

TEXAS ETHICS COMMISSION

IN THE MATTER OF
CLARENCE W. GRIFFIN,
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-3100103

FINAL ORDER

The Texas Ethics Commission, having heard this case and voting to find violations of laws under its jurisdiction, makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. The respondent is Clarence W. Griffin, whose last known mailing address is 312 Sowell Drive, Huntsville, Texas, 77320-3139. A sworn complaint was filed with the Texas Ethics Commission (commission) against the respondent on January 5, 2010. The Notice of Hearing was mailed to the respondent on September 2, 2010, by certified mail, return receipt requested, restricted delivery. United States Postal Service Records indicate the respondent received the Notice of Hearing on September 4, 2010.
2. The preliminary review hearing was held on October 21, 2010, by the Texas Ethics Commission in Austin, Texas.
3. The respondent did not file a reply to the Notice of Hearing and did not appear at the hearing.
4. The respondent was an opposed incumbent candidate for city council of Huntsville, Texas in an election held on May 9, 2009.
5. The complaint alleged that the respondent did not file 30-day and 8-day pre-election reports for the May 9, 2009, election, and did not file a July 2009 semiannual report.
6. The respondent's campaign treasurer appointment filed with the City of Huntsville on March 6, 2009, indicated that the respondent held and sought the office of "Councilman Ward Three." The respondent did not indicate in the appointment that he chose to follow the modified reporting schedule.
7. An application for a place on the ballot in a general election held by the City of Huntsville stated that the respondent was a candidate for "City Council Member Precinct 3." The application was received by the Huntsville city secretary on March 6, 2009.

8. Records of the City of Huntsville show that during the period at issue the respondent did not file any campaign finance reports.
9. On January 7, 2010, the commission sent notice of a sworn complaint to the respondent by certified mail. The notice of sworn complaint stated that the complaint would be processed as Category One violations and that the respondent was required to respond to an allegation of a Category One violation not later than 10 business days from the date he received notice of the sworn complaint. The notice stated that failure to respond would constitute a separate violation for which a separate civil penalty may be assessed.
10. United States Postal Service records indicated the notice of sworn complaint was delivered to the respondent's address on January 19, 2010, and the respondent's signature appeared on the domestic return receipt for the notice.
11. The respondent has not submitted a response to the complaint.

Conclusions of Law

1. Disposition of this case is within the jurisdiction of the Texas Ethics Commission. GOV'T CODE § 571.061.
2. The respondent received legally sufficient notice of the hearing in this case. GOV'T CODE § 571.032 and 1 TAC § 12.21. The hearing was held in accordance with section 12.23, 1 Texas Administrative Code.
3. A candidate shall file two reports for each year. ELEC. CODE § 254.063(a). The first report shall be filed not later than July 15 and 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 required to be filed, as applicable, and continuing through June 30. *Id.* § 254.063(b).
4. A candidate has the duty to file semiannual reports until the candidate terminates his campaign treasurer appointment. The designation of a report as a final report terminates a candidate's campaign treasurer appointment. *Id.* § 254.065.
5. 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. *Id.* § 254.064(a). 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 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. *Id.* § 254.064(c).
6. The respondent was a candidate for city council of Huntsville in a May 9, 2009, election. The respondent did not file any campaign finance reports with the city after his campaign

treasurer appointment or application for a place on the ballot were filed on March 6, 2009. The respondent was opposed in the election and did not choose to follow a modified reporting schedule. Thus, the respondent was required to file a 30-day pre-election report by April 9, 2009, and an 8-day pre-election report by May 1, 2009. Because the respondent never filed a final report terminating his campaign treasurer appointment, he was also required to file a semiannual report by July 15, 2009. None of the reports were filed. Therefore, there is credible evidence that the respondent violated sections 254.063(b), and 254.064(b) and (c) of the Election Code.

7. If an alleged violation in a sworn complaint is a Category One violation, the respondent must respond to the notice required by section 571.123(b) not later than the 10th business day after the date the respondent receives the notice. GOV'T CODE § 571.1242(a)(1). A respondent's failure to timely respond to a sworn complaint as required by subsection (a)(1) or (b)(1) is a Category One violation. *Id.* § 571.1242(c).
8. The respondent received and signed for the notice of sworn complaint on January 19, 2010. The notice stated that the respondent was required to respond within 10 business days from receipt of the notice. The respondent failed to respond. Therefore, there is credible evidence that the respondent violated section 571.1242(c) of the Government Code.
9. The Texas Ethics Commission may impose a sanction against the respondent of not more than \$5,000 or triple the amount at issue, whichever amount is greater. GOV'T CODE § 571.173.

Therefore, the Texas Ethics Commission orders that:

1. The respondent pay to the Texas Ethics Commission, within 30 days of the date of this order, a civil penalty in the amount of \$1,300.

Order Date: _____

FOR THE COMMISSION

David A. Reisman
Executive Director
Texas Ethics Commission