

TEXAS ETHICS COMMISSION

IN THE MATTER OF

CHARLES P. BABB,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-971174

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on May 8, 1998, to consider sworn complaint SC-971174 filed against Charles P. Babb, treasurer of the Potter County Citizens for Responsible Government (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 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

The complainant alleges that the respondent, the campaign treasurer of a specific-purpose political committee, violated the Election Code by making a campaign expenditure at a time when the committee did not have a campaign treasurer appointment in effect.

III. Facts Supported by Credible Evidence

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

1. The respondent is the campaign treasurer of a specific-purpose political committee formed on or about October 29, 1997, to oppose a measure in the November 4, 1997, election regarding sheriff's department salaries. The campaign treasurer appointment form was filed with the county clerk on November 4, 1997.

2. An order to run political advertising in a newspaper was placed on October 29, 1997, and the cost of placing the advertisement was \$1,300. A copy of the advertisement shows that it was paid for by the political committee of which the respondent was the treasurer and gives the respondent's name and address.

IV. Conclusions of Law

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

1. A political committee may not make political expenditures exceeding \$500 at a time when a campaign treasurer appointment is not in effect. Section 253.031(b), Election Code.
2. "Political expenditure" means a campaign or officeholder expenditure. Section 251.001(10), Election Code. A "campaign expenditure" is an expenditure made in connection with an election. Section 251.001(7), Election Code.
3. The political committee of which the respondent is the campaign treasurer made expenditures of \$1,300 on October 29, 1997, to run political advertisements in a newspaper. These expenditures constitute campaign expenditures because they were made in connection with an election.
4. The political committee filed its campaign treasurer appointment on November 4, 1997, after the political expenditure had been made. Accordingly, there is credible evidence that the political committee of which the respondent is the campaign treasurer violated Section 253.031(b), Election Code, by failing to timely file a campaign treasurer appointment.

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 and AGREED RESOLUTION 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. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, the respondent understands and agrees that the commission will consider the political committee of which the respondent is the campaign treasurer to have committed the violation detailed in Section IV, Paragraph 4, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the political committee.

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.

VI. Sanction

After considering the seriousness of the violation described under Section IV, Paragraph 4, including the nature, circumstances, consequences, extent, and gravity of the violation; that no previous violations by the political committee of which the respondent is the campaign treasurer 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 4.

VIII. 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-971174;
3. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original and the \$100 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than June 5, 1998; and
4. that the executive director shall promptly refer SC-971174 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-971174 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on: _____
DATE

Charles P. Babb, Treasurer
Potter County Citizens for
Responsible Government

EXECUTED ORIGINAL received by the commission on: _____
DATE

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director