

TEXAS ETHICS COMMISSION

IN THE MATTER OF

JUANITA SALINAS AND
SANDY SCHWEERS,

RESPONDENTS

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-201075

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 15, 2000, and voted to accept jurisdiction of Sworn Complaint SC-201075 filed against Juanita Salinas and Sandy Schweers, Respondents. The complaint was also filed against 14 other individuals. A separate order will be presented to those individuals. The commission met again on August 16, 2002, to consider Sworn Complaint SC-201075. 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 a violation of Sections 253.031 and 255.001, 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 respondents.

II. Allegations

1. The complainant alleges that the respondents acted as a political committee and accepted political contributions and made political expenditures without properly filing a campaign treasurer appointment.
2. The complainant also alleges that the respondents produced political advertising that did not contain the required political advertising disclosure statement.

III. Facts Supported by Credible Evidence

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

1. This complaint relates to a November 7, 2000, election called by the board of managers of Medina Community Hospital to consider a ballot measure creating a county hospital district.

Political Committee Activities:

2. The complainant submitted several newspaper articles that discuss efforts to support the hospital ballot measure, including the creation of a committee called "Citizens to Save Medina Community Hospital."

3. The articles refer to the respondents and state that they were heading a finance committee. The articles indicate that the committee hired a marketing company and intended to distribute materials supporting the measure, including brochures, yard signs, and buttons. One article indicated that radio and television ads were also planned. One article also stated that the committee had opened bank accounts to accept contributions for the campaign.
4. The complainant submitted copies of two newspaper advertisements that supported the measure and that stated that they were paid for by Citizens to Save Medina Community Hospital.
5. The complainant also submitted a brochure that supported the measure and that stated that it was paid for by Citizens to Save Medina Community Hospital.
6. The complainant swore in the complaint that there were “signs advocating voting yes for the creation of a Hospital District all over Hondo with no indication that the advertising is a political ad by a Specific-Purpose Committee.”
7. The county clerk’s office provided the commission with copies of campaign finance documents filed with the county by the committee.
8. The committee filed a campaign treasurer appointment as a specific-purpose committee on November 1, 2000, naming Respondent Juanita Salinas as the committee’s campaign treasurer.
9. On the same day, the committee also filed an 8-day before election report for the period beginning on September 26, 2000, and ending on October 30, 2000.
10. The report discloses that the committee accepted political contributions totaling \$19,905. The report also discloses political expenditures totaling \$14,681.66. According to the report, the committee began accepting political contributions on September 27, 2000, when it accepted three \$1,000 contributions.
11. In response to the complaint, Respondent Juanita Salinas, who was the campaign treasurer for the political committee, and Respondent Sandy Schweers each submitted an affidavit in which they stated that they “volunteered to work with a group of individuals formed to support the creation of a hospital district . . . The group chose to name itself ‘Citizens to Save Medina Community Hospital.’”
12. The respondents also swear that they “solicited funds to purchase newspaper advertising space and signs to promote the creation of a hospital district” and that in doing so, they acted on their own accord and on their own time.
13. The respondents also swear that on October 31, 2000, the committee received a letter addressed to Juanita Salinas’s husband from the county attorney, in which the county attorney states that a complaint has been received regarding political advertising in support of the creation of the hospital district. The respondents swear that prior to receipt of the letter,

they were “not aware of the laws regarding the requirements to file a designation of campaign treasurer or file reports of political contributions.”

14. The respondents also swear that as soon as possible after the committee was made aware of the complaint and the requirements of the Election Code, the committee elected Juanita Salinas to serve as campaign treasurer and on November 1, 2000, the day following the letter from the county attorney, the committee filed a campaign treasurer appointment and a campaign finance report. The respondents swear that it was never their intent or the intent of any other member of the committee to violate the Election Code, and to the best of their knowledge and belief, no member of the committee was aware of the reporting requirements.

Failure to Include Political Advertising Disclosure Statement:

15. The complainant submitted copies of two advertisements published in local newspapers on October 19, 2000. The advertisements support passage of the hospital ballot measure and state that they were “Paid for by the Citizens to Save Medina Community Hospital.” The advertisements do not state that they are political advertisements and do not include an address.
16. The complainant also submitted a copy of a single-page flier that supports the hospital ballot measure. The flier states that it was “Paid for by the Citizens to Save Medina Community Hospital” and includes a return name and address with the name and address of the committee but does not indicate that it is political advertising.
17. The complainant states that, “There are signs advocating voting yes for the creation of a Hospital District all over Hondo with no indication that the advertising is a political ad by a Specific-Purpose Committee.” The complainant did not include any photographs of these signs.

IV. Findings and Conclusions of Law

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

Failure To Timely File Campaign Treasurer Appointment For Political Committee:

1. The complainant alleges that the respondents acted as a political committee and accepted political contributions and made political expenditures without properly filing a campaign treasurer appointment.
2. A political committee may not make more than \$500 in political expenditures or accept more than \$500 in political contributions without first appointing a campaign treasurer. Section 253.031(b), Election Code.
3. The report filed by the committee’s campaign treasurer on November 1, 2000, disclosed that during the period beginning on September 26, 2000, and ending on October 30, 2000, the

- political committee accepted approximately \$20,000 in political contributions and made approximately \$15,000 in political expenditures.
4. The political committee's campaign treasurer appointment was filed on November 1, 2000, after those contributions were accepted and those expenditures were made.
 5. Thus there is credible evidence that the committee violated Section 253.031(b), Election Code.
 6. Under Texas law concerning associations and principals and agents, an individual who is a member of an association may be held liable for the wrongful acts of the association if the individual participated in the wrongful conduct. Karl Rove & Company v. Thornburgh, 39 F.3d 1273, 1284 (5th Cir. 1994), Juhl v. Airington, 936 S.W.2d 640, 642-643 (Tex. 1996).
 7. The respondents were involved in the creation of the specific-purpose committee, Citizens to Save Medina Community Hospital. They solicited funds to purchase newspaper advertising space and signs to support the committee's purpose.
 8. Thus, there is credible evidence that the respondents Juanita Salinas and Sandy Schweers, as members of the political committee, violated Section 253.031(b), Election Code.

Failure to Include Political Advertising Disclosure Statement:

9. The complainant alleges that the newspaper advertisements, flier, and signs published by the committee did not include the required political advertising disclosure statement.
10. Political advertising is defined in relevant part as a communication supporting a measure that is published in a newspaper or other periodical in return for consideration, or that appears in a pamphlet, circular, flier, or similar form of written communication. Section 251.001(16), Election Code.
11. A person may not enter into a contract or other agreement to print political advertising that does not indicate that it is political advertising and that does not contain the full name and address of the individual who entered into the contract or agreement with the printer or the full name and address of the person that individual represents. Section 255.001(a), Election Code.

Newspaper Advertising and Flier

12. The advertisements published on October 19, 2000, constitute political advertising because they were published in a newspaper in return for consideration and supported the hospital ballot measure. Section 251.001(16), Election Code.
13. The flier constitutes political advertising because it supports the hospital ballot measure and was in the form of a pamphlet, circular, flier, or similar form of written communication. Section 251.001(16), Election Code.

14. The newspaper advertisements stated that they were paid for by the political committee but did not state that they were political advertising and did not include an address.
15. The flier stated that it was paid for by the political committee and included the address of the committee but did not indicate that it was political advertising.
16. Because the political committee entered into a contract to publish political advertising that did not include the complete political advertising disclosure statement, there is credible evidence that the political committee committed a technical or *de minimis* violation of Section 255.001, Election Code.
17. Because respondents Juanita Salinas and Sandy Schweers were members of the committee and participated in the conduct that is the subject of this allegation, there is credible evidence that respondents Juanita Salinas and Sandy Schweers committed a technical or *de minimis* violation of Section 255.001, Election Code.

Signs

18. The complainant states that, "There are signs advocating voting yes for the creation of a Hospital District all over Hondo with no indication that the advertising is a political ad by a Specific-Purpose Committee." The complainant did not include any photographs of these signs.
19. The respondents stated that they solicited funds to purchase signs. However, there is no evidence to show whether the signs included a political advertising disclosure statement.
20. Additionally, there is no evidence to show that the respondents are responsible for the signs referred to by the complainant.
21. Therefore, as to the signs, there is insufficient evidence to find that the respondents violated Section 255.001, Election Code.

V. Representations and Agreement by Respondents

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

1. The respondents neither admit nor deny the facts described under Section III and the commission's findings and conclusions of law described under Section IV, and consent to the entry of this ORDER and AGREED RESOLUTION solely for the purpose of resolving and settling this sworn complaint.
2. The respondents consent 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 respondents waive any right to a hearing before the commission or an administrative law judge, and further waive any right to a post-hearing procedure established or provided by law.

3. The respondents acknowledge that a political committee may not make more than \$500 in political expenditures or accept more than \$500 in political contributions without first filing a campaign treasurer appointment. The respondents also acknowledge that a person may not enter into a contract or other agreement to print political advertising that does not indicate that it is political advertising and that does not contain the full name and address of the individual who entered into the contract or agreement with the printer or the full name and address of the person that individual represents. The respondents agree to fully and strictly comply with these requirements of the law.
4. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, the respondents understand and agree that the commission will consider the respondents to have committed the violations described under Section IV, Paragraphs 8 and 17, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondents.

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 fact that no previous violations by these respondents are known to the commission, and after considering the sanction necessary to deter future violations, the commission imposes a \$1,000 civil penalty for the violation described under Section IV, Paragraph 8. No fine is imposed for the technical or *de minimis* violation described under Section IV, Paragraph 17.

VIII. Order

The commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to the respondents;
2. that if the respondents consent to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-201075;
3. that the respondents may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original and the \$1,000 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than September 13, 2002; and
4. that the executive director shall promptly refer SC-201075 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 respondents do not agree to the resolution of SC-201075 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondents on this _____ day of _____, 20__.

Juanita Salinas, Respondent

Sandy Schweers, Respondent

EXECUTED ORIGINAL received by the commission on _____

Texas Ethics Commission

Tom Harrison, Executive Director