

TEXAS ETHICS COMMISSION

IN THE MATTER OF
VANN PRESSLEY,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3100122

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 7, 2010, to consider sworn complaint SC-3100122. A quorum of the commission was present. The commission determined that there is credible evidence of a violation 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 proposed this resolution to the respondent.

II. Allegation

The complaint alleged that the respondent failed to file the January 2010 semiannual report and misrepresented in a campaign communication that he held an office that he did not hold at the time the representation was made by failing to include the word “for” in a type size that is at least one-half the type size used for the name of the office.

III. Facts Supported by Credible Evidence

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

1. The respondent was a candidate for justice of the peace for Bastrop County in the March 2010 Republican primary election.
2. The respondent paid a filing fee to run in the March 2010 Republican primary election on December 17, 2009. The respondent had not filed a final report at the time the January 2010 semiannual report was due.
3. The respondent submitted an affidavit in response to the complaint.

4. The Elections Administrator for Bastrop County provided a copy of the respondent's January 2010 semiannual report which shows that the report was received on January 26, 2010.
5. Regarding the failure to include the word "for" in a type size at least one-half the type size used for the name of the office on his political advertizing signs, the respondent provided staff one of his political advertising signs. The sign states in part, "For Justice of the Peace Pct. 1." The statute requires the word "for" to be at least one-half the type size of the name of the office sought. Type size is generally measured in points. The "F" in "For" appears to be one-half the type size, based on the point size of the font, of the name of the office sought.

IV. Findings and Conclusions of Law

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

Filing of Campaign Finance Report

1. A candidate is required to file two reports each year, one by January 15 and one by July 15. ELEC. CODE § 254.063.
2. The evidence shows that the respondent was a candidate during at least part of the period covered by the January 2010 semiannual report. The evidence shows that the respondent failed to timely file the January 2010 semiannual report. Therefore, there is credible evidence that the respondent violated section 254.063 of the Election Code.

Misrepresentation of Office Held

3. A person may not represent in a campaign communication that a candidate holds a public office the candidate does not hold at the time the representation is made. ELEC. CODE § 255.006(b). Under this provision, a person represents that a candidate holds a public office the candidate does not hold if: (1) the candidate does not hold the office that the candidate seeks; and (2) the campaign communication states the public office sought but does not use the word "for" in a type size that is at least one-half the type size used for the name of the office sought. ELEC. CODE § 255.006(c).
4. "Campaign communication" means, in pertinent part, a written or oral communication relating to a campaign for nomination or election to public office. ELEC. CODE § 251.001(17).
5. The respondent was a candidate for but did not hold the office of justice of the peace at the time at issue. The evidence shows that the word "For" on the respondent's political advertising sign is in a type size that is at least one-half the type size used for the name of the

office. Therefore, there is credible evidence of no violation of section 255.006 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 each year, one by January 15 and one by July 15. 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 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 \$100 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-3100122.

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

Vann Pressley, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director