

TEXAS ETHICS COMMISSION

IN THE MATTER OF
SANTOS BENAVIDES,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-980335

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 9, 1998, to consider Sworn Complaint SC-980335 filed against Santos Benavides, Respondent. A quorum of the commission was present. The commission voted to accept jurisdiction of this complaint. Based on the investigation conducted by commission staff, the commission determined there is credible evidence of violations of Sections 254.063 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

The complainant alleges that the respondent violated Title 15, Election Code, by failing to timely file the semiannual report due on January 15, 1998, the 30-day before election report due on February 9, 1998, and the 8-day before election report due on March 3, 1998.

III. Facts Supported by Credible Evidence

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

1. At all times relevant to this complaint, the respondent was a justice of the peace who was the successful candidate in the primary election held on March 10, 1998. The respondent filed his campaign treasurer appointment on November 17, 1989, and has held the office since January 1991.
2. On April 20, 1998, the county clerk received the respondent's 30-day before election report and 8-day before election report. The 30-day before election report discloses that the respondent had accepted \$750 in political contributions and spent \$4,654.25 in political expenditures. The 8-day before election report discloses that the respondent accepted \$6,140 in political contributions and spent \$1,140 in political expenditures.
3. The county clerk's office has not received a copy of the respondent's January 15, 1998, semiannual report.

IV. Conclusions of Law

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

1. A candidate is required to file semiannual reports by January 15 and July 15 each year. Section 254.063, Election Code.
2. The county clerk does not have the respondent's January 1998 semiannual report on file and there is no evidence that he filed it. Therefore, there is credible evidence that the respondent violated Section 254.063, Election Code.
3. A candidate with an opponent whose name appears on the ballot is required to file reports by the 30th day before an election and by the 8th day before an election. Section 254.064, Election Code. For the primary election held on March 10, 1998, the 30-day before election report was due on February 9, 1998, and the 8-day before election report was due on March 3, 1998.
4. The reports on file with the county clerk show that the respondent filed the reports on April 20, 1998. Therefore, there is credible evidence that the respondent violated Section 254.064, 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 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, and further waives any right to a post-hearing procedure established or provided by law.
3. The respondent acknowledges that Sections 254.063 and 254.064, Election Code, require candidates to file campaign finance reports. 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, Paragraphs 2 and 4, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

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 seriousness of the violations described under Sections III and IV, including the nature, circumstances, consequences, extent, and gravity of the violations, after considering the fact that no previous violations by this respondent are known to the commission, and after considering the sanction necessary to deter future violations, the commission imposes a \$400 civil penalty for the violations described under Section IV, Paragraphs 2 and 4.

VIII. Order

The commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to the respondent;
2. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-980335;
3. 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 \$400 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than November 6, 1998; and
4. that the executive director shall promptly refer SC-980335 to either the commission or to an administrative law judge to conduct hearings on the commission's behalf and to propose findings of fact and conclusions of law to the commission in accordance with law if the respondent does not agree to the resolution of SC-980335 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 200__.

Santos Benavides, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director