

TEXAS ETHICS COMMISSION

IN THE MATTER OF
TERRY SIMONS,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-270109

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 13, 2007, to consider sworn complaint SC-270109. 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 an 8-day before runoff campaign finance report.

III. Facts Supported by Credible Evidence

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

1. The respondent was an opposed candidate for city council.
2. The general election was held on December 5, 2006. The runoff election was held on January 9, 2007. The respondent filed his 8-day before runoff election report on January 16, 2007.
3. The respondent's report filed January 16, 2007, indicates that it is an 8-day pre-election report for the general election. In his response to the complaint, the respondent swears that he incorrectly marked the wrong "report type" and "election type" on the report. The period covered on the report is "11/27/2006 through 1/2/2007." The respondent admits that his reports were filed late.

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 respondent filed the report that covered the runoff election period on January 16, 2007. The runoff election report was due on January 2, 2007. Therefore, there is credible evidence that the respondent violated section 254.064(e) 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 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. 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 \$500 civil penalty.

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-270109.

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

Terry Simons, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director