

TEXAS ETHICS COMMISSION

IN THE MATTER OF

HARRY H. FINNECY,
CAMPAIGN TREASURER,
AMARILLO FEDERATION OF
TEACHERS COMMITTEE ON
POLITICAL EDUCATION,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31109201

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 18, 2012, to consider sworn complaint SC-31109201. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.031 of the Election Code, a law 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, as campaign treasurer for a political committee, did not properly disclose political contributions and did not timely file a campaign finance report.

III. Facts Supported by Credible Evidence

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

1. The respondent is the campaign treasurer for Amarillo Federation of Teachers Committee on Political Education, a general-purpose committee.
2. The complaint alleged that the respondent disclosed an incorrect amount for total political contributions maintained in the July 2010 semiannual report, the 30-day pre-election report for the November 2010 general election, and the January 2011 and July 2011 semiannual reports. In the alternative, the complaint alleged that if the amounts are correct, then the respondent did not disclose political contributions or expenditures in the reports at issue.

3. The complaint alleged that the respondent did not timely file a 30-day pre-election report for the November 2010 election. The report was due on October 4, 2010. The respondent filed a 30-day pre-election report on October 5, 2010, disclosing no political contributions or expenditures.
4. The campaign treasurer of a general-purpose committee is required to file a 30-day pre-election report only if the committee is involved with the upcoming election. The committee had no activity during the reporting period that would have triggered a requirement to file a 30-day pre-election report.
5. The reports at issue disclosed \$0 for total political contributions, \$0 for total political expenditures, and \$0 for total political contributions maintained. The complaint alleged that the amount for total political contributions maintained should have been \$3,038.51 in each report at issue, which is the amount that was disclosed in the committee's January 2010 semiannual report.
6. The committee's July 2010 monthly bank statement showed that the account balance on July 1, 2010, was \$3,310.51. The respondent corrected the July 2010 semiannual report to disclose the correct amount of total political contributions maintained.
7. The bank statements for the months of August through December 2010 showed that approximately \$40 to \$45 was deposited into the account each month. The December bank statement showed the account balance on December 31, 2010, was \$3,521.45. The respondent corrected the January 2011 semiannual report to disclose the correct amount of total political contributions maintained, however, he did not disclose approximately \$210 in political contributions on the report.
8. The January 2011 monthly bank statement showed that a \$45 deposit was made into the account on January 19, 2011. The respondent did not provide a bank statement showing the account balance on June 30, 2011, the last day of the July 2011 semiannual reporting period. However, the respondent corrected the July 2011 semiannual report to disclose \$3,745.45 as the amount of total political contributions maintained. The difference between the amount disclosed in the January 2011 semiannual report and the amount disclosed in the July 2011 semiannual report was approximately \$220. Based on the amount for total political contributions maintained, the respondent did not disclose approximately \$220 in political contributions on the July 2011 semiannual report.

IV. Findings and Conclusions of Law

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

1. Each campaign finance report must include, as of the last day of a reporting period for which the person is required to file a report, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more

- accounts in which political contributions are deposited as of the last day of the reporting period. ELEC. CODE § 254.031(a)(8).
2. The appropriate method of determining the total political contributions maintained is by determining the balance of any and all accounts in which political contributions are maintained as of the last day of the reporting period. The reports at issue disclosed \$0 for total political contributions maintained. The respondent acknowledged that he disclosed the incorrect amount and corrected the reports to disclose the correct amounts. There is credible evidence of a violation of section 254.031(a)(8) of the Election Code with respect to the reports.
 3. Each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).
 4. Each report must include the total amount or a specific listing of the political contributions of \$50 or less accepted during the reporting period. *Id.* § 254.031(a)(5).
 5. A campaign finance report must also include the total amount of all political contributions accepted during the reporting period. *Id.* § 254.031(a)(6).
 6. The committee accepted approximately \$210 in political contributions during the January 2011 reporting period and approximately \$220 in political contributions during the July 2011 reporting period. The respondent failed to disclose those contributions on the reports. The respondent was required to itemize any political contributions from a person that in the aggregate exceeded \$50 during a reporting period. However, the evidence is insufficient to determine whether any person contributed more than \$50 during a reporting period. Therefore, there is insufficient evidence of a violation of sections 254.031(a)(1) and 254.031(a)(5) of the Election Code but credible evidence of violations of section 254.031(a)(6) of the Election Code regarding the disclosure of total political contributions.
 7. In addition to other required reports, for each election in which a general-purpose committee is involved, the committee's campaign treasurer shall file two reports. The first report must be filed not later than the 30th day before election day. The second report must be filed not later than the eighth day before election day. ELEC. CODE § 254.154.
 8. The respondent filed a report on October 5, 2010, disclosing no activity. The evidence shows that the committee was not involved with the November 2010 election and was therefore not required to file the report. There is credible evidence of no violation of section 254.154 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) each campaign finance report shall include the total amount of all political contributions accepted during the reporting period; and 2) each campaign finance report include as of the last day of the reporting period, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period. The respondent agrees to comply with these requirements of the law.

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, and consequences of the violation, 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-31109201.

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

Harry H. Finnecey, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director