

TEXAS ETHICS COMMISSION

IN THE MATTER OF
CAROL WAYNE CARLEY,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2803146

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 16, 2009, to consider sworn complaint SC-2803146. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.063 of the Election Code and section 571.1242 of the Government Code, laws 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 file his July 2007 and January 2008 semiannual campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. The respondent is Mayor of the city of Splendor and was re-elected to that office in the May 2007 election.
2. Documents on file with the local filing authority indicate that the respondent filed a campaign treasurer appointment that was signed on February 23, 2007, but not date stamped.
3. The respondent filed a final campaign finance report on April 15, 2008. The period covered by the report was left blank and disclosed no activity. According to the local filing authority, this was the only report filed by the respondent in 2007 or 2008.

4. The United States Postal Service website shows that the notice of this complaint was received by the respondent on April 1, 2008. The commission received the response to this complaint on April 29, 2008.

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 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, 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, as applicable, and continuing through December 31. ELEC. CODE § 254.063.
2. An individual remains a candidate for purposes of title 15 of the Election Code reporting requirements until the individual files a final report. ELEC. CODE § 254.065.
3. The evidence indicates that the respondent filed a campaign treasurer appointment on or about February 23, 2007. The evidence also indicates that the respondent did not file a campaign finance report until April 15, 2008, over one year after the campaign treasurer appointment. Because the respondent never filed a final report, the respondent continued to be a candidate for title 15 purposes until he filed the April 15, 2008, final report. As a candidate, the respondent was required to file July 2007 and January 2008 semiannual campaign finance reports. The evidence indicates that the respondent failed to do so. Therefore, there is credible evidence of violations of section 254.063 of the Election Code as to the respondent's July 2007 and January 2008 semiannual reports.
4. A respondent must respond to the notice of a Category One violation not later than the 10th business day after the date the respondent receives the notice. Failure to respond to a notice of sworn complaint within the time required is a separate Category One violation. GOV'T CODE § 571.1242(a)(c).
5. United State Postal Service records show that the notice of this sworn complaint was delivered to the respondent on April 1, 2008. The notice stated that the respondent was required to respond within 10 business days from receipt of the notice (April 15, 2008). The commission did not receive a response until April 29, 2008. Thus, the evidence indicates that the respondent failed to timely respond. Therefore, there is credible evidence of a violation of section 571.1242 of the Government 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 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, 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, as applicable, and continuing through December 31. The respondent also acknowledges that a respondent must respond to the notice of a Category One violation not later than the 10th business day after the date the respondent receives the notice. The respondent agrees to comply with these requirements of the law.

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, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a \$200 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-2803146.

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

Carol Wayne Carley, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director