

TEXAS ETHICS COMMISSION

IN THE MATTER OF
HARRY G. GREENE,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31604118

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on August 15, 2016, to consider sworn complaint SC-31604118. 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 did not timely file three campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. The respondent was elected to the Selma City Council, Place 2, in the May 10, 2014, uniform election and currently holds that office.

Timely Filing of Campaign Finance Reports

2. The complaint alleged that the respondent did not timely file three campaign finance reports: the 30-day and 8-day pre-election reports for the May 10, 2014, uniform election and the July 2014 semiannual report. In response to the complaint, the respondent swore that he thought he filed the reports. The respondent subsequently filed all reports at issue with the City of Selma in response to the complaint.

Pre-election reports

3. The respondent was an opposed candidate for Selma City Council, Place 2, in the May 10, 2014, uniform election. The respondent filed a campaign treasurer appointment on February 21, 2014, and elected to file reports on the modified reporting schedule. However, the respondent made political expenditures exceeding \$500 before the 30-day pre-election report was required to be filed. The respondent was therefore required to file a 30-day pre-election report by April 10, 2014, and an 8-day pre-election report by May 2, 2014. According to records on file with the City of Selma, the respondent did not file the pre-election reports. The respondent filed the 30-day and 8-day pre-election reports on May 2, 2016, and then a corrected report on June 8, 2016, after the complaint was filed. The only activity disclosed in the reports was \$627 in total political expenditures.

Semiannual report

4. The complaint alleged that the respondent did not file a July 2014 semiannual report. The respondent filed a campaign treasurer appointment on February 21, 2014, and did not file a final report after the May 10, 2014, uniform election. Therefore, the respondent was required to file a July 2014 semiannual report by July 15, 2014. According to records on file with the City of Selma, the respondent did not file that report.
5. In response to the complaint, the respondent filed a combination report covering all periods at issue. The only activity disclosed in the report was \$627 in total political expenditures.

IV. Findings and Conclusions of Law

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

Timely Filing of Campaign Finance Reports

1. A candidate shall file two reports for each year as provided by this section. ELEC. CODE § 254.063(a). 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 required to be filed under this subchapter, as applicable, and continuing through June 30. *Id.* § 254.063(b).
2. 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. *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 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. *Id.* § 254.064(b). 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. *Id.* § 254.064(c).

3. An opposed candidate or specific-purpose committee required to file reports under Subchapter C or E may file a report under this subchapter instead if the candidate or committee 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(a).
4. An opposed candidate or specific-purpose committee that exceeds \$500 in political contributions or political expenditures in the election shall file reports as required by Subchapter C or E, as applicable. *Id.* § 254.183(a).
5. If a candidate or committee exceeds the \$500 maximum after the filing deadline prescribed by Subchapter C or E for the first report required to be filed under the appropriate subchapter, the candidate or committee shall file a report not later than 48 hours after the maximum is exceeded. *Id.* § 254.183(b).

Pre-election reports

6. The respondent was an opposed candidate for Selma City Council, Place 2, in the May 10, 2014, uniform election. The respondent elected to file campaign finance reports on the modified reporting schedule when he filed his campaign treasurer appointment on February 21, 2014. However, credible evidence indicates that the respondent made political expenditures exceeding \$500 before the 30-day pre-election report was required to be filed. The respondent was therefore required to file the 30-day pre-election report by April 10, 2014, and the 8-day pre-election report by May 2, 2014. The respondent filed the 30-day and 8-day pre-election reports on May 2, 2016, and then a corrected report on June 8, 2016, that was marked as a January 15, 30-day, 8-day, and final report. Therefore, there is credible evidence of violations of section 254.064 of the Election Code.

Semiannual report

7. The respondent filed a campaign treasurer appointment on February 21, 2014. The respondent did not file a final report after the May 2014 election to terminate the treasurer appointment. The respondent was therefore required to file the July 2014 semiannual report

by July 15, 2014. The respondent did not timely file the report at issue. Therefore, there is credible evidence of a violation of section 254.063 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: 1) a candidate shall file two reports for each year. 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 under this subchapter, as applicable, and continuing through June 30; and 2) 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 and 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 and covers the period beginning the 39th day before election day and continuing through the 10th day before election day.

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 nature, circumstances, and consequences of the violations described under Sections III and IV, and after considering the sanction necessary to deter future violations, the Commission imposes a \$250 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-31604118.

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

Harry G. Greene, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director