

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
COOKE COUNTY	§	TEXAS ETHICS COMMISSION
	§	
DEMOCRATIC PARTY,	§	SC-981185, SC-981186,
	§	
RESPONDENT	§	and SC-981194

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 12, 1999, and voted to accept jurisdiction of Sworn Complaints SC-981185, SC-981186, and SC-981194, filed against the Cooke County Democratic Party (the respondent). The commission met again on July 9, 1999, to consider these complaints. A quorum of the commission was present at both meetings. Based on the investigation conducted by commission staff, the commission determined that there is credible evidence of a violation of Sections 257.003 and 257.004(a), Election Code, and Section 20.529, Ethics Commission Rules, laws and rules administered and enforced by the commission. To resolve and settle these complaints without further proceedings, the commission proposes this agreed resolution to the respondent.

II. Allegations

1. The complainant alleges that the respondent failed to file a campaign treasurer appointment.
2. The complainant alleges that the respondent failed to timely file campaign finance reports.
3. The complainant alleges that the respondent accepted political contributions from corporations.
4. The complainant alleges that the respondent made and accepted unlawful political contributions.
5. The complainant alleges that the respondent made political expenditures from unlawful political contributions.

III. Facts Supported by Credible Evidence

Credible evidence available to the commission supports the following findings of fact:

1. The chairman of the county executive committee of the respondent filed an affidavit in response to these complaints. In the affidavit, the chairman states that he became chair of the respondent's executive committee in January 1997.
2. The chairman swears that to his knowledge, the respondent has never raised or spent more than \$5,000 in any calendar year.
3. The chairman swears that the respondent made no donations or contributions to any candidate in 1997 or 1998.
4. The chairman swears that in December 1997, the respondent accepted an \$800 contribution from a banking corporation.
5. The respondent did not file any campaign finance reports disclosing this corporate contribution or expenditures made from these corporate funds until after these complaints were filed.
6. In response to this complaint, the respondent has filed five reports (Form P) with the commission, covering the period from July 1, 1997, through December 31, 1998, disclosing the acceptance of the \$800 corporate contribution and expenditures made from the contribution.
7. The chairman of the respondent acknowledges in his affidavit and discloses in the reports filed with the commission that the respondent made an expenditure from corporate funds in the amount of \$529.29 on October 16, 1998, 18 days before the November 3, 1998, general election.
8. The chairman of the respondent swears that the failure to timely file the reports and the expenditure made 18 days prior to the general election were due solely to his misunderstanding and ignorance of the law.
9. The chairman of the respondent swears that at the time the respondent committee received the corporate contribution, he was unaware that he would have to account for this contribution in a different manner than any other funds.
10. The chairman of the respondent swears that he did not knowingly make or accept a political contribution in violation of any provision of Title 15, Election Code, nor did he knowingly make or authorize a political expenditure in violation of Title 15, Election Code.

11. The disclosure filings division of the commission has assessed an administrative penalty against the respondent for the untimely filing of the reports that disclose the acceptance of the corporate contribution and the expenditures made from the contribution.

IV. Findings and Conclusions of Law

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

1. The respondent is the county executive committee of the Cooke County Democratic Party.
2. A county executive committee is required to file a campaign treasurer appointment if the committee accepts political contributions or makes political expenditures that, in the aggregate, exceed \$5,000 in a calendar year. Section 253.031(d), Election Code.
3. Because the chairman of the respondent swears that to his knowledge, the respondent has never raised or spent more than \$5,000 in any calendar year and there is no evidence that the respondent exceeded either threshold, there is credible evidence that the respondent did not violate Section 253.031(d), Election Code.
4. The statutory requirement to file campaign finance reports is imposed upon the campaign treasurer of a political committee. Sections 254.153 and 254.154, Election Code.
5. Because the respondent was not required to file a campaign treasurer appointment during 1998, the requirements to file campaign finance reports did not apply. Thus, there is credible evidence that the respondent did not violate Section 254.153 or 254.154, Election Code.
6. A corporation or labor organization may not make a political contribution or expenditure that is not authorized by Subchapter D, Chapter 253, Election Code. Section 253.094, Election Code.
7. A corporation or labor organization is authorized to make a contribution from its own property to a political party to be used as provided by Chapter 257, Election Code. Section 253.104, Election Code.
8. A person may not knowingly accept a political contribution the person knows to have been made in violation of Chapter 253, Election Code. Section 253.003(b), Election Code.
9. Because a corporation is authorized by Section 253.104, Election Code, to make a contribution to a political party, there is credible evidence that the respondent committee did not violate Section 253.003(b), Election Code, by accepting the contribution from the banking corporation.

10. A person may not knowingly make or authorize a political expenditure wholly or partly from a political contribution the person knows to have been made in violation of Chapter 253, Election Code. Section 253.005, Election Code.
11. Because the contribution that the respondent accepted from the banking corporation was authorized by Subchapter D, Chapter 253, Election Code, and was not made in violation of Chapter 253, Election Code, an expenditure made from this contribution would not violate Section 253.005(a), Election Code. Therefore, there is credible evidence that the respondent did not violate Section 253.005(a), Election Code.
12. A political party that accepts authorized corporate contributions is required to file reports disclosing the corporate contributions accepted and any expenditures made from those contributions. Section 257.003, Election Code.
13. Reports disclosing corporate contributions accepted and expenditures made by a political party must be filed with the commission according to reporting schedules established by Ethics Commission Rules. Section 257.003(d), Election Code. Under the schedule adopted by the commission, reports are due January 15 and July 15 of each year, 8 days before a primary election, and 50 days before the general election. Section 20.529, Ethics Commission Rules.
14. Because the respondent accepted a contribution from a corporation, the committee was required to file reports disclosing the acceptance of the contribution and the expenditures made from that contribution. Section 257.003, Election Code. The reports were due January 15, 1998, July 15, 1998, 8 days before the March 10, 1998, primary election, and 50 days before the November 3, 1998, general election. Section 257.003(d), Election Code, and Section 20.529, Ethics Commission Rules.
15. Because the respondent did not file reports disclosing the acceptance of a corporate contribution and the expenditures from that contribution until after these complaints were filed, there is credible evidence that the respondent committee violated Section 257.003, Election Code, and Section 20.529, Ethics Commission Rules.
16. A political party may not knowingly make an expenditure using corporate funds beginning on the 60th day before the date of the general election for state and county officers and continuing through the day of the election. Section 257.004(a), Election Code.
17. Because the report filed with the commission by the respondent covering the period from September 4, 1998, through December 31, 1998, discloses that the committee made an expenditure from corporate funds in the amount of \$529.29 on October 16, 1998, 18 days before the November 3, 1998, general election, there is credible evidence that the respondent violated Section 257.004(a), Election Code.

18. A person may not knowingly make a political contribution in violation of Chapter 253, Election Code. Section 253.003(a), Election Code.
19. Because the chairman of the respondent swears that the respondent made no contributions to any candidate during 1997 or 1998, there is credible evidence that the respondent did not violate Section 253.003(a), Election Code.

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 described under Section III and the commission's findings and conclusions of law described under Section IV, and consents to the entry of this ORDER and AGREED RESOLUTION solely for the purpose of resolving and settling these sworn complaints.
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, 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 respondent to have committed the violations described under Section IV, Paragraphs 15 and 17, 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 violations that the commission has determined are 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 commission.

VII. Sanction

After considering the seriousness of the violations described under Sections III and IV, including the nature, circumstances, consequences, extent, and gravity of the violation, after considering the fact that no previous violations by this respondent are known to the commission, and after considering the sanction necessary to deter future violations, the commission imposes a \$500 civil penalty for the violation described under Section IV, Paragraph 17. Additionally, because the respondent has filed

reports with the commission and has been assessed a separate administrative fine by the disclosure filings division of the commission for the violations described under Section IV, Paragraph 15, the commission imposes no civil penalty as a part of these sworn complaints for those violations.

VIII. Order

The 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-981185, SC-981186, and SC-981194;
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 \$500 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than August 13, 1999; and
4. that the executive director shall promptly refer SC-981185, SC-981186, and SC-981194 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 these complaints as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 199____.

 (Print and sign name)
 On behalf of:
 Cooke County Democratic Club, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
 Tom Harrison, Executive Director