

TEXAS ETHICS COMMISSION

IN THE MATTER OF
GARY N. RAYFORD,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31608171

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on December 8, 2016, to consider sworn complaint SC-31608171. 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 and section 571.1242 of the Government 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. Allegation

The complaint alleged that the respondent did not file the July 2016 semiannual report.

III. Facts Supported by Credible Evidence

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

Semiannual Campaign Finance Report

1. The respondent was a candidate for Anderson County Sheriff in the 2016 election cycle.
2. Records on file with the Anderson County Clerk's office indicate that the respondent filed a campaign treasurer appointment on January 27, 2016. The records show the respondent did not file a July 2016 semiannual campaign finance report.

Response to Notice of a Sworn Complaint

3. The respondent did not respond to the sworn complaint.
4. Sworn complaint SC-31608171 was filed on August 3, 2016. On August 3, 2016, a member of the Commission staff spoke with the respondent by telephone and informed him of the sworn complaint. The respondent had also been e-mailed a copy of the sworn complaint.

The Commission sent a notice of the sworn complaint to the respondent by certified mail, return receipt requested, on August 10, 2016. The notice was unclaimed and returned to the Commission. On September 12, 2016, the Commission sent another notice of sworn complaint to the respondent by delivery confirmation. According to United States Postal Service (USPS) records of the delivery, the notice of this complaint was delivered to the respondent on September 16, 2016. The notice informed the respondent that the alleged violation in the sworn complaint was a Category One violation, and that response to the sworn complaint was required not later than 10 business days from the date the notice was received and that failure to respond to the notice constituted a separate violation for which a separate civil penalty may be assessed. Based on the delivery date of the notice, the respondent was required to respond to the sworn complaint by September 30, 2016.

5. Beginning on September 16, 2016, Commission staff made multiple attempts to contact the respondent with no response.

IV. Findings and Conclusions of Law

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

Semiannual Campaign Finance Report

1. A candidate means a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. ELEC. CODE § 251.001(1).
2. Examples of affirmative action include the filing of a campaign treasurer appointment. *Id.* § 251.001(1)(a).
3. A candidate shall file two reports for each year. *Id.* § 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).
4. The respondent filed his campaign treasurer appointment with Anderson County on January 27, 2016, and had an active campaign treasurer appointment on file during all periods relevant to the complaint. Thus, the respondent was a candidate and was required to file a July 2016 semiannual report by July 15, 2016. On September 15, 2016, the Commission received records on file with the Anderson County Clerk's office showing that the respondent's July 2016 semiannual campaign finance report was not filed. Therefore, there is credible evidence of a violation of section 254.063(b) of the Election Code.

Response to Notice of a Sworn Complaint

5. If the 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).
6. 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).
7. The response required by section 571.1242 of the Government Code must: (1) be in writing; (2) admit or deny the allegations set forth in the complaint; and (3) be signed by the respondent. Ethics Commission Rules § 12.52(a).
8. The respondent did not submit a response to the sworn complaint. Therefore, there is credible evidence of a violation of section 571.1242(c) of the Government 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. 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 and continuing through June 30; and 2) a respondent must respond to a notice of a sworn complaint that contains a Category One violation within 10 business days of receiving the notice of the sworn complaint, and failure to respond to a notice of a sworn complaint within the time required is a separate Category One violation.

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 \$1,000 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-31608171.

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

Gary N. Rayford, Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Executive Director