

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ANNISE PARKER,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-220787

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 16, 2002, and voted to accept jurisdiction of Sworn Complaint SC-220787 filed against Annise Parker, Respondent. The commission met again on October 11, 2002, to consider Sworn Complaint SC-220787. 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 Section 254.064, 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. Allegation

The complainant alleges that the respondent accepted a political contribution from a corporation.

III. Facts Supported by Credible Evidence

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

1. The respondent is a member of the city council in Houston, Texas.
2. The respondent was an opposed candidate for that position in a November 6, 2001, election.
3. The respondent's 30-day before election campaign finance report for the November 6, 2001, election discloses that on September 13, 2001, the respondent accepted a \$400 contribution from "Independent Electrical Contractors, Inc."
4. According to the records of the Secretary of State, Independent Electrical Contractors, Inc., is registered as a corporation.

5. Independent Electrical Contractors, Inc., has a general-purpose committee named Independent Electrical Contractors of Houston PAC. The committee is registered with the commission.
6. In response to this complaint, on July 23, 2002, the respondent filed a corrected 30-day before election campaign finance report for the November 6, 2001, election.
7. In the good-faith affidavit accompanying the report, the respondent swears to the following:

On my Campaign/Officeholder Campaign Finance Report filed on September 27, 2001, I erroneously reported, on page 22 of Schedule A1, a \$400 contribution on September 13 from Independent Electrical Contractors, Inc. In fact, the contribution was from IEC (Independent Electrical Contractors, Inc.) of Houston PAC. I have attached a copy of the check and a corrected page of Schedule A.

8. The respondent's corrected report included a copy of the \$400 check, which shows that Independent Electrical Contractors of Houston PAC issued the check.
9. The respondent's statements are verified by the 30-day before election report for the November 6, 2001, election filed by Independent Electrical Contractors of Houston PAC, which discloses that on September 13, 2001, the committee made a \$400 political contribution to the respondent.

IV. Findings and Conclusions of Law

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

1. Corporations organized under the Texas Business Corporations Act or the Texas Non-profit Corporations Act may not legally make political contributions to a candidate or officeholder.
2. A candidate or officeholder may not knowingly accept a political contribution that the candidate or officeholder knows was made in violation of Chapter 253, Election Code. Section 253.003(b), Election Code.
3. The respondent's original 30-day before election campaign finance report for the November 6, 2001, election discloses that she accepted a contribution from a corporation.
4. However, the respondent's corrected report discloses that the corporation's general-purpose committee, not the corporation, made the contribution at issue.
5. The copies of the general-purpose committee's check and campaign finance report verify that fact.

6. Therefore, there is credible evidence that the respondent did not violate Section 253.003(b), Election Code.
7. An opposed candidate is required to file a report by the 30th day before an election. Section 254.064, Election Code.
8. A campaign finance report must include the full name of a contributor along with other detailed information concerning political contributions exceeding \$50 that are accepted during the applicable reporting period. Section 254.031, Election Code.
9. The respondent's 30-day before election report for the November 6, 2001, election was incomplete because it did not disclose the correct name of the contributor who made the contribution at issue.
10. A filer may correct a reporting error at anytime by filing a corrected report. Section 18.9, Ethics Commission Rules.
11. The late fine for a corrected 30-day before election report is waived if the original report was timely filed, the corrected report is complete and accurate, and the filer submits an affidavit establishing that the original report was incomplete or incorrect because of a good-faith error. Section 18.9, Ethics Commission Rules.
12. However, under Rule 18.27, the Ethics Commission is not required to waive the fine for a respondent in a sworn complaint who files a corrected report, but may consider the correction to be a mitigating factor in determining the amount of any fine. Section 18.27, Ethics Commission Rules.
13. The respondent's original 30-day before election report was incomplete because it did not disclose the correct name of the contributor who made the contribution at issue. Accordingly, the report is late because it was incomplete when originally filed, and thus there is credible evidence that the respondent violated Section 254.064, 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. The respondent acknowledges that a campaign finance report must include the correct names of contributors.
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 13, 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, 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 a \$100 civil penalty for the violation described under Section IV, Paragraph 13.

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-220787;
3. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original and the \$100 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than November 8, 2002; and
4. that the executive director shall promptly refer SC-220787 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-220787 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 20____.

Annise Parker, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director