5. The respondent had an opponent on the ballot in the May 10, 2014, uniform election and was not eligible to file using the modified reporting schedule. Accordingly, the respondent was required to file the 30-day pre-election report by April 10, 2014, and the 8-day pre-election report by May 2, 2014.
6. The respondent filed both the 30-day and 8-day pre-election reports on July 10, 2014. The 30-day pre-election report was 91 days late, and the 8-day pre-election report was 69 days

late. Therefore, there is credible evidence of violations of section 254.064 of the Election Code with regard to those two reports.

### **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 nature, circumstances, and consequences of the violations described under Sections III and IV, 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-31406139.

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

\_\_\_\_\_  
Michael S. Whitt, Respondent

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

Texas Ethics Commission

By: \_\_\_\_\_  
Natalia Luna Ashley, Executive Director