

TEXAS ETHICS COMMISSION

IN THE MATTER OF
HENRY B. HODGE
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-971053

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on May 8, 1998, to consider sworn complaint SC-971053 filed against Henry B. Hodge (the respondent). A quorum of the commission was present. The commission voted to accept jurisdiction of this complaint. Based on the investigation conducted by commission staff, the commission determined there was credible evidence of a violation of Section 254.063, Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this agreed resolution to the respondent.

II. Facts Supported by Credible Evidence

Credible evidence available to the commission would support the following findings of fact:

1. The respondent was a successful candidate for sheriff who ran unopposed in the November 1996 general election.
2. The complainant alleges that the respondent violated Section 254.063, Election Code, by failing to timely file semiannual reports due in January and July 1997.
3. The respondent's campaign treasurer appointment was filed with the county clerk on December 20, 1995, and amended on October 17, 1996. The respondent filed only one campaign finance report with the county clerk. That report was filed on September 22, 1997, and it disclosed activity occurring between July 1, 1996, and December 27, 1996. The report was designated as a final report.
4. In his response to this complaint, the respondent swears that he waited until September 1997 to file his report because his campaign treasurer, who was in possession of the documentation that the respondent needed to prepare the report, became ill in October 1996 and passed away in 1997, and the respondent needed time to recover from the loss and retrieve the documents. He also swears that the successor to his treasurer "became very uncooperative and would not release the necessary paperwork."

III. Conclusions of Law

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

1. Unopposed candidates must file campaign finance reports twice a year in January and July. Section 254.063, Election Code.
2. In 1997 the respondent filed one report in September. That report disclosed \$5,440 in contributions and \$5,516 in expenditures, all of which occurred between July 1, 1996, and December 27, 1996. The respondent should have filed a report by January 15, 1997, and by July 15, 1997.
3. There is credible evidence that the respondent violated Section 254.063, Election Code.

IV. Representations and Agreement by the Respondent

By signing this ORDER and AGREED RESOLUTION and returning it to the commission:

1. The respondent neither admits nor denies the facts detailed under Section II and the commission's findings and conclusions of law detailed under Section III, and consents to the entry of this ORDER and AGREED RESOLUTION solely for the purpose of resolving and settling this sworn complaint.
2. The respondent consents to the entry of this Order before any adversarial evidentiary hearings or argument before the commission, and before any formal adjudication of law or fact by the commission. The respondent waives any right to a hearing before the commission or an administrative law judge appointed by the commission, and further waives any right to a post-hearing procedure established or provided by law.
3. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, the respondent understands and agrees that the commission will consider the respondent to have committed the violations detailed in Section III, Paragraph 2, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

V. Confidentiality

This ORDER and AGREED RESOLUTION describes an alleged violation that the commission has determined would be neither technical nor *de minimis*. Accordingly, this ORDER and AGREED RESOLUTION is not confidential under Section 571.140, Government Code, and may be disclosed by members and staff of the Texas Ethics Commission.

VI. Sanction

After considering the seriousness of the violations described under Sections II and III, including the nature, circumstances, consequences, extent, and gravity of the violations; that no previous violations

by this respondent are known to the commission; and after considering the sanction deemed necessary to deter future violations, the commission imposes a \$200 civil penalty for the violations described under Section III, Paragraph 2.

VII. Order

The Texas Ethics Commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to the respondent;
2. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-971053;
3. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original and the \$200 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than June 5, 1998; and
4. that the executive director shall promptly refer SC-971053 either to the commission or to an administrative law judge to conduct hearings on the commission's behalf and to propose findings of fact and conclusions of law to the commission in accordance with law if the respondent does not agree to the resolution of SC-971053 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 1998.

Henry B. Hodge, Respondent

EXECUTED ORIGINAL received by the commission on: _____
DATE

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director