

TEXAS ETHICS COMMISSION

IN THE MATTER OF
PENNY ROBERTS,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2604107

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 2, 2007, to consider sworn complaint SC-2604107. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 254.064(e) 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 complaint alleges that the respondent failed to timely file a runoff election campaign finance report.

III. Facts Supported by Credible Evidence

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

1. The respondent is an incumbent county court at law judge.
2. The respondent filed a runoff election campaign finance report on April 10, 2006.
3. The respondent swears she called the elections office and was advised that the proper filing date for the report was April 10, 2006.
4. The Tom Green County elections office mailed notices to three of the four runoff candidates indicating incorrectly that the report was due on April 10, 2006.
5. The respondent also submitted copies of the runoff reports filed on April 10th by the other two candidates on the runoff ballot and a letter dated April 19, 2006, from the elections administrator apologizing for the incorrect notices.

IV. Findings and Conclusions of Law

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

1. An opposed candidate in a runoff election is required to file a report not later than the eighth day before runoff election day. ELEC. CODE § 254.064(e).
2. The runoff report was due on April 3, 2006, and the respondent filed the report on April 10, 2006. Therefore, there is credible evidence of a violation of section 254.064(e) of the Election Code. Because this error was in reliance on advice from the local elections administrator, the commission imposes no civil penalty.

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 a runoff election is required to file a report not later than the eighth day before runoff election day. The respondent agrees to 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. No 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 no civil penalty for the violation described under Sections III and 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-2604107.

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

Penny Roberts, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director