

TEXAS ETHICS COMMISSION

IN THE MATTER OF
MARK VOLPENDESTA,
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-250576

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission met on July 14, 2005, to consider sworn complaint SC-250576. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 254.157 of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaint alleges that the respondent failed to include on 20 monthly reports the total amount of political contributions maintained. The complaint also alleges that the respondent filed a campaign finance report one day late.

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 of Hermes Reed Architects Political Action Committee, a general-purpose political committee that files reports monthly.
2. The committee's reports filed between September 2003 and May 2005 do not disclose the amount of political contributions maintained.
3. The committee filed its monthly report due July 7, 2003, on July 8, 2003.
4. That late report was previously considered in the administrative process for reports that are not timely filed with the commission. The administrative penalty was waived.

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 disclose the amount of political contributions maintained in one or more accounts as of the last day of each reporting period. ELEC. CODE § 254.031.
2. The respondent failed to include that information on the 20 reports made the basis of the complaint. Therefore, there is credible evidence that the respondent violated section 254.031 of the Election Code.
3. The campaign treasurer of a general-purpose political committee filing monthly reports shall file a report not later than the fifth day of the month following the period covered by the report. ELEC. CODE § 254.157.
4. The committee's campaign finance report due July 7, 2003, was filed on July 8, 2003. Therefore, there is credible evidence that the respondent violated section 254.157 of the Election Code.
5. Because that late report was considered in the administrative fine process and the civil penalty was waived, no civil penalty is imposed in connection with the report due July 7, 2003.

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 a campaign finance report must disclose the amount of political contributions maintained in one or more accounts as of the last day of each reporting period and that the campaign treasurer of a general-purpose political committee filing monthly reports is required to file a report not later than the fifth day of the month following the period covered by the report. 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 seriousness of the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a \$2,150 civil penalty for these violations.

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-250576.

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

Mark Volpendesta, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David Reisman, Executive Director