

TEXAS ETHICS COMMISSION

IN THE MATTER OF

ROBERT AGUIRRE, and ALL
CHILDREN MATTER TEXAS PAC,

RESPONDENTS

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-260368

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on November 28, 2006, to consider sworn complaint SC-260368. 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 this complaint without further proceedings, the commission proposes this resolution to the respondents.

II. Allegations

The complaint alleges that the respondents failed to report political contributions and failed to timely file campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. Respondent Aguirre is treasurer of the respondent general-purpose committee that files monthly.
2. The committee's December 2005 monthly campaign finance report, disclosed a political expenditure of \$54,360, but the report did not disclose any political contributions, and the prior reports disclosed just over \$2,000 of total political contributions maintained.
3. This complaint was filed on March 2, 2006.
4. On March 8, 2006, a corrected December 2005 report was filed to disclose a \$54,360 political contribution from an individual.
5. The committee's report due on August 5, 2005, was not received until April 6, 2006.

6. The committee's report due on September 5, 2005, was filed on March 8, 2006, showing no activity. The report was corrected on April 6, 2006, to disclose \$2,148.95 of total contributions maintained and a bank service fee of \$10.
7. The committee's report due on October 5, 2005, was filed on November 4, 2005, showing no activity. The report was corrected on April 6, 2006, to disclose \$2,138.95 of total contributions maintained and a bank service fee of \$10.
8. The affidavit filed in response to the complaint explains that the failure to file the August, September, and October 2005 reports on time was due to an inadvertent oversight by their accountants.

IV. Findings and Conclusions of Law

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

1. The campaign treasurer of a general-purpose 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.
2. Each campaign finance report must include the amount of political contributions accepted from each person during the reporting period that in the aggregate exceed \$50, and the full name and address of the person making the contributions and the date of the contributions. ELEC. CODE § 254.031(a)(1).
3. As treasurer of the respondent political committee, Respondent Aguirre is responsible for filing the committee's campaign finance reports.
4. Respondent Aguirre originally failed to report a political contribution of approximately \$54,000. Therefore, there is credible evidence of a violation of section 254.031 of the Election Code.
5. The August 2005 report was filed on April 6, 2006, the September 2005 report was filed on March 8, 2006, and then corrected on April 6, 2006, and the October 2005 report was filed on November 4, 2005, and then corrected on April 6, 2006.
6. Respondent Aguirre failed to timely file the reports at issue. Therefore, there is credible evidence of violations of section 254.157 of the Election Code.
7. Because the allegations apply to the campaign treasurer of a political committee, but not to the committee itself, there is credible evidence of no violation with respect to the respondent committee.

V. Representations and Agreement by Respondent

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

1. Respondent Aguirre 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. Respondent Aguirre consents to this order and agreed resolution and waives any right to further proceedings in this matter.
3. Respondent Aguirre acknowledges that each campaign finance report must include the amount of political contributions accepted from each person during the reporting period that in the aggregate exceed \$50, and the full name and address of the person making the contributions and the date of the contributions. Respondent Aguirre also acknowledges that the campaign treasurer of a general-purpose committee filing monthly reports shall file a report not later than the fifth day of the month following the period covered by the report. Respondent Aguirre 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 \$2,000 civil penalty for the violations described under Sections III and IV.

VIII. Order

The commission hereby orders that if the respondents consent to the proposed resolution, this order and agreed resolution is a final and complete resolution of SC-260368.

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

Robert Aguirre, Respondent

All Children Matter Texas PAC, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director