

# TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
TYLER/SMITH COUNTY	§	
ASSOCIATION OF TAXPAYERS,	§	TEXAS ETHICS COMMISSION
	§	
	§	
RESPONDENT	§	SC-95063
	§	

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (“commission”) met on April 19, 1996, to consider sworn complaint SC-95063 filed against TYLER/SMITH COUNTY ASSOCIATION OF TAXPAYERS (“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 Election Code sections 253.031 and 253.037, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this agreed resolution Respondent.

### II. Facts Supported by Credible Evidence

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

1. At all times relevant to this complaint, Respondent was a general-purpose committee. Respondent did file a campaign treasurer appointment with the Ethics Commission on October 12, 1995, indicating that it is a general-purpose committee supporting unidentified measures (“*all measures in the Smith County area designed to reduce city, county, school, and other taxes*”).
2. The complainant alleges that Respondent was a specific-purpose committee formed to oppose a local school district’s bond election, and as such, should have filed its appointment of campaign treasurer and subsequent contributions and expenditure reports with the district.
3. The complainant submitted evidence that contributions were accepted and expenditures were made in excess of \$500 before the group filed its appointment of campaign treasurer with the commission.
4. The complainant submitted as exhibits to the sworn complaint evidence that political expenditures were made by the committee within 60 days of the filing of the appointment of the campaign treasurer.

### III. Conclusions of Law

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

1. A specific-purpose committee is defined, in relevant part, as a political committee that does not have among its principal purposes those of a general-purpose committee but does have among its principal purposes opposing one or more measures, all of which are identified. *See* Elec. Code § 251.001(13). A specific-purpose committee opposing a bond issuance exclusively in an election ordered by an independent school district would file its campaign treasurer appointment with the district. *See* Elec. Code § 252.007(3).

There is credible evidence that Respondent did not violate these provisions.

2. Election Code section 253.031(b) prohibits a political committee from making campaign expenditures that total more than \$500 at a time when a campaign treasurer appointment is not in effect.

There is credible evidence that Respondent violated this section by making campaign expenditures at a time when a campaign treasurer appointment was not in effect.

3. Under Election Code section 253.037, a general-purpose committee may not make a political expenditure unless the committee has filed its campaign treasurer appointment at least 60 days before the expenditure is made.

There is credible evidence that Respondent violated this section by making campaign expenditures within the 60-day prohibited period.

### 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 Election Code section 253.031(b) prohibits a political committee from making campaign expenditures that total more than \$500 at a time when a campaign treasurer appointment for the candidate is not in effect. Respondent agrees to fully and strictly comply with this requirement of the law.
4. Respondent acknowledges that Election Code section 253.037 prohibits a general-purpose committee from making a political expenditure unless the committee has filed its campaign treasurer appointment at least 60 days before the expenditure is made. Respondent agrees to fully and strictly comply with this requirement of the law.
5. Notwithstanding any other provisions of this *ORDER and AGREED RESOLUTION*, Respondent understands and agrees that the commission will consider 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 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 Government Code section 571.140(b), and may be disclosed by members and staff of the Texas Ethics Commission.

#### **VI. Sanction**

After considering the seriousness of the violation 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 after considering the sanction deemed necessary to deter future violations, the commission imposes a \$100 civil penalty for the violations described under Section III.

#### **VII. Order**

The Texas Ethics Commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to Respondent; and
2. that the executive director shall promptly refer SC-95063 to the commission or 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 resolution of SC-95063 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 resolution of SC-95063;
- 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 for the \$100 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than May 17, 1996.

AGREED to by James Rowley, Campaign Treasurer, Tyler/Smith County Association of Taxpayers, on this the \_\_\_\_\_ day of \_\_\_\_\_, 1996.

TYLER/SMITH COUNTY ASSOCIATION OF TAXPAYERS,

By: \_\_\_\_\_  
James Rowley,  
Campaign Treasurer

EXECUTED ORIGINAL received by the commission on \_\_\_\_\_, 1996.

TEXAS ETHICS COMMISSION,

By: \_\_\_\_\_  
Tom Harrison, Executive Director