

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ROYCE D. MARTIN,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-981190

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 12, 1999, and voted to accept jurisdiction of Sworn Complaint SC-981190 filed against Royce D. Martin (the respondent). The commission met again on December 10, 1999, to consider this complaint. 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 that the respondent violated Section 254.064, 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 failed to file a campaign treasurer appointment.
2. The complainant alleges that the respondent accepted unlawful political contributions.
3. The complainant alleges that the respondent made political expenditures from unlawful political contributions.
4. The complainant alleges that the respondent filed incomplete or untimely campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. The respondent filed a campaign treasurer appointment with the county clerk on December 5, 1997, as a candidate for county commissioner.

2. The respondent was unopposed in the March 10, 1998, primary election. The respondent was opposed and unsuccessful in the November 3, 1998, general election.
3. The respondent's campaign finance reports disclose that after filing a campaign treasurer appointment, the respondent accepted a total of \$700 in political contributions and made a total of \$1381 in political expenditures in connection with the primary and general elections. There is no evidence that the respondent accepted any campaign contributions or made or authorized any political expenditures at a time when a campaign treasurer appointment was not in effect.
4. The respondent's campaign finance reports disclose that the respondent accepted two political contributions totaling \$700 from the Cooke County Democratic Club.
5. In response to this complaint, the respondent stated in a letter to the commission that he does not have knowledge regarding campaign finance laws.
6. The respondent filed a semiannual report on January 15, 1998. In the report, the respondent failed to disclose the purpose of one political expenditure. In response to this complaint, the respondent filed a good-faith affidavit and a corrected report that disclosed this information.
7. The respondent filed a 30-day before the primary election report on February 9, 1998. In the report, the respondent did not list the correct period covered by the report. In response to this complaint, the respondent filed a good-faith affidavit and a corrected report that corrected the period covered by this report.
8. The respondent filed an 8-day before the primary election report on March 3, 1998.
9. The respondent filed a semiannual report on July 8, 1998.
10. The respondent filed a 30-day before election report on October 6, 1998. In the report, the respondent disclosed a \$300 political contribution from the Democratic Committee. In response to this complaint, the respondent filed a good-faith affidavit and a corrected report that disclosed that the contribution was from the Cooke County Democratic Club rather than the Democratic Committee. The corrected report also disclosed a \$140 expenditure.
11. The respondent filed an 8-day before the general election report on October 28, 1998.

IV. Findings and Conclusions of Law

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

1. A candidate for a county office is required to file a campaign treasurer appointment with the county clerk. Sections 252.001 and 252.005(2), Election Code.

2. A candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment is not in effect. Section 253.031(a), Election Code.
3. Because the respondent's campaign finance reports indicate that the respondent accepted political contributions and made political expenditures after he had filed a campaign treasurer appointment, there is credible evidence that the respondent did not violate Sections 252.001 and 253.031(a), Election Code.
4. 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.
5. 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(a), Election Code.
6. The complainant submitted no evidence that the respondent knew that the contributions from the Cooke County Democratic Club were made in violation of Chapter 253, Election Code, and thus there is no credible evidence that the respondent violated Sections 253.003(b) and 253.005(a), Election Code.
7. A person who has filed a campaign treasurer appointment is required to file two semiannual campaign finance reports, one on January 15 and one on July 15 of each year. Section 254.063, Election Code.
8. Under the normal reporting schedule, a person who has filed a campaign treasurer appointment is also required to file campaign finance reports due 30 days and 8 days before each election in which the person is a candidate and has an opponent whose name appears on the ballot. Sections 254.064(b) and (c), Election Code.
9. The respondent filed all required campaign finance reports by the dates on which the reports were due, with the exception of the reports due 30 and 8 days before the general election. The 30-day before election report was filed one day late. The 8-day before election report was filed two days late. Thus, there is credible evidence that the respondent violated Sections 254.064(b) and (c), Election Code.
10. A person filing a campaign finance report is required to itemize political contributions and expenditures that exceed \$50 during a reporting period. For contributions exceeding \$50, the report must include the amount and date of each contribution and the contributor's name and address. Section 254.031(a)(1), Election Code. For expenditures exceeding \$50, the report must include the name and address of each payee and the date, amount, and purpose of the expenditure. Section 254.031(a)(3), Election Code.
11. A campaign finance report filed by a candidate is required to cover certain periods of time as provided by Sections 254.063 and 254.064, Election Code.

12. A person filing reports under Title 15, Election Code, who files an affidavit swearing that a corrected report, other than one correcting a report due eight days before an election, was filed in good faith is not subject to a fine for a late report. Sections 18.49 and 18.83, Ethics Commission Rules.
13. The respondent is not subject to late fines for the reporting errors that occurred on the respondent's January 15 semiannual report, the 30-day before the primary election report, and the 30-day before the general election report because the respondent filed good-faith affidavits and corrected reports. Thus, there is credible evidence that the respondent did not violate Sections 254.031, 254.063(a), and 254.064(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 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, 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, Paragraph 9, 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 violations, 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 \$100 civil penalty for the violations described under Section IV, Paragraph 9.

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-981190;
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 January 7, 2000; and
4. that the executive director shall promptly refer SC-981190 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 this complaint as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this date _____.

Royce D. Martin

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director