

TEXAS ETHICS COMMISSION

IN THE MATTER OF
LYNN YARBROUGH,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-240581

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission met on July 16, 2004, to consider sworn complaint SC-240581. 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, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegation

The complainant alleges that the respondent failed to file a timely January 15, 2004, semiannual report.

III. Facts Supported by Credible Evidence

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

1. The respondent was an unopposed candidate for Midland County commissioner in the 2004 primary election. He filed his campaign treasurer appointment on December 29, 2003. He filed his application for a place on the ballot along with a \$750 filing fee on December 30, 2003.
2. The respondent filed a January 2004 semiannual report on January 22, 2004. The report disclosed a \$750 expenditure.
3. In response to this complaint the respondent submitted a sworn statement in which he takes full responsibility for not filing a timely report. He swears that he did not accept contributions during the period covered by the report and that the only expenditure was for the \$750 filing fee, which he paid from his personal funds. He swears that during the second week of January he spent much of his time dealing with the death of his best friend of twenty-five years.

IV. Findings and 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. ELEC. CODE §§ 253.000(1)(B) (defining “candidate”) and 254.063 (requiring a candidate to file semiannual reports).
2. The respondent became a candidate for filing purposes when he filed a campaign treasurer appointment on December 29, 2003. Therefore, he was required to file a report for the January 15, 2004, filing deadline. The respondent filed that report on January 22, 2004. There is credible evidence that the respondent violated section 254.063 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 is required to file semiannual campaign finance reports. The respondent agrees to fully 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 seriousness of the violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$100 civil penalty for the violation described under Section IV.

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-240581.

AGREED to by the respondent on this _____ day of _____, 2004

Lynn Yarbrough, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Sarah Woelk, Acting Executive Director