

TEXAS ETHICS COMMISSION

IN THE MATTER OF

WALLER COUNTY DEMOCRATIC
CLUB,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-990521

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-990521 filed against the Waller County Democratic Club, a general-purpose committee (the committee). The commission met again on April 14, 2000, to consider Sworn Complaint SC-990521. A quorum of the commission was present at both meetings. Based on the investigation conducted by commission staff, the commission determined that there is (1) credible evidence that the committee violated Section 253.031(b), Election Code, but imposed no civil penalty because a civil penalty for that violation was imposed upon the committee in sworn complaint SC-990827, and (2) credible evidence of no violation of Sections 254.160 or 254.031(a)(3), 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:

- (1) the committee's former campaign treasurer failed to file a termination report;
- (2) the committee accepted a political contribution at a time when a campaign treasurer appointment for the committee was not in effect, or alternatively, if a campaign treasurer appointment for the committee was in effect, that the committee or its campaign treasurer failed to file campaign finance reports; and

- (3) the committee or its current campaign treasurer failed to include a payee address on an itemized expenditure.

III. Facts Supported by Credible Evidence

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

1. This complaint was filed against the Waller County Democratic Club, a general-purpose committee that has been filing with the Ethics Commission since July 1994.
2. The committee's former campaign treasurer gave written notice to the committee of her resignation as treasurer on February 16, 1998, by signing her name in the committee's books and writing below it, "on this date 2/16/98 I have official [*sic*] resigned from Treasurer of [the committee.]" She notified the Ethics Commission by writing a letter to the Commission dated April 13, 1998, and postmarked April 14, 1998.
3. The committee's former campaign treasurer failed to file a termination report.
4. The committee appointed a new campaign treasurer on June 4, 1999, after this complaint was filed. That person is the committee's current treasurer.
5. The committee's current treasurer filed a January 1999 semiannual report on July 14, 1999, covering the period beginning on July 1, 1998, and ending on December 30, 1998. The period covered precedes the date on which the current treasurer was appointed.
6. The report discloses total political contributions in the amount of \$5,790 and total political expenditures in the amount of \$9,172 that were accepted and made by the committee when the committee had no campaign treasurer appointment on file with the Ethics Commission. The report includes a \$4,790 expenditure made on October 28, 1998, to a catering company for the purpose of "Advertising," but does not include the payee's address.

IV. Findings and Conclusions of Law

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

1. The campaign treasurer of a general-purpose committee who resigns must file a termination report not later than the tenth day after the date the termination is effective. Sections 254.127 and 254.160, Election Code.
2. Because the duty to file a termination report is imposed upon the former campaign treasurer and not upon the committee, only the former campaign treasurer could have violated Section 254.160, Election Code. Therefore, there is credible evidence of no violation by the general-purpose committee, which is the only respondent in this complaint.

3. A political committee may not accept a political contribution or make or authorize a political expenditure at a time when a campaign treasurer appointment for the committee is not in effect. Section 253.031(b), Election Code.
4. The January 1999 semiannual report filed by the committee's current treasurer discloses total political contributions in the amount of \$5,790 and total political expenditures in the amount of \$9,172 that were accepted and made by the committee when the committee had no campaign treasurer appointment on file with the Ethics Commission. Therefore, there is credible evidence that the committee violated Section 253.031(b), Election Code.
5. The campaign treasurer of a general-purpose committee must report political expenditures made to an individual or entity during a reporting period that total more than \$50, including the address of the payee and the purpose of the expenditure. Section 254.031(a)(3), Election Code.
6. The complaint was filed against the general-purpose committee and not against the committee's campaign treasurer. Therefore, there is credible evidence of no violation by the general-purpose committee, which is the only respondent in this complaint.

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. The respondent acknowledges that a political committee may not accept a political contribution or make or authorize a political expenditure at a time when a campaign treasurer appointment for the committee is not in effect. The respondent agrees to fully and strictly comply with this requirement of the law.
4. 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 4, 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, 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 sanction necessary to deter future violations, and after considering that the commission imposed a \$500 civil penalty upon the Waller County Democratic Club for the violation described under Section IV, Paragraph 4, the commission imposes no additional penalty for that violation.

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-990521;
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 July 20, 2000; and
4. that the executive director shall promptly refer SC-990521 either to 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-990521 as proposed in this ORDER and AGREED RESOLUTION.

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

Waller County Democratic Club

By: _____

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____

Tom Harrison, Executive Director