

TEXAS ETHICS COMMISSION

IN THE MATTER OF
LOUIS FRANK REPA,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-230102

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 10, 2003, and voted to accept jurisdiction of Sworn Complaint SC-230102 filed against Louis Frank Repa. The commission met again on September 11, 2003, to consider Sworn Complaint SC-230102. A quorum of the commission was present at both meetings. The commission determined that there is credible evidence of violations of sections 253.031, 254.031 and 254.063 of the Election Code, laws enforced by the commission. To resolve this complaint without further proceedings, the commission proposes this agreed resolution to the respondent.

II. Allegations

The complaint involves allegations that the respondent, a candidate for county commissioner, made political expenditures and accepted political contributions without having a campaign treasurer appointment on file; failed to file complete, accurate, and timely reports; and accepted a political contribution from a corporation.

III. Facts Supported by Credible Evidence

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

1. This case arose from the 2002 primary and general elections for county commissioner in Williamson County.
2. The respondent was unopposed in the primary election and opposed in the general election.
3. The respondent submitted an affidavit in which he acknowledges that he made errors in filling out his campaign finance reports. He submitted copies of corrected reports.

Campaign treasurer appointment

4. The respondent filed a campaign treasurer appointment on January 2, 2002. The respondent's February 11, 2002, report discloses that the respondent paid a \$1,000 filing fee on December 20, 2001.
5. The respondent became a candidate for filing purposes by filing for a place on the ballot in December 2001.
6. The complainant alleges that the respondent terminated his campaign treasurer appointment when he filed his July 2002 semiannual report but continued to accept political contributions and make political expenditures.
7. The respondent filed a form C/OH-FR with his July 2002 report. Filing Form C/OH-FR is part of the process of filing a final report; filing a final report terminates a campaign treasurer appointment.
8. The respondent did not mark his July 2002 report as a final report, which is the other part of the process of filing a final report.
9. The complainant concedes that it is likely that the respondent included Form C/OH-FR with his July 2002 report by mistake.

January 15, 2002, semiannual report

10. The complainant alleges that the respondent should have filed a January 2002 semiannual report by the January 15, 2002, filing deadline. The respondent did not file a January 2002 semiannual report.

February 11, 2002, report

11. The respondent was not opposed in the primary and was therefore not required to file a report for the February 11, 2002, filing deadline.

July 15, 2002, semiannual report

12. The complainant alleges that the report does not include all required information about loans accepted during the reporting period.
13. The complainant alleges that the report does not disclose all contributions accepted and expenditures made during the reporting period. The respondent reported some of the information for the July 2002 semiannual on the report he filed for the February 11, 2002, filing deadline.

14. The respondent's corrected July 2002 semiannual report includes itemized contributions of \$50 or less that were not on the original report.
15. The respondent used Schedule B rather than Schedule A to report contributions actually received.
16. The complainant alleges that the respondent failed to disclose the purpose of the twelve itemized expenditures on his July 15, 2002, semiannual report.
17. The complainant alleges that the respondent did not report a complete address for a contributor who made a contribution of \$50.
18. The complainant alleges that the respondent did not list his name at the top of each page on the reporting form.

October 7, 2002, report

19. The complainant alleges that the report does not include all required information about loans accepted during the reporting period.
20. The respondent did not disclose the amount of two contributions on his October 7, 2002, report.
21. The complainant alleges that the contribution total is not correct. The evidence supports this allegation. The report shows total contributions of \$1,030, whereas the correct total appears to be \$1,000.
22. The complainant alleges that the respondent did not list his name at the top of each schedule included with the October 7, 2002, report.
23. The respondent did not report the purpose of an expenditure in the amount of \$28.25 disclosed on Schedule G, which is used to report political expenditures from personal funds.
24. The respondent used Schedule B rather than Schedule A to report contributions actually received. Schedule B is for reporting contributions in the form of pledges.

October 28, 2002, report

25. The complainant alleges that the report does not include all required information about contributions and loans accepted during the reporting period.
26. The complainant alleges that the reported expenditure total is incorrect. The reported total (\$2,102.75) is 13 cents less than the actual total of itemized expenditures (\$2,102.88).
27. The respondent did not list his name at the top of each page of the report.

28. The respondent did not disclose the purpose of five of the seven expenditures that he reported.
29. The complainant alleges that the report covers the wrong period. The report listed two contributions (totaling \$200) and a \$50 expenditure on October 4, 2002.

January 2003, semiannual report

30. The complainant alleges that the report does not include all required information about contributions and loans accepted during the reporting period.
31. The respondent did not list his name at the top of each page of the report.
32. The respondent did not disclose the purpose of the expenditures that he reported on his January 15, 2003, semiannual report.
33. The respondent did not disclose the address of the Williamson County Blackland Conservancy, which made a contribution in the amount of \$398.79.
34. The complainant alleges that the respondent accepted a contribution from a corporation. The evidence shows that the entity in question is not incorporated.

IV. Findings and Conclusions of Law

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

Campaign treasurer appointment

1. The respondent paid a filing fee to be on the ballot before he filed a campaign treasurer appointment. Therefore, there is credible evidence that the respondent violated section 253.031 of the Election Code in connection with the expenditure on December 20, 2001.
2. Because the respondent did not designate the July 2002 report as a final report, there is credible evidence that the respondent did not intend to terminate his treasurer appointment. Because he did not intend to terminate his campaign treasurer appointment, there is credible evidence that the respondent did not knowingly make political expenditures or accept political contributions without a campaign treasurer appointment on file in connection with contributions accepted and expenditures made after the July 2002 report.

January 2002, semiannual report

3. Because the respondent became a candidate for filing purposes by filing for a place on the ballot in December 2001 he was required to file a report for the January 15, 2002, filing

deadline. The respondent did not timely file that report. Therefore, there is credible evidence of a violation of section 254.063(c) of the Election Code.

February 11, 2002, report

4. Because the February 11, 2002, report was not required, the allegations with regard to that report are dismissed.

July 2002, semiannual report

5. With regard to the July 15, 2002, semiannual report, the evidence does not support the allegation in regard to loans.
6. With regard to the contributions and expenditures that the respondent disclosed on the unrequired February 11, 2002, report, that information should have been reported on the July 2002 semiannual report. Because he reported that information well before the filing deadline, the allegation in regard to the information that was reported in February is dismissed.
7. The respondent was not required to itemize contributions of \$50 or less. He should have reported total contributions of \$50 or less as a lump sum, which he did not. Therefore, there is credible evidence of a violation of section 254.031(a)(5) of the Election Code.
8. The evidence supports the allegation that the respondent used the wrong reporting schedule to disclose contributions. Therefore, there is credible evidence of a violation of section 20.219(12) of the Ethics Commission Rules.
9. The evidence supports the allegation that the respondent failed to disclose the purpose of itemized expenditures on his July 15, 2002, semiannual report. Therefore, there is credible evidence of a violation of section 254.031(3) of the Election Code.
10. With regard to the allegation that the respondent failed to provide certain contributor addresses, a filer is not required to provide an address for a person who contributes no more than \$50 during the reporting period. Therefore, the allegation is dismissed.
11. With regard to the allegation that the respondent did not list his name at the top of each page on the reporting form, Ethics Commission forms include a space at the top of each page for the filer's name. However, there is no statute or rule that requires the filer's name to be on each page of the report. Therefore, the allegation is dismissed.

October 7, 2002, report

12. The evidence does not support the allegation that the report does not include all required information about loans accepted during the reporting period.

13. With regard to the allegation that the respondent failed to disclose the amount of two contributions, the evidence supports this allegation. The respondent's corrected report shows that each of the contributions was a \$100 contribution. Therefore, there is credible evidence of a violation of section 254.031(a)(1) of the Election Code.
14. The evidence supports the allegation that the contribution total on the respondent's report is not correct because there is a \$30 discrepancy. Therefore, there is credible evidence of a violation of section 254.031(a)(6) of the Election Code.
15. With regard to the allegation that the respondent did not list his name at the top of each page on the reporting form, Ethics Commission forms include a space at the top of each page for the filer's name. However, there is no statute or rule that requires the filer's name to be on each page of the report. Therefore, the allegation is dismissed.
16. With regard to the allegation that the respondent did not disclose the purpose of an expenditure in the amount of \$28.25 on Schedule G, a filer is not required to report the purpose of an expenditure if total expenditures to the payee do not exceed \$50 during the reporting period. Because the filer was not required to report the purpose of the expenditure in this case, the allegation is dismissed.
17. The evidence supports the allegation that the respondent used Schedule B rather than Schedule A to report contributions actually received. Schedule B is for reporting contributions in the form of pledges. Therefore, there is credible evidence of a violation of section 20.219(12) of the Ethics Commission Rules.

October 28, 2002, report

18. With regard to the allegation that the respondent's report does not include all required information about loans accepted during the reporting period, the evidence does not support the allegation.
19. With regard to the allegation that the expenditure total on the respondent's report is incorrect, the discrepancy is 13 cents. Because this is apparently a minor arithmetical error, the allegation is dismissed.
20. With regard to the allegation that the respondent did not list his name at the top of each page on the reporting form, Ethics Commission forms include a space at the top of each page for the filer's name. However, there is no statute or rule that requires the filer's name to be on each page of the report. Therefore, the allegation is dismissed.
21. The evidence supports the allegation that the respondent did not disclose the purpose of five of the seven expenditures that he reported. Therefore, there is credible evidence of a violation of section 254.031(a)(4) of the Election Code.

22. The evidence supports the allegation that the respondent's report covers the wrong period. The report should have covered a period ending on September 26, 2002, but the report listed two contributions (totaling \$200) and a \$50 expenditure on October 4, 2002. Those expenditures should have been disclosed on the respondent's subsequent report. Therefore, there is credible evidence of a violation of section 254.041 of the Election Code.

January 2003, semiannual report

23. With regard to the allegation that the respondent's report does not include all required information about loans accepted during the reporting period, the evidence does not support the allegation.
24. With regard to the allegation that the respondent did not list his name at the top of each page on the reporting form, Ethics Commission forms include a space at the top of each page for the filer's name. However, there is no statute or rule that requires the filer's name to be on each page of the report. Therefore, the allegation is dismissed.
25. The evidence supports the allegation that the respondent did not disclose the purpose of the expenditures that he reported. Therefore, there is credible evidence of a violation of section 254.031(a)(4) of the Election Code.
26. The evidence supports the allegation that the respondent did not disclose a contributor's address. Therefore, there is credible evidence of a violation of section 254.031(a)(1) of the Election Code.
27. With regard to the alleged corporate contribution, the evidence shows that the entity in question is not incorporated. Therefore, there is credible evidence that the respondent did not violate section 253.003 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 or denies the facts described under Section III and 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 the entry of this Order before any adversarial evidentiary hearings before the commission, and before any formal adjudication by the commission. The respondent waives any right to a hearing before the commission or an administrative law judge, and further waives any right to a post-hearing procedure provided by law.
3. The respondent acknowledges that a candidate may not make a campaign expenditure at a time when a candidate has no campaign treasurer in effect, that a candidate must file

semiannual reports not later than July 15 and January 15, that the report must cover the prescribed period, that the reporting period for the July semiannual report is January 1 through June 30, and that political contributions and expenditures that fall after the end of the reporting period for the 8-day pre-election report be reported on the January semiannual report. The respondent acknowledges that a candidate's report must provide the amount and total of political contributions accepted from each person that in the aggregate exceed \$50 and the amount of political expenditures that in the aggregate exceed \$50 during a reporting period. The respondent further acknowledges that he must report the aggregate total of contributions of \$50 or less accepted during a reporting period, the total political contributions accepted during a reporting period, and that when detailed information about political expenditures is required the purpose of the political expenditure must be disclosed as well as the address of the payee. The respondent also acknowledges that pledged contributions must be reported on a different schedule than contributions actually received and accepted. The respondent agrees to fully comply with this requirement of the law.

4. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, the respondent agrees that the commission will consider the respondent to have committed the violations described under Section IV, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

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 nature, circumstances, and consequences of the violations described under Sections III and IV, and after considering the fact that no previous violations by this respondent are known to the commission, and after considering the sanction necessary to deter future violations, the commission imposes a \$200 civil penalty for the violations described under Section IV.

VIII. Order

The commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to the respondent;
2. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-230102;
3. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original and the \$200 civil penalty to the

Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than October 9, 2003, and

- 4. that the executive director shall promptly set SC-230102 for a preliminary review hearing if the respondent does not agree to the resolution of SC-230102 as proposed in this ORDER and AGREED RESOLUTION.

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

 Frank Louis Repa, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
 Karen Lundquist, Executive Director