

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ANDREW CABLE,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-9812102

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 12, 1999, and voted to accept jurisdiction of and consider Sworn Complaint SC-9812102 filed against Andrew Cable, Respondent. A quorum of the commission was present. Based on the investigation conducted by commission staff, the commission determined that there is credible evidence of a violation of Section 253.003, 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 violated the Election Code by accepting prohibited contributions from two corporations.

III. Facts Supported by Credible Evidence

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

1. At all times relevant to this complaint, the respondent was a candidate for justice of the peace who had a campaign treasurer appointment on file.
2. In support of her allegations, the complainant submitted copies of the respondent's 8-day before (primary) election and (primary) runoff report. On the 8-day before election report, the respondent lists a \$100 contribution from Tips, Tans & Tones accepted on February 5, 1998. On the runoff report, the respondent lists a \$100 contribution from the Yellow Rose Land Co. accepted on March 11, 1998.

3. Commission staff contacted the Secretary of State's Office, Corporation Division, and was informed that both entities are incorporated.
4. In a written response to this complaint, the respondent acknowledged that he did accept contributions from the listed corporations. Becoming aware of this error, the respondent states that he contacted the Ethics Commission and was advised to return the corporate contributions. The respondent states that he did this and, in support of his contention, submitted a copy of his July 15 semiannual report showing the corporate contributions as returned on April 30, 1998. The report then lists an individual contribution of \$100 from the owner of the first listed corporation.
5. In response to a request for records, the Ethics Commission received copies of all of the respondent's campaign reports. The reports accurately reflect the information previously submitted by both the complainant and respondent. A 30-day before (general) election report also shows a \$100 individual contribution from the owner of the second listed corporation.

IV. Findings and Conclusions of Law

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

1. Section 253.094, Election Code, provides that a corporation may not make a political contribution or expenditure unless it is authorized by Subchapter D, Chapter 253, Election Code. That subchapter does not authorize corporations to make contributions to a political candidate or officeholder.
2. Section 253.003(b), Election Code, provides that a person may not knowingly accept a political contribution that the person knows to have been made in violation of Chapter 253, Election Code.
3. The respondent, as a candidate, accepted two corporate contributions as evidenced by the respondent's campaign finance report and his response to the complaint. There is, therefore, credible evidence that the respondent violated Section 253.003(b), 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 violation described under Section IV, Paragraph 3, 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 a violation that the commission has determined is neither technical nor *de minimis*. Accordingly, this ORDER and AGREED RESOLUTION is not confidential under section 571.140 of the Government Code, and may be disclosed by members and staff of the commission.

VII. No Sanction

After considering the seriousness of the violation 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 does not impose a civil penalty for the violation described under Section IV, Paragraph 3.

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-9812102;
3. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than March 12, 1999; and

4. that the executive director shall promptly refer SC-9812102 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-9812102 as proposed in this ORDER and AGREED RESOLUTION.

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

Andrew Cable, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director