

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
DAVID E. FIELDS,  
RESPONDENT

§  
§  
§  
§  
§

BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-260370

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on November 28, 2006, to consider sworn complaint SC-260370. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.031 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 political contributions and political expenditures on his campaign finance reports. The complaint also alleges that the respondent knowingly accepted a political contribution from a labor organization.

### III. Facts Supported by Credible Evidence

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

1. The respondent was a candidate for constable in the March 7, 2006, election.
2. The respondent's original July 2005 semiannual report disclosed no political contributions.
3. The respondent received political contributions of less than \$50 per person at a raffle held on April 1, 2005.
4. The respondent has filed a corrected report to disclose the omitted political contributions from the raffle. The respondent's corrected report discloses political contributions of \$50 or less of \$140.

5. Regarding the political expenditures for the raffle, the respondent purchased the raffle prizes from his own personal funds. The prizes cost a total of approximately \$65. He did not make an expenditure exceeding \$50 to any one payee for the prizes. The tickets and advertising for the raffle were created from the respondent's own computer using paper he already owned.
6. The respondent's initial July semiannual report disclosed \$0 of political expenditures. The respondent filed a correction to this report in response to the complaint to disclose \$115 of political expenditures of \$50 or less.
7. On June 11, 2005, the respondent held a car wash fundraiser.
8. Regarding political contributions received for the car wash, the respondent received political contributions of less than \$50 per person.
9. The respondent filed a corrected report in response to this complaint to disclose the omitted political contributions from the car wash. The report disclosed contributions of \$50 or less of \$140.
10. The respondent spent no money on the car wash.
11. The materials used in the car wash were owned by the respondent and not purchased for political purposes. The advertising for the car wash was created from his own computer using paper he already owned.
12. On the respondent's January 2006 semiannual report, the total of the respondent's detailed political expenditures is \$485.77. Total political expenditures are disclosed as \$848.
13. The respondent's January 2006 semiannual report has a discrepancy of .92 cents in the total political expenditures of \$50 or less.
14. The complaint alleges that the respondent failed to file all schedules with his campaign finance reports.
15. There is no evidence that the respondent had any activity that should have been reported on a schedule that was not submitted on any campaign finance report.
16. The respondent did not report any political contributions or political expenditures in connection with the respondent's campaign website.
17. The respondent made no political expenditures for the website. The respondent did not receive political contributions in connection with the website because the company that provided the website offers free websites to anyone.

18. The respondent's February 2, 2006, and February 24, 2006, campaign finance reports do not "balance."
19. The respondent made political expenditures from his personal funds in addition to making political expenditures from political contributions.
20. A contribution was disclosed on the respondent's February 27, 2006, 8-day pre-election campaign finance report from the Teamsters #745 in an amount of \$250. The contribution was actually from the labor organization's PAC. The respondent has filed a corrected report to correctly identify this contribution.

#### **IV. Findings and Conclusions of Law**

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

1. A candidate must report the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. ELEC. CODE § 254.031(a)(5).
2. The use of a personal asset for political purposes is not required to be reported under title 15 of the Election Code. Ethics Advisory Opinion No. 116 (1993).
3. Regarding political contributions received at the raffle, the candidate failed to report political contributions that were less than or equal to \$50 on his July 2005 semiannual campaign finance report. Therefore, there is credible evidence of a violation of section 254.031(a)(5) of the Election Code.
4. Regarding the raffle prizes, the respondent made political expenditures from personal funds. The respondent failed to report these expenditures on his July 2005 semiannual campaign finance report. Therefore, there is credible evidence of a violation of section 254.031(a)(5) of the Election Code.
5. The respondent only used materials that he already owned to print the advertising and tickets for the raffle. Therefore, no reportable political expenditure was made in connection with the tickets or advertising. Therefore, there is credible evidence of no violation of section 254.031 of the Election Code with respect to the raffle tickets and advertising.
6. Regarding political contributions received from the car wash, the candidate failed to report contributions that were less than or equal to \$50 on his July 2005 semiannual campaign finance report. Therefore, there is credible evidence of violations of section 254.031(a)(5) of the Election Code.

7. Regarding political expenditures made for the car wash, the respondent only used materials which he already owned to hold the car wash. Therefore, no reportable political expenditure was made in connection with this event. Therefore, there is credible evidence of no violation of section 254.031 of the Election Code with respect to political expenditures.
8. A candidate must report the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
9. The respondent disclosed an incorrect amount of total political expenditures on his January 2006 semiannual campaign finance report. The discrepancy was only 92 cents. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(6) of the Election Code.
10. The complaint alleged that the respondent failed to file all schedules with his campaign finance reports. There is no requirement that a candidate must submit a blank schedule if the candidate has nothing to report on the schedule. There is no evidence that the respondent had any activity that should have been reported on a schedule that was not submitted on any campaign finance report. Therefore, there is credible evidence of no violation of the Election Code for the respondent's failure to include all schedules on his campaign finance reports.
11. A campaign contribution is any thing of value given with the intent that it be used in connection with a campaign for elective office. ELEC. CODE § 251.001(3).
12. The respondent created his own website. The website was provided free of charge by a business that provides free websites to anyone, and there is no evidence that the company intended to make a political contribution to the respondent.
13. Because it is within the company's normal course of business to provide free websites to individuals regardless of whether they are running for elective office, providing the website was not a campaign contribution.
14. The respondent made no reportable political expenditures for the website. Therefore, there is credible evidence of no violation of section 254.031 of the Election Code regarding the alleged failure to report political contributions and political expenditures for a website.
15. The complaint alleged reporting violations because the respondent's reports did not "balance." Because of the statutory reporting requirements, political contributions and expenditure totals will often not "balance." The available evidence is insufficient to show that the respondent violated section 254.031 of the Election Code by failing to disclose political contributions or political expenditures, other than those previously discussed.

16. A candidate may not knowingly accept a campaign contribution from a labor organization. ELEC. CODE § 253.003.
17. Commission records confirm that the contribution alleged to be from a labor organization is actually from the labor organization's political committee. Therefore, there is credible evidence of no violation of section 253.003 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 candidate must report the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. The respondent further acknowledges that a candidate must report the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. 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. 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-260370.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
David E. Fields, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
David A. Reisman, Executive Director