

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
FRANK E. ALVAREZ,	§	TEXAS ETHICS COMMISSION
GRAYSON COUNTY REPUBLICAN	§	
PARTY CHAIR,	§	
	§	
RESPONDENT	§	SC-961011
	§	

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 8, 1997, to consider sworn complaint SC-961011 filed against Frank E. Alvarez, Grayson County Republican Party Chair (the respondent). A quorum of the commission was present. The commission voted to accept jurisdiction. Based on the investigation conducted by commission staff, the commission determined that there was credible evidence of a violation of Section 253.031, 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 the respondent.

II. Allegations

1. The complainant alleges that the respondent, the chair of a county executive committee, violated the Election Code by making political expenditures for a county executive committee that, in the aggregate, exceeded \$5,000 in a calendar year without filing a campaign treasurer appointment for the committee within 15 days of exceeding \$5,000 and by failing to file the required campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. The respondent made political expenditures that, in the aggregate, exceeded \$5,000 in a calendar year on behalf of the county executive committee of which he is the chair.
2. The committee failed to file a campaign treasurer appointment within 15 days of exceeding the \$5,000 threshold.

3. The county executive committee accepted political contributions and/or made political expenditures that, in the aggregate, exceeded \$5,000 before October 26, 1996, the end of the reporting period for the 8-day before election report for the November 5, 1996, general election.
4. An 8-day before election report for the November 5, 1996, general election was not timely filed.
5. A report was filed on January 15, 1997, which included the period required to be covered by the 8-day before election report for the November 5, 1996, general election.

IV. Conclusions of Law

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

1. A county executive committee that accepts political contributions or makes political expenditures that, in the aggregate, exceed \$5,000 in a calendar year is required to file a campaign treasurer appointment not later than the 15th day after the date that amount is exceeded. Section 253.031(d)(2), Election Code. The respondent admits in his affidavit that he made political expenditures that, in the aggregate, exceeded \$5,000 in a calendar year on behalf of the county executive committee of which he is the chair. The committee failed to file a campaign treasurer appointment within 15 days of exceeding the \$5,000 threshold. There is credible evidence of a violation of Section 253.031(d)(2), Election Code.
2. The campaign treasurer of a county executive committee that exceeds the \$5,000 threshold is required to file campaign finance reports under Subchapter F, Chapter 254, Election Code, which provides reporting requirements for general-purpose committees. Section 253.031(d)(2), Election Code.

Subchapter F, Chapter 254, Election Code, requires the campaign treasurer of a general-purpose committee to file semiannual reports by January 15 and July 15. Section 254.153, Election Code. The campaign treasurer is also required to file reports by the 30th day and 8th day before each election in which the committee is involved. Section 254.154, Election Code. The campaign treasurer is the entity responsible for filing reports. Since no campaign treasurer was appointed, there is no credible evidence of a violation of the reporting requirements.

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 detailed under Section III and the commission's findings and conclusions of law detailed under Section IV, 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 a county executive committee that accepts political contributions or makes political expenditures that, in the aggregate, exceed \$5,000 in a calendar year is required to file a campaign treasurer appointment not later than the 15th day after the date that amount is exceeded as required by Section 253.031(d)(2), Election Code. 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 IV, Paragraph 1, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

VI. 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 Section 571.140, Government Code, and may be disclosed by members and staff of the Texas Ethics Commission.

VII. Sanction

After considering the seriousness of the violation described under Sections IV, 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 deemed necessary to deter future violations; the commission imposes a \$300 civil penalty against the respondent for the violation described under Section IV, Paragraph 1.

VIII. Order

The Texas Ethics Commission hereby ORDERS:

1. that the portion of this sworn complaint that alleges a violation under Section IV, Paragraph 2, is dismissed;

2. that this proposed AGREED RESOLUTION be presented to the respondent;
3. that if the respondent consents to the proposed AGREED RESOLUTION, this *ORDER and AGREED RESOLUTION* is a final and complete resolution of SC-961011;
4. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original and payment of the \$300 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than September 5, 1997; and
5. that the executive director shall promptly refer SC-961011 to the commission or an administrative law judge to conduct hearings and to propose findings of fact and conclusions of law in accordance with law if the respondent does not agree to the resolution of SC-961011 as proposed in this *ORDER and AGREED RESOLUTION*.

AGREED to by FRANK E. ALVAREZ, GRAYSON COUNTY REPUBLICAN PARTY CHAIR, on this the _____ day of _____, 1997.

FRANK E. ALVAREZ, GRAYSON COUNTY REPUBLICAN PARTY CHAIR

EXECUTED ORIGINAL received by the commission on _____, 1997.

TEXAS ETHICS COMMISSION

By: _____

TOM HARRISON,
EXECUTIVE DIRECTOR