

TEXAS ETHICS COMMISSION

IN THE MATTER OF

WALLER COUNTY DEMOCRATIC
CLUB, DELORES HARGRAVE,
AND BILL ROBINSON

RESPONDENTS

§
§
§
§
§
§
§

BEFORE THE

TEXAS ETHICS COMMISSION

SC-990827

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 8, 1999, and voted to accept jurisdiction of Sworn Complaint SC-990827 filed against the Waller County Democratic Club, a general-purpose committee (the committee); Delores Hargrave, the committee's current campaign treasurer; Bill Robinson, the committee's president; and the committee's former campaign treasurer. The commission met again on April 14, 2000, to consider Sworn Complaint SC-990827. 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, the Waller County Democratic Club, violated Section 253.031(b), Election Code, and imposed a civil penalty upon the committee in the amount of \$500, (2) credible evidence that the committee's current campaign treasurer did not violate Section 254.031(a)(3), Election Code, and (3) insufficient evidence that the committee or its current campaign treasurer violated Section 254.031, Election Code, laws administered and enforced by the commission. The commission proposes this agreed resolution to resolve and settle the complaint without further proceedings as to all of the respondents except the committee's former campaign treasurer. The allegations as to the former campaign treasurer will be considered separately.

II. Allegations

The complainant alleges that:

- (1) 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;
- (2) the committee or its current campaign treasurer failed to include a payee address on an itemized expenditure; and

- (3) the committee or its campaign treasurer either over-reported the total political expenditures made by the committee in a semiannual report or under-reported the total political contributions or loans accepted by the committee in the semiannual report or in campaign finance reports filed before that report.

III. Facts Supported by Credible Evidence

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

1. The Waller County Democratic Club is a general-purpose committee that has been filing with the 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 Waller Democratic Club." She notified the commission by writing a letter to the commission dated April 13, 1998, and postmarked April 14, 1998.
3. The committee appointed a new campaign treasurer, Delores Hargrave, on June 4, 1999, after this complaint was filed. She is the committee's current treasurer.
4. The committee's current treasurer, Delores Hargrave, 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 she was appointed.
5. 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 may resign by immediately notifying both the appointing authority (the committee) and the filing authority (commission) in writing. Sections 252.013(b) and (c), Election Code; Section 20.415(b), Ethics Commission Rules. The resignation terminates the committee's campaign treasurer appointment. Section 252.013(a), Election Code.
2. The termination is effective on the date the treasurer gives both the appointing authority and the filing authority written notice of resignation. Section 20.415(d), Ethics Commission Rules. When the notice is delivered by United States mail, it is effective on the date of the

- post office cancellation mark. Section 251.007, Election Code; Sections 20.23 and 20.415, Ethics Commission Rules.
3. The former treasurer's written notice to the committee was effective on February 16, 1998, and her written notice to the Ethics Commission was effective on April 14, 1998.
 4. 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.
 5. 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, the Waller County Democratic Club, violated Section 253.031(b), Election Code.
 6. 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.
 7. The committee's January 1999 report includes a \$4,790 expenditure made on October 28, 1998, to a catering company for the purpose of "Advertising." The report does not further describe the purpose of the expenditure or include the payee's address. Because there was no campaign treasurer appointment in effect when the expenditure was made, however, no campaign treasurer was liable for the report. Therefore, although the expenditure was prohibited, there is credible evidence of no violation of the reporting requirements of Section 254.031(a)(3), Election Code.
 8. The January 1999 semiannual report filed by the committee's current treasurer discloses total political expenditures in an amount exceeding total political contributions. Therefore the complainant concludes that the committee either over-reported the political expenditures made by the committee in the reporting period for the January 1999 semiannual report or under-reported the political contributions or loans accepted by the committee in the reporting period for the January 1999 semiannual report or in the reporting periods for the committee's campaign finance reports filed before that report.
 9. A general-purpose committee's total political contributions and total political expenditures are usually not equal in amount in any one reporting period because campaign finance reports include only contributions accepted and expenditures made in that period and do not include activity that may have occurred in prior reporting periods.

10. The campaign finance reports filed since the inception of this committee suggest that the committee may have over-reported expenditures or under-reported contributions or loans because the committee's total contributions and expenditures reported since its inception are \$14,440 and \$24,299, respectively, and the committee has not reported any loans. But there is no evidence to establish specific unreported contributions or expenditures that may have been accepted or made or the dates of any such contributions or expenditures. And there is no evidence to establish specific unreported loans that may have been accepted or the dates of any such loans. Therefore, there is insufficient credible evidence that the committee or its current or former treasurer violated Section 254.031, Election Code.

V. Representations and Agreement by Respondent

By signing this ORDER and AGREED RESOLUTION and returning it to the commission:

1. The respondent, Waller County Democratic Club, 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, Waller County Democratic Club, 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, Waller County Democratic Club, 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 these requirements 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 5, 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 violation described under Sections III and IV, including the nature, circumstances, consequences, extent, and gravity of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$500 civil penalty upon the Waller County Democratic Club for the violation described under Section IV, Paragraph 5.

VIII. Order

The commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to the respondent, Waller County Democratic Club;
2. that if the respondent, Waller County Democratic Club, consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-990827 as to the Waller County Democratic Club, Delores Hargrave, and Bill Robinson;
3. that the respondent, Waller County Democratic Club, may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original and the civil penalty 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-990827 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-990827 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