

TEXAS ETHICS COMMISSION

IN THE MATTER OF § **BEFORE THE**
§
ELSA HOPKINS, RESPONDENT § **TEXAS ETHICS COMMISSION**
§
SC-92016 §

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (“commission”) met on September 30, 1993, to consider sworn complaint SC-92016 filed against ELSA HOPKINS (the “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 § 255.001 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 agreed resolution to Respondent.

II. Facts Supported by Credible Evidence

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

1. Respondent and others attended a meeting on January 13, 1992, concerning an initiative petition to call for a ballot measure concerning parkland owned by the City of Lakeway. The meeting was held at a location for which there was no cost. All expenditures made to advertise or provide notice of the meeting were direct expenditures by an individual not a party to this complaint.
2. Respondent was appointed treasurer of a specific purpose committee named “Keep Lakeway Private” (“KLP”) on January 31, 1992, and served in that office through May 8, 1992 (the “period”). On May 8, 1992, Respondent filed with the City of Lakeway her first and final report of contributions to and expenditures by KLP.
3. During Respondent's period as campaign treasurer, KLP received legal services from a law firm in connection with the initiative petition. KLP did not hire or pay the law firm. All legal fees paid to the law firm, if any, were paid by an individual not a party to this complaint. The value of the legal services contributed was not known during the period. The receipt of the undetermined amount of legal services by KLP was disclosed on a KLP report filed by C. E. Smith, Jr., on July 14, 1992.
4. As a candidate for election to the city council of the City of Lakeway, Respondent entered into a contract to print or copy a document entitled the “Infrequent Flyer.” This document was attributed on its face to “Grrrrr: (Grass Roots Rally for the Return to Responsible Representation)” but was actually prepared by Respondent to support her candidacy for Lakeway City Council. Although the document referred to Respondent as a candidate for Lakeway City Council and did include Respondent's mailing address as the return address, it did not disclose Respondent's or any other person's name as the person who contracted to have the document printed.

III. Conclusions of Law

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

1. Respondent had no duty under the Election Code as treasurer of KLP to report expenditures in connection with a meeting organized by an individual and conducted before her appointment as treasurer of KLP, where KLP did not pay any such expenditures.
2. Respondent was not required under § 254.031(1) of the Election Code to disclose on the May 8, 1992, report KLP's receipt of the undetermined amount of legal services from a law firm.
3. The document entitled the "Infrequent Flyer" was political advertising, as the term "political advertising" is defined by § 251.001 of the Election Code.
4. Respondent violated § 255.001 of the Election Code by failing to include her full name and address as the individual who personally entered into the contract or agreement to print or copy the "Infrequent Flyer" political advertising.

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 § 255.001 of the Election Code requires a disclosure to be included on political advertising. The disclosure must state that the material is political advertising, and must identify the name and address of either (i) the individual who arranged to have the advertising printed or published, or (ii) the person represented by that individual. Respondent agrees to fully and strictly comply with this requirement 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, § 571.140(b), 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 this Respondent are known to the commission; and the sanction, if any, deemed necessary to deter future violations, the commission imposes a sanction of \$100 for the violation described under Section III.

VII. Order

The Texas Ethics Commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to Respondent;
2. that the executive director shall promptly refer SC-92016 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 Respondent does not agree to the disposition of SC-92016 as proposed in this ORDER and AGREED RESOLUTION;
3. that if Respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete disposition of SC-92016; and
4. 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 of the \$100 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than November 15, 1993.

AGREED to by ELSA HOPKINS on _____, 1993

Respondent

EXECUTED ORIGINAL received by the commission on _____, 1993.

John Steiner, Executive Director
Texas Ethics Commission