

TEXAS ETHICS COMMISSION

IN THE MATTER OF
GREGORY F. ARTHUR,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2708188

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 13, 2008, to consider sworn complaint SC-2708188. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.063 of the Election Code and section 571.1242 of the Government 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. Allegations

The complaint alleges that the respondent committed reporting violations under chapter 254 of the Election Code that are related to the report that the respondent filed in October 2004. The complaint also alleges that the respondent accepted a contribution from a labor union as disclosed on the campaign finance report he filed in October 2004. The complaint also alleges that the respondent failed to file the January and July semiannual campaign finance reports due in 2005, 2006, and 2007.

III. Facts Supported by Credible Evidence

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

1. The respondent is the sheriff of Liberty County.
2. The respondent filed an appointment of a campaign treasurer on November 18, 2003, to seek re-election as county sheriff in 2004.
3. The respondent filed an 8-day pre-election report for the November 2, 2004, general election on October 25, 2004. The report discloses that the respondent accepted a political

contribution on October 11, 2004, from Plumbers Local Union 68 for \$500. Commission records disclose that Plumbers Local #68 PAC reported making a political contribution to the respondent of \$500 on October 11, 2004.

4. The complainant submitted copies of letters from the filing authority, which state that the respondent did not file any campaign finance reports during the years 2006 and 2007.
5. The respondent received the sworn complaint notice on September 14, 2007. The notice stated that the respondent was required to respond within 25 business days from receipt of the notice. The 25th business day after September 14, 2007, was October 22, 2007. As of this order's date, the respondent has not filed a response.
6. Three of the reports at issue are the 8-day pre-election report for the November 2, 2004, election and the January and July 2005 semiannual reports. 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). The alleged reporting violations regarding the 8-day pre-election report and the alleged failure to file the January and July 2005 semiannual reports are Class C misdemeanors. The statute of limitations for a Class C misdemeanor is two years from the date of the commission of the offense. Code of Criminal Procedure, Article 12.02. The 8-day pre-election report for the November 2, 2004, election and the January and July 2005 semiannual reports were filed more than two years before the filing of the complaint. Therefore, the alleged reporting violations regarding the 8-day pre-election report and the alleged failure to file the January and July 2005 semiannual reports are not within the commission's sworn complaint jurisdiction.

IV. Findings and Conclusions of Law

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

Accepting a Contribution from a Labor Organization

1. A person may not knowingly accept a political contribution the person knows to have been made in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003(b).
2. A corporation or labor organization may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, of the Election Code. *Id.* § 253.094(a).
3. The evidence indicates that the respondent accepted a political contribution of \$500 from Plumbers Local #68 PAC on October 11, 2004, and not from Plumbers Local Union 68.

Therefore, there is credible evidence that the respondent did not violate section 253.003(b) of the Election Code.

Failure to File Campaign Finance Reports

4. A candidate is required to file two reports for each year, the first report is required to be filed not later than July 15, and cover the period beginning January 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through June 30; the second report shall be filed not later than January 15, and cover the period beginning July 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through December 31. ELEC. CODE § 254.063.
5. The respondent had a campaign treasurer appointment in effect during the period at issue which triggered the requirement to file semiannual reports as a candidate. A candidate has the duty to file semiannual reports until the candidate terminates his campaign treasurer appointment. ELEC. CODE § 254.065. The respondent never terminated his campaign treasurer appointment, thus, he never terminated the requirement to file semiannual reports as a candidate. (Section 254.093 of the Election Code requires an officeholder with no campaign treasurer in effect to file semiannual campaign finance reports. That section is not at issue because the respondent was required to file as a candidate.)
6. The evidence indicates that the respondent failed to file his January 2006, July 2006, January 2007, and July 2007 semiannual reports. Therefore, there is credible evidence that the respondent violated section 254.063 of the Election Code and credible evidence that the respondent did not violate section 254.093 of the Election Code.

Failure to Respond to Notice of Sworn Complaint

7. A respondent must respond to a Category Two violation not later than the 25th business day after the date the respondent receives the notice. Failure to timely respond to a notice of sworn complaint within the time required is a separate Category One violation. GOV'T CODE § 571.1242(a)(c).
8. The respondent did not respond within 25 business days and has not filed a response. Therefore, there is credible evidence of a violation of section 571.1242 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 candidate is required to file two reports for each year, the first report is required to be filed not later than July 15, and cover the period beginning January 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through June 30; the second report shall be filed not later than January 15, and cover the period beginning July 1, the day the candidate's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed, as applicable, and continuing through December 31. The respondent also acknowledges that a respondent must respond to a Category Two violation not later than the 25th business day after the date the respondent receives the notice. 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-2708188.

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

Gregory F. Arthur, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director