

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JEFF HEINTSCHEL,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2810354

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 12, 2009, to consider sworn complaint SC-2810354. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.064 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 timely file 8-day pre-election campaign finance reports in connection with the 2008 primary and primary runoff elections, and failed to timely file a 30-day pre-election report in connection with the 2008 general election.

III. Facts Supported by Credible Evidence

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

1. The respondent was a candidate for justice of the peace of Harris County Precinct 8 in the 2008 primary and general elections.
2. The 8-day pre-election report for the March 4, 2008, primary election was due on February 25, 2008. The respondent filed his 8-day pre-election report for the primary election on May 1, 2008. The report disclosed \$1,000 in total political contributions and \$1,061.71 in total political expenditures.
3. The 8-day pre-election report for the April 8, 2008, primary runoff election was due on March 31, 2008. The respondent filed his 8-day pre-election report for the runoff election on

- May 1, 2008. The report disclosed \$750 in total political contributions and \$1,963.90 in total political expenditures.
4. The 30-day pre-election report for the November 4, 2008, general election was due on October 6, 2008. The respondent filed his 30-day pre-election report for the general election on October 15, 2008.
 5. In response to the allegations, the respondent admits that he filed the reports late but swears that he has never run for office and that the failure to timely file the reports was not done knowingly or intentionally. In addition, the respondent swears that the failure to file in a timely manner was also caused by Hurricane Ike, which damaged his home and destroyed his campaign documents.
 6. Hurricane Ike struck near Galveston, Texas, as a Category 2 hurricane in September 2008.

IV. Findings and Conclusions of Law

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

1. 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. The first report must be filed not later than the 30th day before election day, covering the period beginning 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 chapter, as applicable, and continuing through the 40th day before election day. The second report must be filed not later than the eighth day before election day, covering the period beginning the 39th day before election day and continuing through the 10th day before election day. ELEC. CODE § 254.064.
2. An opposed candidate in a runoff election is required to file a report not later than the eighth day before runoff election day. ELEC. CODE § 254.064(e).
3. The evidence indicates that the respondent filed his 8-day pre-election reports in connection with both the primary and primary runoff elections on May 1, 2008. However, the reports were due on February 25, 2008, and March 31, 2008, respectively. The evidence also indicates that the respondent filed his 30-day pre-election report for the November 2008 general election on October 15, 2008. However, the report was due on October 6, 2008. Thus, the evidence shows that the respondent failed to timely file the reports at issue. Therefore, there is credible evidence of violations of section 254.064 of the Election Code.

4. The respondent swears that he did not file the 30-day pre-election report on time due to a natural disaster which damaged his home and destroyed his campaign records. Therefore, the commission imposes no civil penalty with respect to the 30-day pre-election report.

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 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 campaign finance reports. The first report shall be filed not later than the 30th day before election day and the second report shall be filed not later than the eighth day before election day. The respondent also acknowledges that an opposed candidate in a runoff election is required to file a report not later than the eighth day before runoff election day. The respondent agrees to comply with these requirements 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 an \$800 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-2810354.

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

Jeff Heintschel, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director