

TEXAS ETHICS COMMISSION

IN THE MATTER OF
MARCO A. SEVILLA,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31608180CI

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) held a preliminary review hearing on March 30, 2017, to consider sworn complaint SC-31608180CI. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 572.027 and 571.1242(c) of the Government 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. Allegation

The complaint alleged that the respondent, a candidate for state office, did not file the required personal financial statement (PFS) due by February 12, 2016.

III. Facts Supported by Credible Evidence

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

Personal Financial Statement

1. The Commission met on August 15, 2016, and on its own motion initiated this sworn complaint.
2. At all times relevant to the complaint, the respondent was a candidate for State Representative, District 11.
3. The respondent was required to file a PFS with the Commission by February 12, 2016.
4. The respondent filed the required PFS with the Commission on March 22, 2017.

Response to Sworn Complaint

5. On August 18, 2016, an attempt to contact the respondent was made by Commission staff by telephone. In this attempt, a voicemail message was left by Commission staff. The Commission sent notice of the sworn complaint to the respondent by certified mail, return receipt requested, on August 22, 2016. The notice of the complaint was unclaimed and returned to the Commission on September 19, 2016. On September 26, 2016, the Commission sent a second notice to the respondent. According to United States Postal Service (USPS) records of the delivery, the notice of this complaint was reported as "Delivered" on September 28, 2016. The notice informed the respondent that the alleged violation in the sworn complaint was a Category One violation, and that a response to the sworn complaint was required not later than 10 business days from the date the notice was received and that failure to respond to the notice constitutes a separate violation for which a separate penalty may be assessed. Based on the delivery date of the notice, the respondent was required to respond to the sworn complaint by October 13, 2016. The respondent responded to the sworn complaint on March 27, 2017.

IV. Findings and Conclusions of Law

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

Personal Financial Statement

1. Except as provided by Section 572.0211, a state officer, a partisan or independent candidate for an office as an elected officer, and a state party chair shall file with the commission a verified financial statement complying with Sections 572.022 through 572.0252. GOV'T CODE § 572.021.
2. An individual who is a partisan or independent candidate for an office as an elected officer shall file the financial statement required by this subchapter not later than the later of the 60th day after the date of the regular filing deadline for an application for a place on the ballot in the general primary election or February 12. *Id.* § 572.027(a).
3. "Elected officer" includes a member of the legislature. *Id.* § 572.002(4)(A).
4. The respondent was a candidate for State Representative, District 11. His candidacy in the March 1, 2016, general primary election for an office as an elected officer required him to file a PFS by February 12, 2016. Records on file with the Commission reflect that the respondent did not file the PFS until March 22, 2017. Thus, there is credible evidence of a violation of section 572.027 of the Government Code.

Response to Sworn Complaint

5. The 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. GOV'T CODE § 571.1242(a)(1). A respondent's failure to timely respond to a sworn complaint as required by subsection (a)(1) or (b)(1) is a Category One violation. *Id.* § 571.1242(c).
6. The response required by section 571.1242 of the Government Code must: (1) be in writing; (2) admit or deny the allegations set forth in the complaint; and (3) be signed by the respondent. Ethics Commission Rules § 12.52(a).
7. According to USPS records of the delivery, the notice of this complaint was reported as "Delivered" on September 28, 2016. The notice informed the respondent that a response to the sworn complaint was required not later than 10 business days from the date the notice was received. Based on the delivery date of the notice, the respondent was required to respond to the sworn complaint by October 13, 2016.
8. The respondent responded to the sworn complaint on March 27, 2017. Therefore, there is credible evidence of a violation of section 571.1242(c) 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, except as provided by section 572.0211 of the Government Code, a state officer, a partisan or independent candidate for an office as an elected officer, and a state party chair shall file with the commission a verified financial statement complying with Sections 572.022 through 572.0252 of the Government Code.

The respondent also acknowledges that a respondent must respond to a notice of a sworn complaint that contains a Category One violation within 10 business days of receiving the notice of the sworn complaint, and failure to respond to a notice of a sworn complaint within the time required is a separate Category One violation.

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. The respondent agrees to pay the \$500 civil penalty to the Commission within 120 days of the date this order was mailed. If the respondent does not pay the \$500 civil penalty by August 4, 2017 (120 days after the date this order was mailed), then the Commission imposes a \$1,000 civil penalty, and 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-31608180CI.

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

Marco A. Sevilla, Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Seana Willing
Executive Director