

TEXAS ETHICS COMMISSION

IN THE MATTER OF
HERB BUTRUM,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2507136

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission met on November 1, 2005, to consider sworn complaint SC-2507136. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.031(a)(1) and 254.031(a)(8) of the Election 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 failed to report contributions on his January 2004 semiannual report. The complaint also alleges that the respondent reported contributions on his July 2004 semiannual report that were accepted in a prior reporting period. Finally, the complaint alleges that the respondent failed to accurately report political contributions maintained as of the last day of the reporting period on his January 2005 semiannual report, and that he improperly corrected that report.

III. Facts Supported by Credible Evidence

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

1. The respondent is the campaign treasurer of the 2004 Houston Inaugural Committee, a specific-purpose committee that files reports with the City of Houston.
2. In this case four contributions were received during the reporting period for the January 2004 semiannual report. No determination to accept or refuse the political contributions was made before the end of the reporting period.
3. The respondent reported the four contributions on the committee's July 2004 semiannual report.

4. These four contributions were reported on the wrong report.
5. The respondent failed to report political contributions maintained on his January 2005 semiannual report.
6. When the respondent filed his correction on January 25, 2005, he did not state the correct amount of political contributions maintained. The original January 2005 semiannual report shows \$0 in political contributions maintained. The first corrected January 2005 semiannual report shows \$11,339.25 in political contributions maintained.
7. The \$11,339.25 in political contributions maintained is incorrect and the correct amount of political contributions maintained is \$11,845.67.
8. Upon learning of the discrepancy the respondent filed another correction showing the correct amount of political contributions maintained.

IV. Findings and Conclusions of Law

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

1. Each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period. ELEC. CODE § 254.031(a)(1).
2. A determination to accept or refuse a political contribution that is received by a political committee shall be made not later than the end of the reporting period during which the contribution is received. ELEC. CODE § 254.034.
3. If the determination to accept or refuse a political contribution is not made before the end of the reporting period, the contribution is considered to have been accepted on the last day of that reporting period. ELEC. CODE § 254.034.
4. In this case four contributions were received during the reporting period for the January 2004 semiannual report. No determination to accept or refuse the political contributions was made before the end of the reporting period. Thus, the contributions were deemed to be accepted on the last day of the January 2004 reporting period, which was December 31, 2003.
5. These contributions were required to be reported on the January 2004 semiannual report. The contributions were instead reported on the July 2004 semiannual report. Thus, there is credible evidence of a violation of section 254.031 (a)(1) of the Election Code.

6. Each campaign finance report must include the total amount of political contributions maintained as of the last day of the reporting period. ELEC. CODE § 254.031(a)(8).
7. The original January 2005 semiannual report showed \$0 in political contributions maintained. The respondent's subsequent corrected reports indicate that the original report was incorrect and did not disclose the correct amount of political contributions maintained. Therefore, there is credible evidence of a violation of section 254.031 (a)(8) 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 report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period. Additionally, the respondent acknowledges that political contributions maintained as of the last day of the reporting period must be accurately disclosed. 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 \$1,000 civil penalty for the violations described under Sections III and IV.

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-2507136.

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

Herb Butrum, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director