

TEXAS ETHICS COMMISSION

IN THE MATTER OF
FRANCES RIZO,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31708132

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on March 27, 2018, and considered sworn complaint SC-31708132. 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 adopted this resolution.

II. Allegations

The complaint alleged that the respondent did not file the July 2017 semiannual campaign finance report and the 8-day pre-election report for the May 6, 2017, uniform election.

III. Facts Supported by Credible Evidence

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

1. At all times relevant to the complaint, the respondent was a non-incumbent candidate for Duncanville City Council, District 5, in the May 6, 2017, uniform election.
2. The complaint alleged that the respondent did not file the July 2017 semiannual campaign finance report. The complaint also alleged that the respondent did not file the 8-day pre-election report for the May 6, 2017, uniform election, in which the respondent was an opposed candidate.

Filing of the July 2017 Semiannual Report

3. The complaint alleged that the respondent did not file the July 2017 semiannual report.
4. The respondent filed a campaign treasurer appointment (CTA) on February 17, 2017, and an amended campaign treasurer appointment (ACTA) on February 23, 2017, with the City of Duncanville (City). The respondent filed a 30-day pre-election report on April 11, 2017.

5. The respondent did not file a final report prior to the July 2017 semiannual reporting deadline. The deadline for the July 2017 semiannual report was July 17, 2017 (deadline was extended because of the weekend).
6. Records on file with the City indicate that the respondent did not file the July 2017 semiannual report at issue. The last report that the respondent had filed was the 30-day pre-election report. The report was not marked as final report and disclosed that the respondent had \$645.33 in total political contributions maintained as of April 6, 2017.
7. In response to the complaint, the respondent acknowledged the violation and filed a July 2017 semiannual report on March 5, 2018. The respondent also marked the report as a final report on March 5, 2018.

Filing of the 8-Day Pre-Election Report

8. Records on file with the City confirm the respondent filed a CTA on February 17, 2017, and an ACTA on February 23, 2017. According to the CTA and ACTA on file, the respondent did not elect to file campaign finance reports on the modified reporting schedule.
9. Records on file with the City indicate that the respondent filed a 30-day pre-election report on April 11, 2017, but did not file the 8-day pre-election report.
10. The 8-day pre-election report was due no later than April 28, 2017.
11. In response to the complaint, the respondent acknowledged the violation and filed the 8-day pre-election report on February 21, 2018.

IV. Findings and Conclusions of Law

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

Filing of the July 2017 Semiannual 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). Examples of affirmative action include the filing of a campaign treasurer appointment. *Id.* § 251.001(1)(a).
2. A candidate is required to file a semiannual report on January 15 and July 15 of each year. ELEC. CODE § 254.063. The July semiannual report covers the period beginning July 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 December 31. *Id.* § 254.063(c).

3. If a candidate expects no reportable activity in connection with the candidacy to occur after the period covered by a report filed, the candidate may designate the report as a “final” report. ELEC. CODE § 254.065(a). The designation of a report as a final report relieves the candidate of the duty to file additional reports and terminates the candidate’s campaign treasurer appointment. *Id.* § 254.065(b).
4. The respondent was required to file the July 2017 semiannual report because she had an active campaign treasurer appointment on file. The respondent did not file the July 2017 semiannual report.
5. Therefore, there is credible evidence of a violation of section 254.063(c) of the Election Code.

Filing of the 8-Day Pre-Election Report

6. 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. ELEC. CODE § 254.064(a). 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).
7. As an opposed candidate not filing on the modified reporting schedule, the respondent was required to file the 8-day pre-election report for the May 6, 2017, uniform election. The report was required to be filed by April 28, 2017. The respondent did not file the 8-day pre-election report.
8. Therefore, there is credible evidence of a violation of section 254.064(c) 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 shall file two reports for each year and the first report shall be filed not later than July 15. The respondent also acknowledges that 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 and 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 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-31708132.

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

Frances Rizo, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____

Seana Willing, Executive Director