

TEXAS ETHICS COMMISSION

IN THE MATTER OF
TOMMY AZOPARDI
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-280266

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 14, 2008, to consider sworn complaint SC-280266. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.151(8) 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 illegally accepted corporate political contributions, and illegally made political expenditures from the corporate funds. The complaint also alleges that the respondent failed to properly report political contributions from corporations and political expenditures made from corporate funds.

III. Facts Supported by Credible Evidence

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

1. The respondent is the treasurer for the general-purpose committee Texans for Economic Development (TED).
2. There are three political contributions at issue, totaling \$118,000. TED's original January 2008 semiannual campaign finance report, filed January 15, 2008, disclosed the contributions at issue on Schedule A (used for itemizing political contributions other than pledges or loans). The report disclosed a political contribution of \$34,000 from Call Now, Inc., on December 28, 2007, a political contribution of \$17,000 from Retama Development Corp., on December 28, 2007, and a political contribution of \$67,000 from Retama Partners, Ltd., on December 28, 2007. The report did not disclose any activity on Schedule C-2 (used for

- disclosing corporation or labor organization support). The report disclosed approximately \$1,043,000 in political contributions, zero political expenditures, and approximately \$1,069,000 as the total amount of political contributions maintained as of the last day of the reporting period (December 31, 2007).
3. TED's original 30-day pre-election report for the 2008 primary election disclosed zero political contributions, \$15,000 in political expenditures, and approximately \$1,054,000 as the total amount of political contributions maintained as of the last day of the reporting period (January 24, 2008). The report did not disclose any expenditures from corporate funds.
 4. TED's original 8-day pre-election report for the 2008 primary election disclosed \$82,000 in political contributions, approximately \$382,000 in political expenditures, and approximately \$774,000 as the total amount of political contributions maintained as of the last day of the reporting period (February 23, 2008). The report did not disclose any expenditures from corporate funds.
 5. In response to the sworn complaint, the respondent submitted an affidavit denying that TED illegally accepted corporate funds and denying that TED made political expenditures from corporate funds. The respondent acknowledges that Retama Development Corp. and Call Now, Inc. are corporations, and that Retama Partners, Ltd. is a limited partnership that includes a corporation as one of its partners.
 6. The evidence indicates that the respondent accepted the corporate funds at issue with the intent that they be used to pay the administrative expenses of TED and deposited those funds in TED's bank account on December 31, 2007. On or about February 20, 2008, the respondent established a separate bank account for the corporate funds and directed the transfer of the \$118,000 at issue into that account. The evidence indicates that none of the corporate funds at issue have been used for any purpose.
 7. The respondent swears that he did not realize the corporate contributions were reported improperly when the original January 2008 semiannual report was filed. The respondent swears that on February 20, 2008, he realized this mistake and filed a corrected January 2008 semiannual report.
 8. On February 20, 2008, the respondent filed a corrected January 2008 semiannual report. In the correction affidavit the respondent swears that corporate contributions were incorrectly disclosed on Schedule A and have now been properly reported on Schedule C-2. Schedule C-2 discloses a political contribution of \$34,000 from Call Now, Inc., on December 11, 2007, a political contribution of \$17,000 from Retama Development Corp., on December 11, 2007, and a political contribution of \$67,000 from Retama Partners, Ltd., on December 11, 2007.

IV. Findings and Conclusions of Law

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

1. A corporation may not make a political contribution or political expenditure that is not authorized by this subchapter. ELEC. CODE § 253.094.
2. A partnership that has a corporate partner is subject to the same restrictions on political activity that apply to corporations. Ethics Advisory Opinion No. 221 (1994).
3. A person may not knowingly make a political contribution in violation of this chapter nor knowingly accept a political contribution the person knows to have been made in violation of this chapter. ELEC. CODE § 253.003. A person may not knowingly make or authorize a political expenditure wholly or partly from a political contribution the person knows to have been made in violation of this chapter. ELEC. CODE § 253.005.
4. A corporation, acting alone or with one or more other corporations, may make one or more political expenditures to finance the establishment or administration of a general-purpose committee. ELEC. CODE § 253.100.
5. Each report by a campaign treasurer of a general-purpose committee must include on a separate page or pages of the report, the identification of any contribution from a corporation or labor organization made and accepted to establish or administer the political committee. ELEC. CODE § 254.151(8).
6. Each report by a campaign treasurer of a general-purpose committee must include on a separate page or pages of the report, the identification of the name of the donor, the amount, and the date of any expenditure made by a corporation or labor organization to establish or administer the political committee. ELEC. CODE § 254.151(9)(A).
7. Each report by a campaign treasurer of a general-purpose committee must include for political expenditures made during the reporting period that total more than \$50 to a single payee, the full name of the person to whom each expenditure was made, the address of the person to whom the expenditure was made, the date of the expenditure, the purpose of the expenditure, the amount of the expenditure, and indication for an expenditure paid in full or in part from corporations or labor organizations that it was paid from such sources. Ethics Commission Rules § 20.433(16).
8. The evidence indicates that TED accepted \$118,000 in corporate contributions in December 2007. Although corporate political contributions are generally prohibited, a general-purpose committee may accept corporate funds for the purpose of financing the establishment or administration of the committee. The evidence indicates that TED accepted the corporate funds at issue with the intent that they be used to pay the administrative expenses of TED.

Additionally, the evidence indicates that the respondent did not make any expenditures from corporate funds. Therefore, there is credible evidence of no violation of sections 253.003, 253.005, 253.094, and 254.151(9)(A) of the Election Code and section 20.433(16) of the Ethics Commission Rules.

9. The evidence indicates that the respondent failed to properly report political contributions made from corporations to establish or administer the committee. The evidence indicates that TED accepted \$118,000 in corporate funds for the purpose of paying TED's administrative expenses, which was required to be disclosed on Schedule C-2. Although the evidence indicates that the respondent corrected the January 2008 semiannual report on February 20, 2008, to properly disclose the corporate contributions at issue, the respondent failed to properly report the corporate contributions at the time the report was due. Therefore, there is credible evidence that the respondent violated section 254.151(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 by a campaign treasurer of a general-purpose committee must include on a separate page or pages of the report, the identification of any contribution from a corporation or labor organization made and accepted to establish or administer the political committee. The respondent agrees to comply with this requirement 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-280266.

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

Tommy Azopardi, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director