

TEXAS ETHICS COMMISSION

IN THE MATTER OF
RUTH SHAW,
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-970843

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on November 14, 1997, to consider sworn complaint SC-970843 filed against Ruth Shaw (the respondent). A quorum of the commission was present. The commission voted to accept jurisdiction of this complaint. Based on the investigation conducted by commission staff, the commission determined there was credible evidence of a violation of Sections 253.062 and 254.124, Election Code, laws 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

The complainant alleges that the respondent, an individual, failed to file campaign finance reports due January 15, 1997, July 9, 1997, and July 15, 1997.

III. Facts Supported by Credible Evidence

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

1. The respondent is an individual who made political expenditures in the form of advertisements for an election held August 9, 1997, concerning the lease of a local hospital. She placed her first advertisement in the newspaper on April 1, 1997.
2. The respondent filed a campaign finance report July 30, 1997, which showed \$4,554.93 in political expenditures and \$550 in political contributions. The \$550 in political contributions were unsolicited. She paid for the advertisements herself before receiving the unsolicited contributions.
3. The respondent filed a report August 20, 1997, which showed \$1,264 in political expenditures made before the election to pay for advertisements.

4. The respondent did not file a report by July 10, 1997, the filing deadline for the 30-day before election report.

IV. Conclusions of Law

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

1. An individual not acting in concert with another person who makes one or more direct campaign expenditures in an election from his own property that exceed \$100 is required to file campaign finance reports as if the individual were the campaign treasurer of a political committee. Section 253.062, Election Code.
2. The respondent made campaign expenditures in an election from her own property that exceeded \$100. She was not acting in concert with another person when she made those expenditures. Those expenditures constitute direct campaign expenditures because they are expenditures made in connection with a campaign on a measure that do not constitute campaign contributions. Section 251.001(8), Election Code. The respondent was thus required to file campaign finance reports as if she were the campaign treasurer of a political committee.
3. The campaign treasurer of a specific-purpose committee is required to file two reports for each year, one by July 15 and one by January 15. Section 254.123, Election Code.
4. The campaign treasurer of a specific-purpose committee is required to file two reports for each election in which the specific-purpose committee supports or opposes a measure. One report is due not later than the 30th day before election day, and the other report is due not later than the 8th day before election day. Section 254.124, Election Code.
5. An individual making a direct expenditure exceeding \$100 is only required to file a report that covers the period during which the individual made an expenditure. The reporting period for the January 15, 1997, semiannual report ended December 31, 1996. The respondent did not make a direct expenditure during the period covered by the January 15 report. Thus, the respondent was not required to file a January 15, 1997, report.
6. The reporting period for the 30-day before election report ended June 30, 1997. The report was due July 10, 1997. The respondent made her first expenditure in connection with the election on April 1, 1997, and thus was required to file a 30-day before election report. The respondent did not file a report by July 10, 1997, the filing deadline for the 30-day before election report. There is sufficient credible evidence that the respondent violated Sections 253.062 and 254.124, Election Code, by failing to timely file a 30-day before election report.
7. The reporting period for the July 15, 1997, semiannual report ended June 30, 1997. If the respondent had filed the 30-day before election report, it would have covered the same reporting period and thus a separate semiannual report would not have been due. Thus, the respondent was not required to also file a July 15, 1997, semiannual report.

V. 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 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 Section 253.062, Election Code, requires an individual not acting in concert with another person who makes one or more direct campaign expenditures in an election from her own property that exceed \$100 to file campaign finance reports as if the individual were the campaign treasurer of a political committee. 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 violations detailed in Section IV, Paragraph 6, 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 violations described under Section 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 after considering the sanction deemed necessary to deter future violations, the commission imposes a \$100 civil penalty for the violation described under Section IV, Paragraph 6.

VIII. Order

The Texas Ethics Commission hereby ORDERS:

1. that the portions of this sworn complaint that allege violations under Section IV, Paragraphs 5 and 7, are 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-970843;
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 \$100 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than December 12, 1997; and
5. that the executive director shall promptly refer SC-970843 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-970843 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 1997.

Ruth Shaw, Respondent

EXECUTED ORIGINAL received by the commission on: _____
DATE

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director