

TEXAS ETHICS COMMISSION

IN THE MATTER OF
RICHARD ATOR,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-200417

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on July 14, 2000, and voted to accept jurisdiction of and to consider Sworn Complaint SC-200417 filed against Richard Ator, Respondent. A quorum of the commission was present. Based on the investigation conducted by commission staff, the commission determined that there is credible evidence of violations of Sections 252.001, 252.005, 254.063 and 254.064, Election Code, laws 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. Allegations

The complainant alleges that the respondent failed to file reports as required by Title 15, Election Code.

III. Facts Supported by Credible Evidence

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

1. At all times relevant to this complaint, the respondent was an opposed candidate for school board trustee in a May 1998 election. The respondent was unsuccessful in the election.
2. The respondent failed to file a campaign treasurer appointment and any campaign finance reports.
3. The respondent filed a notarized response stating: "After much prodding from many Lipan community members, I filed to run for the 1998 Lipan I.S.D. Board of Education. I was the

last to file and did so in the final hours to file. Upon filing, I did not receive any election package, booklet or other paperwork pertaining to anything else that I should file. Nor did I ask or even know to ask for anything. It was out of pure ignorance on my part that I violated the election code by not filing the proper paper work. Therefore, though I do not have a full understanding of all 12 complaints, I submit a no contest plea to the charges brought by (the complainant). In determining what punishment, if any, that I should receive, I ask that you consider the following list of facts. 1. I was not informed by the school, when I filed that there was any other paperwork that I would need to file. 2. I wasn't elected in 1998. I did not run in 1999 even though I received many requests by people in the community to run in the election because there were 3 vacated seats on the board. 3. During my 1998 run for office, I had no contributions of any kind given to me. Also I had absolutely no election expenses to report. Did not do a mail out, made no kind of campaign signs, took out no news media ads. No expenses, no contributions, nothing really to report. In fact I really did not do any campaigning at all. 4. I am now a current candidate for the Lipan I.S.D. School Board. I have received a candidate booklet. All the proper paper work is on file to my knowledge. I now know about the paperwork I am required to file, and I intend to stay current with the election code."

IV. Findings and Conclusions of Law

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

1. A candidate for trustee of a school board is required to file a campaign treasurer appointment with the clerk or secretary of the school board. Sections 252.001 and 252.005(3), Election Code. A "candidate" is defined in relevant part as a person who knowingly takes affirmative action, which includes filing an application for a place on the ballot, for the purpose of gaining election to a public office. Section 251.001(1), Election Code.
2. The respondent filed an application for a place on the ballot but did not file a campaign treasurer appointment. Thus, there is credible evidence that the respondent violated Sections 252.001 and 252.005, Election Code.
3. A candidate is required to file campaign finance reports disclosing political contributions accepted and political expenditures made during the reporting period. Sections 254.063 and 254.064, Election Code. An opposed candidate is required to file pre-election reports (Section 254.064, Election Code), and all candidates are required to file semiannual reports (Section 254.063, Election Code). The respondent did not file any campaign finance reports, and thus there is credible evidence that the respondent violated Sections 254.063 and 254.064, 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 and 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 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, and further waives any right to a post-hearing procedure established or provided by law.
3. The respondent acknowledges that a candidate is required to file a campaign treasurer appointment and campaign finance reports. The respondent agrees to fully and strictly comply with these requirements of the law.
4. 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 described under Section IV, Paragraphs 2 and 3, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

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, consequences, extent, and gravity of the violations, after considering the fact that no previous violations by this respondent are known to the commission, and after considering the sanction necessary to deter future violations, the commission imposes no civil penalty for the violations described under Section IV, Paragraphs 2 and 3.

VIII. Order

The 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-200417;
3. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than August 11, 2000; and
4. that the executive director shall promptly refer SC-200417 to either 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-200417 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 2000.

Richard Ator, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director