

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
J. DWAYNE WILCOX,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-990202

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on March 12, 1999, and voted to accept jurisdiction of Sworn Complaint SC-990202 filed against J. Dwayne Wilcox, Respondent. The commission met again on May 14, 1999, to consider Sworn Complaint SC-990202. A quorum of the commission was present at both meetings. Based on the investigation conducted by commission staff, the commission determined that there is credible evidence of a violation of Section 254.123, Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this agreed resolution to the respondent.

### II. Allegations

The complaint alleges that the respondent failed to file a January 1999 semiannual report.

### III. Facts Supported by Credible Evidence

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

1. At all times relevant to this complaint, the respondent was the treasurer for a specific-purpose committee required to file campaign finance reports with the county clerk.
2. According to the county clerk records, the committee's campaign treasurer appointment was filed on July 1, 1998. County clerk records also show that the respondent timely filed a July 1998 semiannual report.
3. In his response, the respondent stated that the specific-purpose committee was organized for the purpose of obtaining a sufficient number of signatures to call an election regarding the sale of wine in local grocery stores. The respondent stated that the committee never received the required number of signatures to call an election and that all political funds received by the committee were spent to obtain signatures.

4. The respondent filed the January 1999 semiannual report with the county clerk's office on April 12, 1999. The commission received a copy of that report on April 14, 1999.

#### **IV. Findings and Conclusions of Law**

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

1. The campaign treasurer of a specific-purpose committee is required to file semiannual reports by July 15 and January 15 for each year that a campaign treasurer appointment is in effect. Section 254.123, Election Code.
2. The respondent failed to timely file a report by January 15, 1999, and therefore there is credible evidence that respondent violated Section 254.123, 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 and 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 and settling this sworn complaint.
2. The respondent consents to the entry of this Order before any adversarial evidentiary hearings or argument before the commission, and before any formal adjudication of law or fact by the commission. The respondent waives any right to a hearing before the commission or an administrative law judge, and further waives any right to a post-hearing procedure established or provided by law.
3. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, the respondent understands and agrees that the commission will consider the respondent to have committed the violation described under Section IV, Paragraph 2, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

#### **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, consequences, extent, and gravity of the violation, after considering the fact that no previous violations by this respondent are known to the commission, and after considering the sanction necessary to deter future violations, the commission imposes a \$100 civil penalty for the violation described under Section IV, Paragraph 2.

### VIII. Order

The commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to the respondent;
2. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-990202;
3. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original and the \$100 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than June 11, 1999; and
4. that the executive director shall promptly refer SC-990202 to either the commission or to an administrative law judge to conduct hearings on the commission's behalf and to propose findings of fact and conclusions of law to the commission in accordance with law if the respondent does not agree to the resolution of SC-990202 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 199\_\_.

\_\_\_\_\_  
J. Dwayne Wilcox, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
Tom Harrison, Executive Director