

TEXAS ETHICS COMMISSION

IN THE MATTER OF
CHARLIE PHILIPS,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-32105134

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (“Commission”) met on December 8, 2021, to consider sworn complaint SC-32105134. A quorum of the Commission was present. The Commission determined that there is credible evidence of a violation of Section 254.064 of the Election Code, a law administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the Commission adopted this resolution.

II. Allegation

The sworn complaint alleged that the respondent did not file an 8-day pre-election campaign finance report for the May 1, 2021, election, which was due by April 23, 2021, in violation of Section 254.064(c) of the Election Code.

III. Findings of Fact and Conclusions of Law

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

1. The respondent was a successful opposed candidate for McKinney City Council, At-Large, in the May 1, 2021, election.
2. The sworn complaint was originally filed on May 17, 2021, and re-submitted on May 21, 2021. On May 17, 2021, the respondent filed the 8-day pre-election report.
3. In response to the complaint, the respondent stated that he filed the report on May 17, 2021. The respondent did not explain why the report was filed late, even after Commission staff requested an explanation.
4. The report disclosed \$14,923.83 in total political contributions, \$5,650.06 in total political expenditures, and \$9,823.77 in total political contributions maintained but contained numerous errors. The errors included an incorrect reporting period; incorrectly calculated total contributions; on Page 2, Subtotals, incorrectly reported \$0 in non-monetary (in-kind) political contributions, \$0 in political expenditures made from political contributions,

\$496.03 in expenditures made by credit card, and \$5,650.06 in political expenditures made from personal funds; and missing dates for political contributions and expenditures on Schedules A1 (monetary contributions), A2 (in-kind contributions), and F1 (political expenditures from political funds). At the request of Commission staff, the respondent filed a corrected report on June 11, 2021. The correction affidavit properly disclosed the reporting period for the 8-day pre-election report. The corrected report changed total contributions to properly report \$15,173.85. It also properly disclosed subtotals of \$250 in non-monetary (in-kind) political contributions, \$5,324.49 in political expenditures made from political contributions, \$325.57 in expenditures made by credit card, nothing for political expenditures made from personal funds. Finally, it also included the missing dates for political contributions and expenditures on Schedules A1, A2, and F1.

5. 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. Tex. Elec. Code § 254.064(a). 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).
6. The 8-day pre-election report was required to be filed by April 23, 2021. Credible evidence shows the respondent filed the report 24 days late on May 17, 2021. Therefore, there is credible evidence of a violation of Section 254.064(c) of the Election Code.

IV. Representations and Agreement by Respondent

By signing this order and agreed resolution and returning it to the Commission:

1. The respondent admits to the findings of fact and conclusions of law described under Section III, 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 opposed candidates who do not file under modified reporting are required to file two pre-election reports; the second report is due 8 days before the election. The respondent agrees to fully and strictly comply with this requirement of the law.

V. 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.

VI. Sanction

After considering the nature, circumstances, and consequences of the violations described under Section III, and after considering the sanction necessary to deter future violations, including the fact that the respondent failed to explain why the report was filed late, the Commission imposes a \$750 civil penalty. If the \$750 civil penalty is not paid within 30 days after the date this order is executed, then the civil penalty increases to \$2,500 and the matter of the collection of the civil penalty will be referred to the Office of the Attorney General of Texas.

VII. 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-32105134.

AGREED to by the Respondent on this _____ day of _____, 20__.

Charlie Philips, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
Anne Temple Peters, Executive Director