

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ALBERT HAWKINS,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2611225

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 28, 2007, to consider sworn complaint SC-2611225. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 572.023 of the Election Code, a law 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 disclose his position as a trustee on the board of a nonprofit organization, on his personal financial statements due 2004, 2005 and 2006. The complaint also alleges that the respondent violated the standards of conduct for state officers or employees.

III. Facts Supported by Credible Evidence

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

1. In January 2003, the respondent was appointed as the Texas Health and Human Services Executive Commissioner.
2. The complaint alleges that the respondent failed to identify his position as a trustee on the board of the Texas Health Institute on his personal financial statements due June 29, 2004, July 1, 2005, and June 30, 2006.
3. On October 26, 2006, the media reported that the respondent had failed to disclose his relationship with a nonprofit organization on his personal financial statements.
4. Two days later, on Saturday, October 28, 2006, another media source reported the possible resignation of the respondent from the Texas Health Institute, which had received more than \$2 million in state contracts. The respondent is quoted as stating that he joined the board

when he became Executive Commissioner in 2003 and that he has had no involvement with the board, has not attended a single board meeting, and considers himself an honorary member. In addition, the respondent denies any involvement in the awarding of contracts by his agency to the Texas Health Institute and indicates that he will amend his personal financial statements the following Monday.

5. On November 2, 2006, the respondent filed corrections for the personal financial statements due in 2004, 2005, and 2006, listing his position as a trustee for the Texas Health Institute. On the same day, the complainant filed a sworn complaint.
6. Commission records show that the respondent's original personal financial statements filed in 2004, 2005, and 2006 did not disclose his position as trustee on the board of the Texas Health Institute.
7. The respondent admits that shortly after his appointment as Executive Commissioner, he was asked to assume and accepted a position as a trustee on the board of the Texas Health Institute.
8. In response to the complaint, the respondent swears that he always considered the position as trustee to be honorary in nature and customary for the position of Executive Commissioner. In addition, the respondent swears that he never attended any meetings of the board, participated in any board action or exercised fiduciary duties on behalf of the board or the Texas Health Institute. The respondent further swears that he did not receive any financial benefit of any kind from this position and has no financial ties to the Texas Health Institute.

IV. Findings and Conclusions of Law

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

1. With respect to the allegations of violations of section 572. 051 of the Government Code, related to the standards of conduct for a state officer or employee, there is no statutory authority to issue a penalty for a violation of this section.
2. A state officer is required to file a personal financial statement complying with sections 572.022 through 572.0252 of the Government Code. GOV'T CODE § 572.021.
3. A personal financial statement must disclose all boards of directors of which the individual is a member and executive positions that the individual holds in corporations, firms, partnerships, limited partnerships, limited liability partnerships, professional corporations, professional associations, joint ventures, or other business associations or proprietorships, stating the name of each corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association or proprietorship and the position held. GOV'T CODE § 572.023(b)(10).

4. In 2003, the respondent accepted a position on the board of trustees for the Texas Health Institute.
5. The respondent did not disclose this membership on his personal financial statements due in 2004, 2005, and 2006.
6. The respondent corrected these omissions on November 2, 2006, the same day that the complaint was filed.
7. Ethics Commission rules prohibit the commission from considering an allegation barred from criminal prosecution by operation of the applicable statute of limitations. Ethics Commission Rules § 12.5(a).
8. The alleged violation of reporting requirements regarding the respondent's personal financial statement due on June 29, 2004, if true, would constitute a Class B misdemeanor. GOV'T CODE § 572.034(b). The statute of limitations for a Class B misdemeanor is two years from the date of the commission of the offense. Code of Criminal Procedure, Article 12.02.
9. The sworn complaint was filed on November 2, 2006. Therefore, the commission may not consider the alleged violations of reporting requirements regarding the respondent's personal financial statement due on June 29, 2004.
10. The evidence indicates that the respondent failed to disclose his membership on the board of trustees of the Texas Health Institute on his personal financial statement due in 2005 and 2006. Therefore, there is credible evidence of violations of section 572.023 of the Government 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 a state officer is required to file a personal financial statement in which he must disclose all boards of directors of which he is a member and executive positions held in corporations, firms, partnerships, limited partnerships, limited liability partnerships, professional corporations, professional associations, joint ventures, or

other business associations or proprietorships, stating the name of each corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association or proprietorship and the position held. 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 \$500 civil penalty.

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-2611225.

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

Albert Hawkins, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director