

TEXAS ETHICS COMMISSION

IN THE MATTER OF
GARY WALL,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-96010

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (“commission”) met on June 14, 1996, to consider sworn complaint SC-96010 filed against Gary Wall (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 Section 253.031, Election Code, (Contribution and Expenditure Without Campaign Treasurer Prohibited), 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. 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, the respondent was a candidate for state representative.
2. The respondent spent approximately \$9,000 of his personal funds in campaign expenditures without having a campaign treasurer appointment on file.
3. The complaint alleges that the respondent violated Section 253.031, Election Code, by making campaign expenditures without having a campaign treasurer appointment on file.
4. The complaint also alleges that the respondent violated Section 254.031, Election Code, by not reporting the campaign expenditures that were made at a time when a campaign treasurer appointment was not in effect.

III. Conclusions of Law

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

1. Section 253.031, Election Code, prohibits a candidate from making a campaign expenditure at a time when a campaign treasurer appointment is not in effect.
2. The respondent made campaign expenditures at a time when a campaign treasurer appointment for the candidate was not in effect in violation of Section 253.031, Election Code.
3. Section 254.031, Election Code, requires a candidate for public office to report all campaign expenditures on the candidate's contribution and expenditure report. In response to sworn complaint SC-96023, the respondent disclosed the expenditures.

IV. Representations and Agreement by the Respondent

By signing this ORDER and AGREED RESOLUTION and returning it to the commission:

1. The 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. 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 appointed by the commission, and further waives any right to a post-hearing procedure established or provided by law.
3. The respondent acknowledges that Section 253.031, Election Code, prohibits a candidate from making a campaign expenditure at a time when a campaign treasurer appointment for the candidate 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 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 or *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 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 \$200 civil penalty for the violation described under Section III.

VII. Order

The Texas Ethics 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-96010;
- (3) that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than July 12, 1996; and
- (4) that the executive director shall promptly refer SC-96010 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-96010 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 1996.

Gary Wall, Respondent

EXECUTED ORIGINAL received by the commission on: _____
DATE

Texas Ethics Commission

By: _____

Tom Harrison, Executive Director