

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JAMES N. TOLBERT,
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-3130232

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 8, 2013, to consider sworn complaint SC-3130232. 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 proposed this resolution to the respondent.

II. Allegation

The complaint alleged that the respondent did not timely file a semiannual campaign finance report.

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 El Paso City Council in a May 11, 2013, election and an unsuccessful candidate in the following runoff election held on June 15, 2013. The complaint alleged that the respondent did not timely file a semiannual report that was due on January 15, 2013.
2. The respondent filed a campaign treasurer appointment with the City of El Paso on November 8, 2012. The city clerk of El Paso stamped the respondent's January 2013 semiannual report as received on January 17, 2013. The report disclosed \$8,050 in contributions, approximately \$1,300 of which were accepted after December 31, 2012.

IV. Findings and Conclusions of Law

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

1. A candidate shall file a campaign finance report 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(c).
2. The respondent was a candidate in the May 11, 2013, election and was required to file a report with the City of El Paso by January 15, 2013. The report was not filed until January 17, 2013. Therefore, there is credible evidence that the respondent violated section 254.063(c) 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 shall file a campaign finance report not later than January 15 and that 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. 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 nature, circumstances, and consequences of the violation described under Sections III and IV, and after considering the sanction necessary to deter future violations, the commission imposes a \$100 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-3130232.

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

James N. Tolbert, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director