

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JIMMY THORNTON, JR.,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2803134

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 12, 2009, to consider sworn complaint SC-2803134. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.063 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. Allegations

The complaint alleges that the respondent failed to file the 8-day pre-election report for a May 13, 2006, city election, and semiannual reports due in July 2006, January and July 2007, and January 2008.

III. Facts Supported by Credible Evidence

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

1. The respondent was an unopposed candidate for mayor in the May 13, 2006, Magnolia, Texas, city election. The respondent was also a successful opposed candidate for mayor in the May 10, 2008, Magnolia, Texas, city election.
2. On February 24, 2006, the respondent filed a campaign treasurer appointment (CTA), electing modified reporting, with the City of Magnolia to run for re-election as mayor in the May 2006 city election.
3. The respondent filed an affidavit in response to the sworn complaint.
4. The respondent filed a report on May 18, 2006, and the complaint includes allegations related to that report.

5. The respondent filed a report on October 1, 2008, marked as a July 2006 semiannual report which itemizes \$3,000 in contributions and \$2,959 in expenditures. The report discloses \$3,000 in the space for total political contributions, \$2,950.90 in the space for total political expenditures, and \$44.60 in the space for total political contributions maintained.
6. On August 25, 2008, the respondent filed a report that is marked as a January 2007 semiannual report that discloses no contributions, no expenditures, and does not disclose an amount for contributions maintained. The report is not signed. On October 1, 2008, the respondent filed a corrected January 2007 semiannual report that is signed and notarized and that discloses no contributions, no expenditures, and \$44.60 for contributions maintained.
7. On August 25, 2008, the respondent filed a report that is marked as a July 2007 semiannual report that has a line drawn through the totals page. The report is not signed. On October 1, 2008, the respondent filed a corrected July 2007 semiannual report that is signed and notarized and that discloses no contributions, no expenditures, and \$1.00 for contributions maintained.
8. On August 25, 2008, the respondent filed a report marked as a January 2008 semiannual report that has a line drawn through the totals page. The report is not signed. On October 1, 2008, the respondent filed a corrected January 2008 semiannual report that is signed and notarized and that discloses no contributions, no expenditures, and \$1.00 for contributions maintained.

IV. Findings and Conclusions of Law

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

1. A candidate is required to file two reports for each year, the first report shall be filed not later than July 15, and cover the period beginning January 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through June 30; the second report is required to be filed not later than January 15, and cover the period beginning July 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through December 31. ELEC. CODE § 254.063.
2. In addition to other required reports, an opposed candidate is required to file reports 30-days and 8-days before an election. ELEC. CODE § 254.064.
3. The respondent filed a CTA on February 24, 2006, and had a campaign treasurer appointment in effect during the period at issue. The respondent was an unopposed candidate in the May 2006 election. Thus, the respondent was not required to file an 8-day

pre-election report for that election. Therefore, the allegations related to that report are dismissed.

4. Because the respondent had a campaign treasurer appointment in effect during the period at issue he was required to file semiannual reports as a candidate. A candidate has the duty to file semiannual reports until the candidate terminates his campaign treasurer appointment. ELEC. CODE § 254.065. The respondent never terminated his campaign treasurer appointment, thus, he never terminated the requirement to file semiannual reports as a candidate. (Section 254.093 of the Election Code requires an officeholder with no campaign treasurer in effect to file semiannual campaign finance reports. That section is not at issue because the respondent was required to file as a candidate.)
5. The evidence indicates that the respondent failed to timely file his July 2006, January 2007, July 2007, and January 2008 semiannual reports as a candidate. Therefore, there is credible evidence that the respondent violated section 254.063 of the Election Code, and credible evidence that the respondent did not violate section 254.093 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 a candidate is required to file two reports for each year. The first report is required to be filed not later than July 15, and cover the period beginning January 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through June 30. The second report is required to be filed not later than January 15, and cover the period beginning July 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through December 31. The respondent agrees to comply with these requirements of the law.

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, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a \$400 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-2803134.

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

Jimmy Thornton, Jr., Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director