

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
ROUND ROCK ASSOCIATION OF	§	TEXAS ETHICS COMMISSION
PROFESSIONAL FIREFIGHTERS,	§	
RESPONDENT	§	SC-210649

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 10, 2001, and voted to accept jurisdiction of Sworn Complaint SC-210649 filed against the Round Rock Association of Professional Firefighters, Respondent. The commission met again on November 9, 2001, to consider Sworn Complaint SC-210649. A quorum of the commission was present at both meetings. Based on the investigation conducted by commission staff, the commission determined that there is credible evidence of a violation of Section 253.031(b), Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this agreed resolution to the respondent.

II. Allegations

The complainant alleges that the respondent, an association of professional firefighters, failed to file a specific-purpose political committee campaign treasurer appointment and failed to file campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. The complainant states that the respondent vigorously campaigned for the adoption of civil service for its firefighters for an election on this question held on May 5, 2001, in Round Rock, Texas. He states that the respondent failed to file a campaign treasurer appointment and failed to timely file campaign finance reports.
2. The respondent filed a report with the city of Round Rock on May 15, 2001, disclosing \$1,835 in contributions and \$18,671 in expenditures, including a \$500 contribution from a corporation. The expenditure schedule for that report, however, was not filed until September 19, 2001. The respondent's treasurer swears that he neglected to attach the schedule to the initial filing.

3. The respondent's treasurer filed a sworn response that states in pertinent part:

There was an election on May 5, 2001, in Round Rock concerning the adoption of Civil Service for firefighters. Our Association was very active in the election campaign seeking support among our members and the public at large for the adoption of Civil Service for fire department employees in Round Rock.

The first I became aware of any requirements to [file] reports in connection with our efforts on the election was when I was contacted in late March by a City of Round Rock employee. This employee informed me that I needed to file a 30-day report with the City. On Friday April 6th, I went to City Hall following my contact with the City Manager's office. I got the paperwork and began to fill it out. As I was filling it out, I was called by the City Manager's office and told that it was the wrong paperwork and that I needed to come back and get the correct paperwork. The next week, I was away on vacation, and I came back to work on April 9th. At that point, I went back to the City Manager's office to get the correct paperwork.

Not having experience in these matters, I had problems filling out the paperwork. I contacted attorneys at the Ethics Commission on more than one occasion seeking help. I finally completed the paperwork and turned it into the City on May 15th. A complete copy of what I turned [in] is attached to the affidavit as Exhibit "A".

I have also filed a Schedule F form, listing all expenditures for the campaign. This document is attached as Exhibit "B".

In our Specific Purpose Committee Finance Report dated May 15th, we list total contributions to the effort in the amount of \$1,835.00. One thousand, three hundred thirty-five (\$1,335.00) of that sum consisted of contributions from fellow employees of the Association and their families. These contributions are fully delineated on the form. In addition, there was one contribution from a business, Arrow Materials, Inc., in the amount of \$500.00, which was received on April 6th. Arrow Materials is a business owned by a member of our Local Union.

Prior to the election, I had never filed an Appointment of Campaign Treasurer Form with the Ethics [C]ommission or any other entity. The union was the sole entity through which funds were received and disbursed. The union, as a single entity, made all decisions in terms of these matters.

There was never any intent on behalf of the Association to deceive the public or the voters about the source of our contributions and our expenditures. All of the campaign materials we produced and distributed in connection with the election had a disclaimer that stated it was [a] political advertisement paid for

by the RRAPF. We went to great lengths in all public communications to ensure that people knew the source of our funding. In addition, the overwhelming majority of the funds came from our Treasury and our members. Copies of all of our campaign materials are attached as Exhibit "C".

There was never any intent on my part or on the intent of any other union officials to avoid compliance with the law. At the time of the election, we were simply unaware of the rules and regulations governing these types of activities given that there were no candidates involved.

IV. Findings and Conclusions of Law

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

1. A labor organization not acting in concert with another person may make direct campaign expenditures from its own property in connection with an election on a measure if the labor organization reports those expenditures as if it were a political committee. Sections 253.097 and 253.062, Election Code. However, Section 253.097, Election Code, does not apply in this situation because the labor organization did act in concert with another person and did make an expenditure from other than its own property because it accepted a \$500 contribution from a business and accepted contributions from numerous contributors who the respondent swears were employees of the association and their families. The respondent and the persons who made contributions to the respondent to be used for the civil service election constituted a group of persons that had as a principal purpose accepting political contributions or making political expenditures. Therefore, the respondent and its contributors constituted a political committee. Section 251.001(12), Election Code.
2. A political committee may not knowingly accept political contributions or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer appointment for the committee is not in effect. Section 253.031(b), Election Code. The political committee never filed a campaign treasurer appointment. The report filed by the respondent is credible evidence that the respondent, as part of the political committee, accepted political contributions totaling more than \$500 and made political expenditures totaling more than \$500 at a time when a campaign treasurer for the committee was not in effect. Therefore, there is credible evidence that the respondent, as part of the political committee, violated Section 253.031(b), Election Code.
3. The campaign treasurer of a specific-purpose committee is required to file pre-election campaign finance reports for each election in which the committee supports or opposes a candidate or measure. Section 254.124, Election Code. The committee failed to file a campaign treasurer appointment. In the absence of a campaign treasurer, no reports were required to be filed, and thus there is credible evidence that the respondent did not violate Section 254.124, Election Code. Rather, the political committee's failure to appoint a campaign treasurer resulted in a violation of Section 253.031, Election Code.

4. The committee did file a report on May 15, 2001, and a corrected report on September 19, 2001. The reports show that the committee exceeded \$500 in political expenditures on January 21, 2001. Therefore, the committee was required to file a campaign treasurer appointment by that date. If a campaign treasurer appointment had been filed, the treasurer would have been required to file a 30-day before election report by April 5, 2001, and an 8-day before election report by April 27, 2001.

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 and 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 and settling this sworn complaint.
2. The 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. The respondent waives any right to a hearing before the commission or an administrative law judge, and further waives any right to a post-hearing procedure established or provided by law.
3. The respondent acknowledges that a political committee may not knowingly accept political contributions or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer appointment for the committee is not in effect. The respondent agrees to fully and strictly comply with this requirement of the law.
4. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, the respondent understands and agrees that the commission will consider the respondent to have committed the violation described under Section IV, Paragraph 2, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

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, 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, consequences, extent, and gravity of the violation, after considering the fact that no previous violations by this respondent are known to the commission, and after considering the sanction necessary to deter future violations, the commission imposes a \$500 civil penalty for the violation described under Section IV, Paragraph 2.

VIII. Order

The commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to the respondent;
2. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-210649;
3. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original and the \$500 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than December 7, 2001; and
4. that the executive director shall promptly refer SC-210649 to either the commission or to an administrative law judge to conduct hearings on the commission's behalf and to propose findings of fact and conclusions of law to the commission in accordance with law if the respondent does not agree to the resolution of SC-210649 as proposed in this ORDER and AGREED RESOLUTION.

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

Round Rock Association of Professional
Firefighters, Respondent
Brad D. Allamon, Treasurer

EXECUTED ORIGINAL received by the commission on: _____.
Texas Ethics Commission

By: _____
Tom Harrison, Executive Director