

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JOHN THRIFT,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-260106

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on July 14, 2006, to consider sworn complaint SC-260106. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.031(b) and 253.003(a) of the Election Code, laws 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 accepted political contributions and made political expenditures of more than \$500 on behalf of the Bastrop County Democratic Club at a time when a campaign treasurer appointment for the club was not in effect. The complaint also alleges that the respondent knowingly made a political contribution in violation of chapter 253 of the Election Code. The complaint further alleges that the club failed to file campaign finance reports during 2004 and 2005.

III. Facts Supported by Credible Evidence

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

1. The respondent is the current treasurer of the Bastrop County Democratic Club.
2. The complainant submitted a copy of an agenda for a December 1, 2005, meeting agenda and a copy of the constitution and bylaws of the Bastrop County Democratic Club. The meeting agenda lists the club's officers. The respondent is listed as holding the position of treasurer.
3. The bylaws list one of the purposes of the club as, "A principal aim of the Club is to raise funds for the Democratic Party of Texas."

4. The evidence indicates that decisions to make contributions are made by the club as a whole or by its officers.
5. The club filed an appointment of campaign treasurer by a general-purpose committee with the commission on May 4, 2006.
6. The complaint alleges that the club made contributions to Democratic candidates in the 2004 election.
7. Ethics Commission records and evidence submitted in response to the complaint show that beginning in September 2000, the club has made contributions totaling \$1,127. As of September 2004 the club had made at least \$570 in political contributions.
8. The respondent submitted a sworn response. The respondent's affidavit states that the club fits within the exception provided by section 251.008 of the Election Code.
9. The respondent's affidavit states that the club provides a forum for any Democratic candidate who wishes to attend meetings or to provide information to members about his or her campaign; however, it does not endorse any candidate seeking the party's nomination over any other candidate seeking the Democratic nomination. The affidavit states that since contributions are not made or solicited for any candidate or officeholder at club meetings, the club fits within the provision of section 251.008 of the Election Code.

IV. Findings and Conclusions of Law

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

1. The respondent claims that the club is not a political committee because it fits within the exception provided by section 251.008 of the Election Code. Section 251.008(a) of the Election Code states that an expense incurred in connection with the conduct of a meeting of an organization or club affiliated with a political party at which a candidate for an office regularly filled at the general election for state and county officers, or a person holding that office, appears before the members of the organization or club is not considered to be a political contribution or political expenditure if no political contributions are made to or solicited for the candidate or officeholder at the meeting. ELEC. CODE § 251.008(a). Section 251.008(b) of the Election Code states that an organization or club is affiliated with a political party if it supports the nominees of that political party but does not support any candidate seeking the party's nomination for an office over any other candidate seeking that nomination and is recognized by the political party as an auxiliary of the party.

2. That exception is very limited and only applicable to the described type of expenditures. The exception does not preclude a group from being a political committee if the group otherwise meets the definition of a political committee.
3. A political committee is a group of persons that has as a principal purpose accepting political contributions or making political expenditures. ELEC. CODE § 251.001(12).
4. The term "political contribution" includes a campaign contribution, which is a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. ELEC. CODE §§ 251.003(3) and (5).
5. The club's by-laws indicate that it has as a principal purpose accepting political contributions and making political expenditures. The club made contributions to candidates and political committees that by definition were political contributions. Thus, the club was a political committee.
6. A political committee may not knowingly accept political contributions totaling more than \$500 or make or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer for the committee is not in effect. ELEC. CODE § 253.031(b). A person may not knowingly make a political contribution in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003(a).
7. The evidence shows that the respondent took office as treasurer for the club in June 2003 and currently holds this position. The evidence shows that the club made political expenditures totaling \$1,127 between September 27, 2000, and March 24, 2005. The evidence shows that the club made political expenditures in the form of political contributions exceeding \$500 at least as early as September 2004 and was therefore required to file a campaign treasurer appointment. The evidence shows that the club did not file a campaign treasurer appointment. The evidence shows that decisions to make contributions were made by the membership of the club or the club's officers. The respondent, as a member of the club and also as an officer of the club was responsible for the decisions of the club to make contributions. Therefore, there is credible evidence that the respondent violated sections 253.003(a) and 253.031(b) of the Election Code.
8. The campaign treasurer of a political committee is responsible for filing the committee's campaign finance reports. ELEC. CODE §§ 254.153 and 254.154. The Bastrop County Democratic Club did not have a campaign treasurer on file. Therefore, the respondent is not liable for failing to file reports for the club.

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 political committee may not knowingly accept political contributions totaling more than \$500 or make or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer for the committee is not in effect. The respondent also acknowledges that a person may not knowingly make a political contribution in violation of chapter 253 of the Election Code. The respondent agrees to comply with these requirements of the law.

VI. Confidentiality

This order and agreed resolution describes violations that the commission has determined are 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 \$100 civil penalty for the violations described under Sections III and IV.

VIII. Orders

1. The commission hereby orders that the allegations that the club failed to file campaign finance reports and that the complaint is frivolous are dismissed.
2. The commission also orders that if the respondent consents to the proposed resolution, this order and agreed resolution is a final and complete resolution of SC-260106.

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

John Thrift, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director