

# TEXAS ETHICS COMMISSION

IN THE MATTER OF

STEVE LE,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31606161

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (Commission) met on October 13, 2016, to consider sworn complaint SC-31606161. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of section 254.064 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. Allegations

The complaint alleged that the respondent did not timely file a runoff report in connection with the December 12, 2015, runoff election and did not cover the proper reporting period.

### III. Facts Supported by Credible Evidence

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

1. The respondent is a current Houston City Council Member for District F. He was a candidate in the November 3, 2015, uniform election, which resulted in a runoff election.

#### Timely Filing a Runoff Report

2. The complaint alleged that the respondent did not timely file a runoff report for the December 12, 2015, runoff election. The respondent was a successful, opposed candidate for Houston City Council Member, District F, in the December 12, 2015, runoff election.

3. The respondent did not elect to file campaign finance reports on the modified reporting schedule when he filed his campaign treasurer appointment on May 20, 2015. The respondent was therefore required to file a runoff report for the December 12, 2015, runoff election, by December 4, 2015. The respondent filed the runoff report on January 15, 2016 (42 days late).
4. The runoff report disclosed the following totals:
  - \$0 in total political contributions of \$50 or less, unless itemized;
  - \$3,000 in total political contributions;
  - \$0 in total political expenditures of \$100 or less, unless itemized;
  - \$16,940.42 in total political expenditures;
  - \$11,662.00 in total political contributions maintained; and
  - \$72,823.71 in total principal amount of all outstanding loans.
5. In response to the complaint, the respondent denied the allegation and swore that his campaign treasurer had timely filed the runoff report. The respondent swore that the City of Houston's electronic filing system "is new and has been known to be erratic." The respondent swore that he filed the report again on January 15, 2016, once he learned of the error. The respondent was unable to provide documentation to support his assertion of a filing system error.
6. After obtaining witness contact authorization, the Commission contacted City of Houston staff familiar with the city's electronic filing system. City of Houston staff stated that the city's electronic filing system was not experiencing any technical difficulties on or around December 4, 2015. City of Houston records reflect that several reports by other candidates were successfully filed using the system on December 4, 2015.
7. Records kept by the City of Houston indicate that the respondent did not attempt to login into the city's electronic filing system on or around December 4, 2015. The City of Houston's staff stated that there was no record of the respondent contacting the city's webmaster to report any technical difficulties with the electronic filing system.

### **Period Covered**

8. The complaint alleged that the respondent did not cover the correct reporting period on the runoff report. The respondent did not have any gap or overlap between reporting periods.
9. The respondent's 8-day pre-election report for the November 3, 2015, uniform election, covered through October 26, 2015 (the report due date), rather than October 24, 2015. The respondent's runoff report covered October 27, 2015, through December 4, 2015 (the report

due date). The runoff report should have covered October 25, 2015, through December 2, 2015.

#### IV. Findings and Conclusions of Law

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

##### Timely Filing a Runoff Report

1. In addition to other required reports, an opposed candidate in a runoff election shall file one report for that election. The runoff election report must be received by the authority with whom the report is required to be filed not later than the eighth day before runoff election day. The report covers the period beginning the ninth day before the date of the main election and continuing through the 10th day before runoff election day. ELEC. CODE § 254.064(e).
2. The respondent was an opposed candidate in the runoff election held on December 12, 2015, and he did not elect to file on the modified reporting schedule. Thus, the respondent was required to file a runoff report by December 4, 2015. The respondent filed the runoff report on January 15, 2016, which was 42 days late.
3. Although the respondent swore that he attempted to file the report timely, the credible evidence does not support his assertion. The City of Houston has no record of any attempt by the respondent to file the report on December 4, 2015, and there is no evidence that the city's electronic filing system was experiencing technical problems on that date. Therefore, there is credible evidence of a violation of section 254.064(e) of the Election Code.

##### Period Covered

4. In addition to other required reports, an opposed candidate in a runoff election shall file one report for that election. The runoff election report must be received by the authority with whom the report is required to be filed not later than the eighth day before runoff election day. The report covers the period beginning the ninth day before the date of the main election and continuing through the 10th day before runoff election day. ELEC. CODE § 254.064(e).
5. The respondent did not cover the correct period of time as required by the Election Code. However, the respondent did not leave a gap in the period covered, and the respondent disclosed more activity than was required. The error was not misleading and did not substantially affect disclosure. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.064(e) 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, an opposed candidate in a runoff election shall file one report for that election. The runoff election report must be received by the authority with whom the report is required to be filed not later than the eighth day before runoff election day. The report covers the period beginning the ninth day before the date of the main election and continuing through the 10th day before runoff election day. 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 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 \$500 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-31606161.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Steve Le, Respondent

EXECUTED ORIGINAL received by the Commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
Natalia Luna Ashley, Executive Director