

TEXAS ETHICS COMMISSION

IN THE MATTER OF

JIM EZELL, CAMPAIGN
TREASURER, CITIZENS
AGAINST GOVERNMENT
INTERFERENCE,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-95058

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (“commission”) met on April 19, 1996, to consider sworn complaint SC-95058 filed against JIM EZELL, CAMPAIGN TREASURER, CITIZENS AGAINST GOVERNMENT INTERFERENCE (“Respondent”). A quorum of the commission was present. Based on the investigation conducted by commission staff to date, the commission determined there was credible evidence of a violation of Election Code sections 254.123 (Semiannual Reporting Schedule For Committee), 254.130 (Authority With Whom Reports Filed), and 252.007(3) (Authority With Whom Appointment Filed: Specific-Purpose Committee For Supporting or Opposing Measure), laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this agreed resolution to Respondent.

II. Facts Supported by Credible Evidence

Credible evidence available to the commission would support the following findings of fact:

1. At all times relevant to this complaint, Respondent was the campaign treasurer for a specific-purpose committee which accepted political contributions and made political expenditures in connection with a May 6, 1995, city measure election.
2. Complainant alleges that Respondent failed to file the committee’s July 15, 1995, semiannual contribution and expenditure report with the city clerk’s office.

3. Respondent properly filed the committee's appointment of campaign treasurer with the city clerk's office on April 21, 1995, for the May 6, 1995, election. He also properly filed the 8-day contribution and expenditure report on April 28. It shows a schedule C in-kind contribution of \$574. No further reports were filed with the city.
4. Complainant attached exhibits showing that expenditures for political advertising were made by or on behalf of the committee and indicating that Respondent spent in excess of \$7,000 for political advertising during the election cycle.
5. On July 12, 1995, Respondent filed a final contribution and expenditure report with the county clerk's office attempting to dissolve the committee. The final report indicated schedule C in-kind contributions in excess of \$34,000.
6. Respondent filed the final report with the county clerk's office at the direction of his attorneys. Respondent furnished the commission with a copy of a transmittal letter from the attorneys who prepared his final report. The letter advised the respondent that "*I have enclosed the final contribution and expenditure reports along with the PAC dissolution form which must be filed with the County Clerk's office.*"

III. Conclusions of Law

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

1. Election Code section 254.123(a) requires the campaign treasurer of a specific-purpose committee to file two reports of contributions and expenditures each year. Election Code section 254.123(b) requires that the first report be filed no later than July 15th. Election Code sections 254.130 and 252.007(3) require the campaign treasurer of a specific-purpose committee supporting or opposing a city measure to file its reports with the city clerk.

There is credible evidence that Respondent violated these provisions by improperly filing the committee's July 15, 1995, semiannual report with the county clerk's office rather than with the proper filing authority, the city clerk's office.

IV. Representations and Agreement by Respondent

By signing this *ORDER and AGREED RESOLUTION* and returning it to the commission:

1. Respondent neither admits nor denies the facts detailed under Section II and the commission's findings and conclusions of law detailed under Section III, and consents to the entry of this

ORDER and AGREED RESOLUTION solely for the purpose of resolving and settling this sworn complaint.

2. Respondent consents to the entry of this Order before any adversarial evidentiary hearings or argument before the commission, and before any formal adjudication of law or fact by the commission. Respondent waives any right to a hearing before the commission or an administrative law judge appointed by the commission, and further waives any right to a post-hearing procedure established or provided by law.
3. Respondent acknowledges that the above sections require the respondent to comply with the mandates of title 15 of the Texas Election Code. Respondent agrees to fully and strictly comply with these requirements of the law.
4. Notwithstanding any other provisions of this *ORDER and AGREED RESOLUTION*, Respondent understands and agrees that the commission will consider the Respondent to have committed the violation detailed in Section III if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the Respondent.

V. Confidentiality

This *ORDER and AGREED RESOLUTION* describes an alleged violation that the commission has determined would be neither technical nor *de minimis*. Accordingly, this *ORDER and AGREED RESOLUTION* is not confidential under Texas Government Code section 571.140 and may be disclosed by members and staff of the Texas Ethics Commission.

VI. Sanction

After considering the seriousness of the violations described under Sections II and III, including the nature, circumstances, consequences, extent, and gravity of the violation; that no previous violations by Respondent are known to the commission; and the sanction deemed necessary to deter future violations, the commission imposes a \$100 civil penalty for the violations described under Section III.

VII. Order

The Texas Ethics Commission hereby ORDERS:

1. that this proposed *AGREED RESOLUTION* be presented to Respondent;

- 2. that if Respondent consents to the proposed AGREED RESOLUTION, this *ORDER and AGREED RESOLUTION* is a final and complete resolution of SC-95058;
- 3. that Respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original together with payment for the \$100 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than May 17, 1996; and
- 4. that the executive director shall promptly refer SC-95058 to the commission or an administrative law judge to conduct hearings and to propose findings of fact and conclusions of law in accordance with law if Respondent does not agree to the resolution of SC-95058 as proposed in this *ORDER and AGREED RESOLUTION*.

AGREED to by Jim Ezell, Campaign Treasurer, Citizens Against Government Interference, on this the _____ day of _____, 199_____.

 Jim Ezell, Campaign Treasurer,
 Respondent

EXECUTED ORIGINAL received by the commission on _____, 199__.

Texas Ethics Commission

By:_____
 Tom Harrison, Executive Director
 Texas Ethics Commission