

TEXAS ETHICS COMMISSION

IN THE MATTER OF

JAMIE AVELAR,
TREASURER, AMERICANS FOR
ENERGY INDEPENDENCE

RESPONDENT

§
§
§
§
§
§
§

BEFORE THE

TEXAS ETHICS COMMISSION

SC-2710208

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 10, 2008, to consider sworn complaint SC-2710208. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 254.151 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 did not disclose political expenditures for three different campaign flyers that supported candidates in a Horizon City 2007 election on a July 2007 semiannual campaign finance report for Americans for Energy Independence. The complaint also alleges that the respondent failed to disclose the candidate or candidates supported by Americans for Energy Independence on the committee's July 2007 semiannual report.

III. Facts Supported by Credible Evidence

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

1. Americans for Energy Independence (AEI) is a general-purpose political committee.
2. AEI filed a campaign treasurer appointment with the Texas Ethics Commission on April 19, 2007, naming the respondent as its campaign treasurer.
3. The respondent is the current campaign treasurer for AEI.

4. Three flyers are at issue in this complaint. The first discloses that it was paid for by “Americans for Energy Independence PAC.” The second discloses that it was paid for by “Americans for Energy Independent.” The third discloses that it was paid for by “Americans for Energy Independence Political Action Committee,” and included the same address as that of the respondent political committee.
5. The evidence indicates that AEI contributed a total of \$1,981 in the form of campaign signs to three candidates in the 2007 Horizon City election. AEI’s July 2007 semiannual campaign finance report discloses the \$1,981 political expenditure, but does not disclose the name of any candidate supported or opposed by AEI.
6. The evidence is not sufficient to show the respondent’s knowledge of, or involvement with, the funding of the flyers at issue.

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 political committee is responsible for properly filing the committees campaign finance reports. ELEC. CODE §§ 254.031, 254.151, 254.153.
2. The respondent was the campaign treasurer for AEI at the time the reports at issue were filed, and therefore was responsible for properly filing the committees campaign finance reports.
3. Each campaign finance report must include the amount of political expenditures that in the aggregate exceed \$50 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures. The report must also include the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period and the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031.
4. The complaint alleges that AEI was responsible for three flyers. The evidence is not sufficient to show that the respondent had any knowledge of, or involvement with, the funding of the flyers. Therefore, there is insufficient evidence of a violation of section 254.031 of the Election Code.
5. Each campaign finance report filed by the campaign treasurer of a general-purpose committee must include the name of each identified candidate supported or opposed by the committee, indicating whether the committee supports or opposes each listed candidate. ELEC. CODE § 254.151.

6. The evidence indicates that AEI supported at least three candidates during the period covered by the July 2007 semiannual report. The respondent failed to indicate that the committee supported the candidates on AEI's July 2007 semiannual report. Therefore, there is credible evidence of a violation of section 254.151 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 each campaign finance report filed by the campaign treasurer of a general-purpose committee must include the name of each identified candidate supported or opposed by the committee, indicating whether the committee supports or opposes each listed candidate. The respondent agrees to comply with this requirement of the law.

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 seriousness of the violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$300 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-2710208.

AGREED to by the respondent on this _____ day of _____, 2008.

Jamie Avelar, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director