

TEXAS ETHICS COMMISSION

IN THE MATTER OF
BARBARA HERRINGTON,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-240579

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission met on July 16, 2004, to consider sworn complaint SC-240579. A quorum of the commission was present. The commission determined that there is credible evidence of a violation 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 proposes this resolution to the respondent.

II. Allegation

The complainant alleges that the respondent, an unsuccessful candidate for school board trustee, failed to timely file an 8-day pre-election report.

III. Facts Supported by Credible Evidence

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

1. The respondent was an unsuccessful candidate for school board trustee in a May 15, 2004, election.
2. The respondent acknowledges that she failed to file an 8-day pre-election report by the May 7, 2004, filing deadline. She states that she misunderstood the filing requirements.
3. The school district provided a copy of a report that the respondent filed on May 26, 2004. The report lists two expenditures that should have been reported on the 8-day pre-election report, an expenditure for \$149.50 and an expenditure for \$255.60. The report also discloses a total of \$60 in unitemized contributions. It is not clear whether those contributions should have been reported on the 8-day pre-election report.

IV. Findings and Conclusions of Law

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

1. Because the respondent was an opposed candidate in a May 15, 2004, election, she was required to file an 8-day pre-election report by May 7, 2004. ELEC. CODE § 254.064. The respondent acknowledges that she did not do so. Therefore, there is credible evidence that the respondent violated section 254.064(b) of the 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 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 an opposed candidate in an election is required to file a 30-day pre-election report and an 8-day pre-election report in connection with the election. The respondent agrees to fully comply with this requirement of the law.

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, and consequences of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$100 civil penalty for the violation described under Section IV.

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-240579.

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

Barbara Herrington, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Sarah Woelk, Acting Executive Director