

TEXAS ETHICS COMMISSION

IN THE MATTER OF
HEATHER PHILLIPS,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-250592

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on January 12, 2006, to consider sworn complaint SC-250592. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 254.151(4) of the Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaint alleges that the respondent failed to properly disclose candidates supported by a general-purpose political committee on two reports.

III. Facts Supported by Credible Evidence

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

1. The complaint is against the campaign treasurer of a general-purpose political committee that files on the monthly reporting schedule.
2. The complaint arises out of a city election held May 7, 2005.
3. On April 28, 2005, the respondent filed with the City of Austin a telegram report for the committee. The telegram report listed \$19,246.93 in direct expenditures made on April 28, 2005. The report does not disclose the candidates that the committee supported or opposed.
4. Also on April 28, 2005, the respondent filed an 8-day pre-election report with the commission. The report did not disclose the candidates that the committee supported or opposed. The respondent filed a corrected report on May 5, 2005, to correct the "report type" of this report from an "8th day before election" report to the "May 5" monthly report, and to disclose a contribution. The corrected report did not disclose the candidates supported or opposed by the committee.

5. The respondent failed to list the candidates supported by the committee on the monthly report due May 5, 2005.

IV. Findings and Conclusions of Law

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

1. There is no provision under title 15 of the Election Code requiring a political committee to file a telegram report with a local filing authority. The commission does not have jurisdiction to consider an allegation regarding a requirement imposed by a city ordinance. Therefore, the allegation related to an incomplete telegram report filed with the City of Austin is outside the jurisdiction of the commission.
2. The respondent designated the committee's April 28, 2005, report as an 8-day pre-election report. That report disclosed that the committee made expenditures in the amount of \$20,546.93 on April 29, 2005. A general-purpose committee that files on the monthly reporting schedule is not required to file pre-election reports. ELEC. CODE § 254.155. A general-purpose committee filing monthly must file no later than the fifth day of the month following the period covered by the report. ELEC. CODE § 254.157.
3. The 8-day pre-election report was corrected and re-filed as a monthly report before the May 5, 2005, filing deadline. Therefore, the committee's May 2005 monthly report was timely filed. The campaign finance report for a general-purpose political committee must include the name of each identified candidate supported or opposed by the committee and indicate whether the committee supports or opposes each listed candidate. ELEC. CODE § 254.151(4).
4. The committee's May 5, 2005, campaign finance report disclosed \$20,546.93 in political expenditures. The respondent failed to list the candidates supported by the political expenditures on the committee's May 5, 2005, monthly report. Therefore, there is credible evidence that the respondent violated section 254.151(4) 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 the campaign finance report for a general-purpose political committee must include the name of each identified candidate supported or opposed by the committee and indicate whether the committee supports or opposes each listed candidate. The respondent agrees to comply with this requirement 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 violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$100 civil penalty for the violation 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-250592.

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

Heather Phillips, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director