

TEXAS ETHICS COMMISSION

IN THE MATTER OF

JOSEPH (JOE) A. MICHELS,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-250452

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission met on November 1, 2005, to consider sworn complaint SC-250452. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of sections 254.123 and 254.031 of the Election Code, laws administered and enforced by the commission. To resolve this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaint alleges that the respondent failed to disclose a political expenditure for a political committee, failed to disclose the committee's total contributions maintained on a campaign finance report, and failed to timely file a report.

III. Facts Supported by Credible Evidence

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

1. The respondent was the campaign treasurer of a specific-purpose political committee that supported a bond measure of the Conroe Independent School District in an election on September 25, 2004.
2. The committee arranged with a local business to create its political advertising.
3. The local business independently contracted with a third-party vendor for the printing of the committee's political advertising signs. The third-party vendor worked on the committee's signs by agreement with the local business and billed the business \$1,700 for that work.
4. The local business billed the committee \$9,160.09 for work performed on the political advertising.

5. The committee did not make arrangements with the third-party vendor and did not choose the third-party vendor that worked on the committee's advertising.
6. The committee's January 2005 semiannual report disclosed a \$9,160.09 political expenditure made on October 7, 2004, to the local business for "[p]rintings, reproductions, and mailings in support of measure."
7. The respondent filed an 8-day pre-election report that disclosed \$22,450 in political contributions, \$23,317.57 in political expenditures, and \$26,950 in total political contributions maintained at the end of the reporting period.
8. The respondent filed a correction to the 8-day pre-election report that disclosed \$3,632.66 in cash on hand.
9. The respondent filed the committee's January 2005 semiannual report on March 3, 2005.

IV. Findings and Conclusions of Law

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

1. A campaign treasurer of a specific-purpose political committee must include in a campaign finance report the full name and address of a person to whom expenditures are made that in the aggregate exceed \$50 in a reporting period. ELEC. CODE § 254.031(a)(3).
2. The evidence shows that the committee contracted with the local business to create its political advertising and that the local business independently chose to sub-contract some of the work to a third-party. Therefore, the committee made the expenditure for political advertising to the local business with which it made the agreement instead of the third-party vendor.
3. The committee's January 2005 semiannual report disclosed the local business as the payee of the expenditure. Therefore, there is credible evidence that the respondent did not violate section 254.031(a)(3) of the Election Code.
4. A campaign treasurer of a specific-purpose political committee must include in a campaign finance report the total amount of political contributions maintained as of the last day of the reporting period covered by the report. ELEC. CODE § 254.031(a)(8).
5. The evidence shows that the respondent incorrectly disclosed \$0 for the total political contributions maintained in the committee's 8-day pre-election report and that the amount should have been \$3,632.66. Therefore, there is credible evidence that the respondent violated section 254.031(a)(8) of the Election Code.
6. A campaign treasurer of a specific-purpose political committee must file a campaign finance report not later than January 15 of each year. ELEC. CODE § 254.123. If a deadline for a

semiannual report falls on a Saturday, Sunday, or a legal state or national holiday, the report is due on the next regular business day. 1 T.A.C. § 20.21.

7. The respondent was required to file the committee's semiannual campaign finance report by January 17, 2005.
8. The respondent filed the committee's semiannual campaign finance report on March 3, 2005. Therefore, there is credible evidence that the respondent violated section 254.123 of the 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 or 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 this sworn complaint.
2. The respondent consents to this order and agreed resolution and waives any right to further proceedings in this matter.
3. The respondent acknowledges that a campaign treasurer of a specific-purpose political committee must include in a campaign finance report the total amount of political contributions maintained as of the last day of the reporting period covered by the report. The respondent also acknowledges that a campaign treasurer of a specific-purpose political committee must file a campaign finance report not later than January 15 of each year and that if a deadline for a semiannual report falls on a Saturday, Sunday, or a legal state or national holiday, the report is due on the next regular business day. The respondent agrees to comply with these requirements of the law.

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 of the 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, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a \$300 civil penalty for the violations described under Sections III and IV.

VIII. Order

The commission hereby orders that if the respondent consents to the proposed resolution, this order and agreed resolution is a final and complete resolution of SC-250452.

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

Joseph (Joe) A. Michels, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director