

TEXAS ETHICS COMMISSION

IN THE MATTER OF

BILLY WELDON CALDWELL,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-250450

FINAL ORDER

The Texas Ethics Commission, having heard this case and voting to find a violation of laws under its jurisdiction, makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. The respondent is Billy Weldon Caldwell, whose last known mailing address is 520 N. 5th Street, Princeton, Texas, 75407-6625. A sworn complaint was filed with the Texas Ethics Commission against the respondent on April 20, 2005. The Notice of Hearing was mailed to the respondent on October 25, 2005, by certified mail, return receipt requested, restricted delivery.
2. The preliminary review hearing was held on November 1, 2005, at 2:30 p.m., by the Texas Ethics Commission in Austin, Texas.
3. The respondent did not file a reply to the Notice of Hearing and did not appear at the hearing.
4. The respondent was an unsuccessful candidate for re-election as mayor in a May 7, 2005, city election.
5. The complaint alleges that on the report the respondent filed on April 7, 2005, he failed to complete the report type, failed to properly complete the reporting period, and failed to properly complete Part 18 on Cover Sheet page two. The complaint also alleges that the respondent failed to report information regarding a billboard.
6. The respondent received the complaint on April 29, 2005. The deadline for filing a response was May 23, 2005. The respondent's treasurer filed a response that does not respond to the allegations. The respondent has not filed a response. Staff spoke with the respondent who stated that he was not going to file a response.

Conclusions of Law

1. Disposition of this case is within the jurisdiction of the Texas Ethics Commission. GOV'T CODE § 571.061
2. The respondent received legally sufficient notice of the hearing in this case. GOV'T CODE § 571.032 and 1 T.A.C. § 12.21.
3. The allegations in the Notice of Hearing were deemed admitted as true in accordance with section 12.23 of the Texas Administrative Code.
4. A candidate is required to file reports on a form prescribed by the Ethics Commission. ELEC. CODE § 254.036(a). The reporting form prescribed by the Ethics Commission asks the candidate to indicate the type of report the candidate is filing. On the respondent's report filed on April 7, 2005, for the May 7, 2005, city election, the respondent failed to complete the report type and failed to properly complete the reporting period. Therefore, there is credible evidence that the respondent violated section 254.036 of the Election Code.
5. A candidate is required to disclose the total amount or a specific listing of the political contributions of \$50 or less accepted during the reporting period. ELEC. CODE § 254.031(a)(5). A candidate is required to disclose the total amount of all contributions accepted during the reporting period. ELEC. CODE § 254.031(a)(6). On Schedule A the respondent itemized \$663.07 in political contributions.
6. On Schedule F the respondent disclosed a single \$663.07 political expenditure. The Schedule F expenditure was entered on the cover sheet. On Part 18 of the Cover Sheet page two, the respondent entered \$813.07 for the total political contributions of \$50 or less and did not enter any amount for total political contributions. The respondent also disclosed political contributions maintained of \$150.
7. The source of all the contributions the respondent reported is not clear. The respondent provided no explanation. Therefore, there is credible evidence that the respondent violated section 254.031(a)(6) of the Election Code by not correctly entering the required information on Part 18 of the Cover Sheet page two.
8. A candidate is required to report all contributions accepted during the reporting period. ELEC. CODE § 254.031. The complaint alleges that the respondent accepted an in-kind contribution of a billboard from an individual and failed to report it. There is no evidence that the respondent accepted a contribution of a billboard. Therefore, there is no evidence of a violation of section 254.031 of the Election Code as to the billboard.
9. The respondent did not respond to the complaint. A response must be made by the deadline and must be in writing. Gov. Code § 571.1242; Ethics Commission Rule § 12.52. A failure to respond is itself a violation. Gov. Code § 571.1242. Therefore, there

is credible evidence that the respondent violated section 571.1242 of the Government Code.

10. The Texas Ethics Commission may impose a sanction against the respondent of not more than \$5,000 or triple the amount at issue, whichever amount is greater. GOV'T CODE § 571.173.

Therefore, the Texas Ethics Commission orders that:

1. The respondent pay to the Texas Ethics Commission, within 30 days of the date of this order, a civil penalty in the amount of \$500.

Date: _____

FOR THE COMMISSION

David A. Reisman
Executive Director
Texas Ethics Commission