

TEXAS ETHICS COMMISSION

IN THE MATTER OF
SCOTT TOUPIN,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2510168

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on May 11, 2006, to consider sworn complaint SC-2510168. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 254.031(a)(8) of the Election Code, a law administered and enforced by the commission. To resolve this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaint alleges that the respondent failed to report political contributions maintained as of the last day of the reporting period on the January 2004 and July 2004 semiannual reports, and on the 30-day and 8-day pre-election reports for the May 2005 uniform election.

III. Facts Supported by Credible Evidence

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

1. The respondent was the campaign treasurer of the Austin Firefighters PAC, a general-purpose committee (the committee), when the committee's January 2004 semiannual report was filed.
2. The respondent filed the committee's report electronically using the commission's software.
3. The committee's January 2004 semiannual report shows \$0.00¹ in contributions maintained.
4. The committee's January 2004 semiannual report discloses \$16,940.40 in total political contributions and \$2,100 in total political expenditures.

¹ A "\$0.00" amount is the software default which automatically appears if the respondent does not enter an amount.

5. The committee's July 2004 semiannual report discloses \$18,412.84 in total political contributions and \$550 in total political expenditures. The committee's 8-day pre-election report discloses \$3,045.36 in total political contributions and \$1,809.77 in total political expenditures.
6. The committee filed corrected reports that disclosed the political contributions maintained as of the last day of the reporting period.

IV. Findings and Conclusions of Law

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

1. A campaign finance report must include the total amount of all political contributions maintained as of the last day of the reporting period. ELEC. CODE § 254.031(8).
2. A general-purpose committee report is required to be filed by the campaign treasurer. ELEC. CODE §§ 254.153 and 254.154.
3. The evidence shows that there were contributions maintained as of the last day of the reporting period for the January 2004 semiannual report. Therefore, there is credible evidence that the respondent violated section 254.031(8) of the Election Code, as to that report.
4. Because the respondent was not the committee's campaign treasurer during the period covered by the remaining reports at issue, there is credible evidence of no violation as to those reports.

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 consent 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 a campaign finance report must include the total amount of all political contributions maintained as of the last day of the reporting period. The respondent agrees to comply with this requirement 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 \$500 civil penalty for the violation described under Sections III and IV.

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-2510168.

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

Scott Toupin, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director