

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
W.C. "DUB" WRIGHT,	§	TEXAS ETHICS COMMISSION
	§	
RESPONDENT	§	SC-96009
	§	

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (commission) met on September 13, 1996, to consider sworn complaint SC-96009 filed against W.C. "Dub" Wright (respondent). A quorum of the commission was present. The commission voted to refuse jurisdiction of those allegations concerning the 1992 and 1993 semiannual reports and those allegations concerning incorrect ballot application information, and to accept jurisdiction of all other allegations. Based on the investigation conducted by commission staff to date, the commission determined that there was credible evidence of violations of Sections 253.031 and 254.064, Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this agreed resolution to the respondent.

II. Allegations

1. The complainant alleges that the respondent, a candidate for school board trustee in the district's January 20, 1996, election, accepted political contributions and made political expenditures without first appointing a campaign treasurer. Also in connection with that election, the complainant alleges that the respondent failed to timely file his 30-day before election report, his 8-day before election report, and his semiannual report.
2. The complainant also alleges that the respondent failed to timely file his January 21, 1995, 8-day before election report.
3. The complainant also alleges that the respondent failed to timely file his January 15, 1993, semiannual report, and that the respondent failed to properly execute his January 15, 1992, semiannual report.
4. Finally, the complainant alleges that the respondent provided conflicting information on three separate applications to be placed on the ballot.

III. Facts Supported by Credible Evidence

Credible evidence available to the commission would support the following findings of fact:

1. (a) The respondent failed to appoint a campaign treasurer for the January 20, 1996, election. The respondent had previously been a school board trustee candidate, but had filed a final report terminating his campaign treasurer appointment. The respondent states in an affidavit that he thought he had re-appointed his campaign treasurer by listing his campaign treasurer on his 30-day

before election report. The respondent's reports show that he accepted \$268 in campaign contributions and spent \$1864 in campaign expenditures at a time when a campaign treasurer appointment was not in effect.

(b) The respondent filed his ballot application with the district on December 6, 1995. The respondent failed to timely file the 30-day before election report (due on December 21, 1995, but filed on January 5, 1996). He then filed one report on January 18, 1996, and properly designated it as both an 8-day before election report and a semiannual report. That report was due January 12, 1996, and thus was not timely filed.

2. The respondent failed to timely file the 8-day before election report for the January 21, 1995, election. The report was due on January 13, 1995, but was filed on February 10, 1995, which was 26 days late. The respondent states in an affidavit that he filed his 8-day before election report late due to the illness of his father.

IV. Conclusions of Law

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

1. (a) A candidate may not accept a campaign contribution or make a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. *See* Section 253.031, Election Code. Because the respondent accepted campaign contributions and made campaign expenditures at a time when a campaign treasurer appointment was not in effect, there is credible evidence that the respondent violated Section 253.031, Election Code.

(b) A candidate's contribution and expenditure reports are required to be filed by specified deadlines. *See* Section 254.064, Election Code. Because the respondent did not timely file the 30-day before election report and the 8-day before election/semiannual report for the January 20, 1996, election, there is credible evidence that the respondent violated Section 254.064, Election Code.
2. Because the respondent did not timely file the 8-day before election report for the January 21, 1995, election, there is credible evidence that the respondent violated Section 254.064, Election Code. However, commission rules allow the administrative waiver of penalties for a late filing based on illness in the filer's immediate family. *See* 1 T.A.C. Section 18.113.
3. Commission rules prohibit the commission from considering an allegation barred from criminal prosecution by operation of the applicable statute of limitations. *See* 1 T.A.C. Section 12.5(3). The statute of limitations for Class C misdemeanors is two years. Filing untimely contribution and expenditure reports is a Class C misdemeanor. *See* Section 254.041, Election Code. Allegations relating to the 1992 and 1993 semiannual reports are based on facts that occurred more than two years before the complaint was filed and are therefore not within the commission's jurisdiction.
4. The commission has jurisdiction over complaints alleging violations of Title 15, Election Code. *See* Section 571.061(a)(2), Election Code. Title 15 does not govern applications to be placed on the

ballot, and therefore allegations relating to conflicting information on ballot applications are not within the commission's jurisdiction.

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 detailed under Section III and the commission's findings and conclusions of law detailed under Section IV, and consents to the entry of this *ORDER and AGREED RESOLUTION* solely for the purpose of resolving and settling this sworn complaint.
2. The respondent consents to the entry of this Order before any adversarial evidentiary hearings or argument before the commission, and before any formal adjudication of law or fact by the commission. The respondent waives any right to a hearing before the commission or an administrative law judge appointed by the commission, and further waives any right to a post-hearing procedure established or provided by law.
3. The respondent acknowledges that the respondent is required to comply with the campaign treasurer appointment requirements provided by Section 253.031, Election Code, and the reporting deadlines provided by Section 254.064, Election Code. The respondent agrees to fully and strictly comply with these requirements of the law.
4. Notwithstanding any other provisions of this *ORDER and AGREED RESOLUTION*, the respondent understands and agrees that the commission will consider the respondent to have committed the violations detailed in Section IV if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

VI. Confidentiality

Because this *ORDER and AGREED RESOLUTION* describes certain violations that the commission has determined are neither technical nor *de minimis*, this *ORDER and AGREED RESOLUTION* is not confidential under Section 571.140, Government Code, and may be disclosed by members and staff of the Texas Ethics Commission.

VII. Sanction

After considering the seriousness of the violations described under Section IV, including the nature, circumstances, consequences, extent, and gravity of the violations; that no previous violations by this respondent are known to the commission; and after considering the sanction deemed necessary to deter future violations, the commission imposes a \$300 civil penalty for the violations described under Section IV, Paragraph 1, and imposes no penalty for the violation described under Section IV, Paragraph 2.

VIII. Order

The Texas Ethics Commission hereby ORDERS:

1. that the portions of this sworn complaint that allege violations under Section IV, Paragraphs 3 and 4, are dismissed;
2. that this proposed AGREED RESOLUTION be presented to the respondent;
3. that if the respondent consents to the proposed AGREED RESOLUTION, this *ORDER and AGREED RESOLUTION* is a final and complete resolution of SC-96009;
4. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original and the \$300 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than October 15, 1996; and
5. that the executive director shall promptly refer SC-96009 to the commission or an administrative law judge to conduct hearings and to propose findings of fact and conclusions of law in accordance with law if the respondent does not agree to the resolution of SC-96009 as proposed in this *ORDER and AGREED RESOLUTION*.

AGREED to by W.C. "DUB" WRIGHT, on this the _____ day of _____, 1996.

**W.C. "DUB" WRIGHT,
RESPONDENT**

EXECUTED ORIGINAL received by the commission on _____, 1996.

**TOM HARRISON
EXECUTIVE DIRECTOR**