

TEXAS ETHICS COMMISSION

IN THE MATTER OF
DAVID LINDSEY WOOD,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-990520

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on July 9, 1999, and voted to accept jurisdiction of Sworn Complaint SC-990520, filed against David Lindsey Wood, Respondent. The commission met again on April 14, 2000, and July 14, 2000, to consider Sworn Complaint SC-990520. 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 violations of Sections 253.031(a), 254.063, and 254.064, 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 made political expenditures without filing a campaign treasurer appointment and failed to file campaign finance reports. The complainant also alleges that the respondent failed to comply with the right-of-way notice provisions.

III. Facts Supported by Credible Evidence

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

1. On February 20, 1998, the respondent filed an application for a place on the ballot as candidate in a May 1998 election for trustee of a school district.
2. According to school district records, the respondent did not file a campaign treasurer appointment or any campaign finance reports.
3. The respondent was opposed and successful in the election.
4. The complainant swears that the respondent "failed to comply with Section 255.007," Election Code, and that she believes the respondent's campaign signs are stored in the respondent's barn. The complainant did not provide photographs or other information

regarding the contents of the signs, nor did the complainant provide any information regarding the respondent's conduct in connection with the signs.

5. The respondent submitted an affidavit in response to this complaint in which he swears that he received no contributions in connection with his candidacy for school board.
6. The respondent swears that he conducted his own campaign, with the assistance of his wife, and that he "made some signs personally at my own personal expense for paint and material, and made them in my own living room and carport." He swears that no one else participated in making campaign signs, nor did anyone pay for making campaign signs.
7. The respondent swears that he sent out some personal letters to people within the community at a total cost of less than \$100. He swears that he ran no newspaper advertisements, and basically campaigned by person-to-person contact with various voters in the community and shaking their hand and asking for their vote.
8. The respondent swears that to the best of his knowledge, no member of his family nor anyone else actively campaigned on his behalf or spent any money on his behalf in connection with his candidacy.
9. The respondent swears that the city in which the school district is located is a small rural community. Unofficial population records indicate that the population of this city is 354. The respondent swears that to the best of his knowledge, he obtained from the school district the necessary papers to file and run for the school board position. He swears that he never intentionally violated any Texas ethics or election rules, and that if there has been a technical violation, it was inadvertent and unintentional.

IV. Findings and Conclusions of Law

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

1. A candidate for trustee of a school district is required to file a campaign treasurer appointment with the clerk or secretary of the school district. Sections 252.001 and 252.005(3), 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. A "candidate" is defined in relevant part as a person who knowingly takes affirmative action for the purpose of gaining election to a public office. Section 251.001(1) Election Code.

4. According to school district records, the respondent filed an application for a place on the ballot, but did not file a campaign treasurer appointment. Thus, there is credible evidence that the respondent violated Sections 252.001(1) and 252.005(3), Election Code.
5. The respondent acknowledges that he made campaign expenditures from personal funds in connection with making homemade signs and sending out letters to people within the community. Because the respondent made these expenditures at a time when a campaign treasurer appointment was not in effect, there is credible evidence that the respondent violated Section 253.031(a), Election Code.
6. A candidate is required to file campaign finance reports disclosing political contributions accepted and political expenditures made during the reporting period. Sections 254.063 and 254.064, Election Code.
7. An opposed candidate is required to file pre-election reports (Section 254.064, Election Code), and all candidates are required to file semiannual reports (Section 254.063, Election Code).
8. The respondent was an opposed candidate, and was required to file campaign finance reports under Sections 254.063 and 254.064, Election Code. The respondent did not file any campaign finance reports, and thus there is credible evidence that the respondent violated Sections 254.063 and 254.064, Election Code.
9. A right-of-way notice must be written on each political advertising sign. Section 255.007(a), Election Code.
10. A “political advertising sign” is defined as a written form of political advertising that is designed to be seen from a road. Section 255.007(e), Election Code.
11. There is no evidence regarding the content of the respondent’s political advertising signs. Thus, there is no credible evidence that the respondent violated Section 255.007, 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, Paragraphs 4, 5, and 8, 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 is 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 no civil penalty for the violations described under Section IV, Paragraphs 4, 5, and 8.

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-990520;
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 August 11, 2000; and
4. that the executive director shall promptly refer SC-990520 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-990520 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 2000.

David Lindsey Wood, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director