

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JOHN S. ADKINS,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-260388

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on July 14, 2006, to consider sworn complaint SC-260388. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 252.001 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. Allegations

The complaint alleges that the respondent failed to appoint a campaign treasurer as a candidate for director of a municipal utility district. The complaint also alleges that the respondent failed to file campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. The respondent was an incumbent candidate for director of the Burney Road Municipal Utility District, in a May 2004 election.
2. The respondent's application for a place on the ballot is dated March 4, 2004.
3. The respondent did not file a campaign treasurer appointment, or campaign finance reports in connection with the election. The respondent made no campaign expenditures and accepted no campaign contributions for the election.
4. The election was cancelled because the candidates were unopposed.

IV. Findings and Conclusions of Law

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

1. Each candidate and each political committee shall appoint a campaign treasurer. ELEC. CODE § 252.001.
2. 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. An example of affirmative action includes filing an application for a place on the ballot. ELEC. CODE § 251.001(1).
3. On March 4, 2004, the respondent applied for a place on the ballot. Therefore, the respondent was a candidate for director of the Burney Road Municipal Utility District.
4. The respondent did not file a campaign treasurer appointment as a candidate in the May 2004 election. Therefore, there is credible evidence of a violation of section 252.001 of the Election Code.
5. 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 under this subchapter, as applicable and continuing through June 30. The second report shall be filed not later than January 15. The 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 under this subchapter, as applicable, and continuing through December 31. ELEC. CODE § 254.063.
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 30-day and 8-day pre-election reports. ELEC. CODE § 254.064.
7. The respondent did not have an opponent. Therefore, there was no requirement to file the pre-election reports.
8. With respect to the semiannual reports related to the May 2004 election, after the election, and because the respondent had no campaign treasurer appointment on file, he was not a candidate for purposes of the requirement to file a semiannual report. Therefore, there is credible evidence of no violation of sections 254.063 and 254.064 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 each candidate shall appoint a campaign treasurer. The respondent agrees to 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. No 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 no civil penalty for the violation described under Sections III and 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-260388.

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

John Adkins, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director