

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ALBERT LEE LEMONS,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2807298

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 6, 2009, to consider sworn complaint SC-2807298. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.063 and 254.064 of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent failed to file a campaign finance report fifteen days after he appointed a campaign treasurer. The complaint also alleged that the respondent failed to file 30-day and 8-day pre-election reports for the November 2007 general election, and a January 2008 semiannual report.

III. Facts Supported by Credible Evidence

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

1. The respondent was first elected to office as a school board trustee in the November 2007 general election. He did not hold that office prior to the election.
2. The respondent filed a campaign treasurer appointment and an application for a place on the ballot on or about September 4, 2007. The respondent did not elect to file on the modified reporting schedule.
3. On April 7, 2008, the respondent filed a report marked as a January semiannual report covering the period beginning September 4, 2007, through December 17, 2007.

4. On April 28, 2008, the respondent filed a 30-day pre-election report for the November 2007 election that covers the period between September 4, 2007, and October 7, 2007. The respondent indicated that this report was a “re-do” or correction to his campaign finance report filed on April 7, 2008.
5. On April 28, 2008, the respondent filed a campaign finance report that is marked as an 8-day pre-election report for the November 2007 election and that covers the period from October 8, 2007, through October 29, 2007.

IV. Findings and Conclusions of Law

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

1. An officeholder who appoints a campaign treasurer shall file, not later than the 15th day after the date the officeholder’s campaign treasurer is appointed, a report covering the period beginning the first day after the period covered by the last report required to be filed under this chapter or the day the officeholder takes office, as applicable, and continuing through the day before the date the officeholder’s campaign treasurer is appointed. ELEC. CODE § 254.094.
2. The evidence indicates that the respondent was first elected to the school board at the November 2007 general election and did not hold that position prior to that time. The evidence also indicates that the respondent did not hold any other elective office at the time he filed his campaign treasurer appointment. Because the respondent was not an officeholder at the time he filed his campaign treasurer appointment, he was not required to file a campaign finance report within 15 days after he filed the campaign treasurer appointment. Therefore, there is credible evidence of no violation of section 254.094 of the Election Code.
3. A candidate shall file two reports for each year. The first report shall be filed not later than July 15. The report covers 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, as applicable, and continuing through June 30. The second report shall be filed not later than January 15. The report covers 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.
4. In addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports. The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning 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 under this chapter, as applicable, and continuing through the 40th day before election day. The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. ELEC. CODE § 254.064(c).

5. An opposed candidate is not required to file pre-election reports if the candidate does not intend to accept political contributions that in the aggregate exceed \$500 or to make political expenditures that in the aggregate exceed \$500 in connection with the election. *Id.* § 254.181. An opposed candidate must file with the campaign treasurer appointment a written declaration of intent not to exceed \$500 in political contributions or political expenditures in the election. *Id.* § 254.182.
6. The respondent was an opposed candidate in the November 2007 general election and was not entitled to file campaign finance reports on the modified reporting schedule. Therefore, the respondent was required to file 30-day and 8-day pre-election reports for the November 2007 general election. Although the respondent filed his 30-day and 8-day pre-election reports after receiving notice from a local prosecutor's office, the reports were not filed by the respective deadlines. The reports were due on October 9, 2007, and October 29, 2007, respectively, but were not filed until April 28, 2008. Additionally, the respondent was required to file a semiannual campaign finance report by January 15, 2008. The respondent did not file that report until April 7, 2008. Therefore, there is credible evidence of violations of sections 254.063 and 254.064 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 in addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports. The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning 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 under this chapter, as applicable, and continuing through the 40th day before election day. The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day.

The respondent also acknowledges that a candidate shall file two reports for each year. The first report shall be filed not later than July 15. The report covers 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, as applicable, and continuing through June 30. The second report shall be filed not later than January 15. The report covers 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 \$200 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-2807298.

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

Albert Lee Lemons, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director