

TEXAS ETHICS COMMISSION

IN THE MATTER OF
DANIEL ARCHIE FLYNN,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-220317

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 12, 2002, and voted to accept jurisdiction of Sworn Complaint SC-220317 filed against Daniel Archie Flynn, Respondent. The commission met again on May 10, 2002, to consider Sworn Complaint SC-220317. A quorum of the commission was present at both meetings. Based on the investigation conducted by commission staff, the commission determined that there is credible evidence of a violation of Section 572.027(a), Government 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. Allegations

The complainant alleges that the respondent, a candidate for state representative, failed to timely file his personal financial statement.

III. Facts Supported by Credible Evidence

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

1. The respondent was a successful candidate for state representative in the March 2002 primary election.
2. The respondent filed his personal financial statement with the commission on March 6, 2002.

IV. Findings and Conclusions of Law

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

1. Every candidate for elective public office must file a personal financial statement with the commission within 40 days after the regular deadline for filing an application for a place on the ballot in the March primary election. Section 572.027(a), Government Code. The office

of state representative is an elective public office. Section 572.002, Government Code. The regular deadline for filing an application for a place on the ballot in the March 2002 primary election was January 2, 2002. Section 172.023, Government Code; *see also* ELECTIONS DIV., TEXAS SECRETARY OF STATE, 2002 CANDIDATE'S GUIDE TO PRIMARY AND GENERAL ELECTIONS (2001). The 40th day after that deadline was February 11, 2002. *See* TEXAS ETHICS COMM'N, 2002 FILING SCHEDULE FOR CANDIDATES AND OFFICEHOLDERS (2001). Therefore the personal financial statement for a candidate for state representative in the March 2002 primary election was due by February 11, 2002.

2. The respondent did not timely file his 2002 personal financial statement. The respondent swore to the following statement in response to this complaint:

As I mentioned to you over the phone we were not aware our personal financial statement had not been filed until the Greenville Herald Banner contacted us.

I regret this incident and take full responsibility of this oversight and as you will note it was immediately corrected after being brought to our attention.

For your information it was our understanding that our consultant had filed the report along with our financial contributions and expense report which was timely. I had forwarded all the information to him, as he had been filings [*sic*] all of our reports electronically. When questioned abut [*sic*] the filing he informed me that he had only filed the contribution and expense report thinking I had only sent him a copy of the personal financial statement for his records.

I trust this answers your concerns and commit to you and the Texas Ethics Commission that there will not be any future occurrences.

Accordingly, that there is credible evidence that the respondent violated Section 572.027(a), Government Code, by failing to timely file his 2002 personal financial statement.

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 every candidate for elective office must file a personal financial statement with the commission within 40 days after the regular filing deadline for filing an application for a place on the ballot in the March primary. The respondent agrees to fully and strictly comply with this requirement 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 violation described under Section IV, Paragraph 2, 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 a violation that the commission has determined is 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 violation described under Sections III and IV, including the nature, circumstances, consequences, extent, and gravity of the violation, 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 a \$100 civil penalty for the violation described under Section IV, Paragraph 2.

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-220317;
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 \$100 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than June 17, 2002; and

4. that the executive director shall promptly refer SC-220317 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-220317 as proposed in this ORDER and AGREED RESOLUTION.

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

Daniel Archie Flynn, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director