

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
WILLIAM E. “SONNY” DAUGHTRY,	§	TEXAS ETHICS COMMISSION
RESPONDENT	§	SC-31206196

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on December 2, 2014, to consider sworn complaint SC-31206196. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 254.063, 254.064, and 255.006 of the Election Code, laws administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the Commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent: 1) did not timely file his January 2012 semiannual campaign finance report; 2) did not timely file his 30-day and 8-day pre-election campaign finance reports for the May 2012 primary election; and 3) represented in a campaign communication that he held an elective public office that he did not hold at the time the representation was made by not using the word “for” to clarify that he did not hold that office.

III. Facts Supported by Credible Evidence

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

Untimely Filing of Campaign Finance Reports

1. The respondent was an unsuccessful candidate for Harris County Constable, Precinct 8, in the May 2012 primary election.
2. The complaint alleged that the respondent did not file his January 2012 semiannual campaign finance report, and his 30-day and 8-day pre-election campaign finance reports for the May 2012 primary election.

3. The respondent filed his campaign treasurer appointment with the Harris County Clerk on December 21, 2011. The respondent did not elect to file under the modified reporting schedule.
4. After receiving notice of the complaint, the respondent filed a report on November 13, 2014, marked as a January 2012 semiannual, 30-day, 8-day, and final report and covering the period between December 21, 2011, and May 19, 2012. The report disclosed total political contributions of \$4,200, total political expenditures of \$4,126.04, and total political contributions maintained of \$4,597.

Misleading Use of Office Title

5. The complaint alleged that the respondent represented in a campaign communication that he held an elective public office that he did not hold at the time the representation was made by not using the word “for” to clarify that he did not hold that office. On numerous occasions while campaigning, the respondent wore a shirt with a star logo resembling a peace officer badge with the words “Pct. 8 Harris County Constable” printed on the front of the shirt and “Vote Sonny Daughtry Pct. 8 Constable 2012” printed on the back.
6. In response to the complaint, the respondent swore that the campaign shirts were a gift to him purchased by someone else.

IV. Findings and Conclusions of Law

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

Untimely Filing of Campaign Finance Reports

1. A candidate shall file two reports for each year as provided by this section. ELEC. CODE § 254.063(a). 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 under this subchapter, as applicable, and continuing through December 31. *Id.* § 254.063(c).
2. In addition to other required reports, 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. *Id.* § 254.064(a). The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers 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. *Id.* § 254.064(b). The

second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. *Id.* § 254.064(c).

3. “Candidate” means a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. Examples of affirmative action include the filing of a campaign treasurer appointment. *Id.* § 251.001(1).
4. The respondent filed a campaign treasurer appointment with the Harris County Clerk on December 21, 2011, and therefore was required to file a January 2012 semiannual campaign finance report by January 17, 2012 (deadline extended due to weekend and holiday). The respondent filed the report on November 13, 2014. Therefore, there is credible evidence of a violation of section 254.063(c) of the Election Code.
5. The respondent had an opponent on the ballot in the May 29, 2012, primary election and did not elect to file on the modified reporting schedule. Accordingly, the respondent was required to file the 30-day pre-election report by April 30, 2012, and the 8-day pre-election report by May 21, 2012. The respondent filed the reports on November 13, 2014. Therefore, there is credible evidence of violations of section 254.064 of the Election Code.

Misleading Use of Office Title

6. A person commits an offense if the person knowingly represents in a campaign communication that a candidate holds a public office that the candidate does not hold at the time the representation is made. *Id.* § 255.006(b).
7. A person represents that a candidate holds a public office that the candidate does not hold if the candidate does not hold the office that the candidate seeks, and the political advertising or campaign communication states the public office sought but does not include the word “for” in the communication in a type size that is at least one-half the type size used for the name of the office. *Id.* § 255.006(c).
8. A technical, clerical, or *de minimis* violation for purposes of section 571.0631 of the Government Code may include a first-time allegation against a respondent for failure of a non-incumbent to use the word “for” in a campaign communication where the communication is not otherwise misleading. Ethics Commission Rules § 12.81(a)(3).

9. “Campaign communication” means a written or oral communication relating to a campaign for nomination or election to public office or office of a political party or to a campaign on a measure. ELEC. CODE § 251.001(17).
10. The shirt at issue is a campaign communication because it is a written communication relating to a campaign for nomination to a public office. By knowingly wearing the shirt, the respondent made the representations within the communication, regardless of whether he actually purchased or ordered the shirt. At the time relevant to the complaint, the respondent did not hold the office of Harris County Constable, Precinct 8. The respondent’s campaign communication did not include the word “for” before the name of the office sought, but was not otherwise misleading. Therefore, there is credible evidence of a technical or *de minimis* violation of section 255.006(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: 1) a candidate shall file two reports for each year. 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 under this subchapter, as applicable, and continuing through December 31; 2) 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 received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers 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 received by the authority with whom the report is required to be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day; and 3) a person commits an offense if the person knowingly represents in a campaign communication that a candidate holds a public office that the candidate does not hold at the time the representation is made. A person represents that a candidate holds a public office that the candidate does not hold if the

candidate does not hold the office that the candidate seeks, and the political advertising or campaign communication states the public office sought but does not include the word “for” in the communication in a type size that is at least one-half the type size used for the name of the office.

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 nature, circumstances, and consequences of the violations described under Sections III and IV, and after considering the sanction necessary to deter future violations, the Commission imposes a \$500 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-31206196.

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

William E. “Sonny” Daughtry, Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director