

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
PHIL DUPREY,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-2604118

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on November 28, 2006, to consider sworn complaint SC-2604118. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 252.013(c) and 254.160 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. Allegation

The complaint alleges that the respondent failed to timely file a campaign finance report for a political committee.

### III. Facts Supported by Credible Evidence

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

1. The complaint arises out of the May 13, 2006, uniform election.
2. The 30-day pre-election campaign finance report was due on April 13, 2006.
3. HERO PAC filed its 30-day pre-election report on April 20, 2006.
4. Commission records show that the respondent was treasurer of HERO PAC from October 18, 2005, when the initial campaign treasurer appointment was filed, until April 18, 2006, the day immediately prior to the filing of an amended campaign treasurer appointment which named a new treasurer.

5. The respondent resigned as treasurer of HERO PAC on March 13, 2006. However, the respondent did not notify the Texas Ethics Commission of his resignation prior to the respondent's response to this complaint.
6. An amended campaign treasurer appointment was filed on April 19, 2006.
7. Commission records show that the respondent did not file a 10-day after treasurer termination report.
8. The 30-day pre-election campaign finance report filed on April 20, 2006, covered a period from January 16, 2006, through April 13, 2006.

#### **IV. Findings and Conclusions of Law**

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

1. If a campaign treasurer resigns or otherwise vacates the position, the appointment is terminated at the time the vacancy occurs. ELEC. CODE §252.013(a).
2. The campaign treasurer of a general-purpose committee who vacates the treasurer's position shall immediately notify the commission in writing of the vacancy. ELEC. CODE §252.013(c).
3. The treasurer of a general-purpose political committee shall file 30-day and 8-day pre-election reports for each election in which the committee is involved. ELEC. CODE § 254.154.
4. The period covered by the 30-day pre-election campaign finance report begins the day after the period covered by the committee's last required report, and continuing through the 40th day before election day. ELEC. CODE § 254.154(b).
5. If the campaign treasurer appointment of a general-purpose committee is terminated, the campaign treasurer shall file a termination report due not later than the 10th day after the termination. ELEC. CODE § 254.160.
6. The period covered by the termination report begins the day after the period covered by the last report required to be filed and continuing through the day the campaign treasurer appointment is terminated. ELEC. CODE § 254.127(c).
7. The respondent resigned on March 13, 2006, but did not notify the commission of his resignation until he filed his response to the sworn complaint on April 20, 2006. Therefore, there is credible evidence of a violation of section 252.013(c) of the Election Code.

8. Because the respondent resigned on March 13, 2006, a termination report was due on March 23, 2006.
9. A termination report has not been filed by the respondent. Therefore, there is credible evidence of a violation of section 254.160 of the Election Code for failure to timely file a termination report.
10. The 30-day pre-election report for the May 13, 2006, election covered a period ending on April 3, 2006. The respondent had resigned prior to that date. Therefore, the respondent was not required to file the 30-day pre-election report for HERO PAC. Therefore, 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 the campaign treasurer of a general-purpose committee who vacates the treasurer's position shall immediately notify the commission in writing of the vacancy. The respondent further acknowledges that if the campaign treasurer appointment of a general-purpose committee is terminated, the campaign treasurer shall file a termination report due not later than the 10th day after the termination. 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 \$250 civil penalty for the violations 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-2604118.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Phil Duprey, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
David A. Reisman, Executive Director