

TEXAS ETHICS COMMISSION

IN THE MATTER OF

CHARLES WAYNE ROBISON,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-2604103

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on September 21, 2006, to consider sworn complaint SC-2604103. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 252.001 and 253.031(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 made a political expenditure at a time when he did not have a campaign treasurer appointment in effect. The complaint also alleges that the respondent failed to file the 30-day and 8-day pre-election campaign finance reports in connection with the March 7, 2006, primary election.

III. Facts Supported by Credible Evidence

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

1. The respondent is a candidate for justice of the peace who filed an application for a place on the ballot and paid a filing fee on January 2, 2006.
2. The respondent mailed his campaign treasurer appointment to the county clerk on January 3, 2006. The respondent signed the modified reporting declaration and designated it for the 2006 election cycle.
3. The respondent filed a report with the county clerk on April 17, 2006. The report is marked as a Final Report and states that it covers the period from February 25, 2006, through June 30, 2006.

4. The report discloses approximately \$300 in political expenditures, zero political contributions, and zero political contributions maintained.
5. The respondent filed a corrected report on September 8, 2006, disclosing the payment of a filing fee of \$275 on January 2, 2006.

IV. Findings and Conclusions of Law

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

1. "Candidate" means a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. An example of affirmative action is the filing of an application for a place on the ballot. ELEC. CODE § 251.001(1).
2. Each candidate shall appoint a campaign treasurer. ELEC. CODE § 252.001.
3. The respondent filed an application for a place on the ballot on January 2, 2006, and was therefore a candidate as of that date. The respondent had not filed a campaign treasurer appointment at that time. The respondent filed his campaign treasurer appointment on January 3, 2006. Therefore, there is credible evidence of a violation of section 252.001 of the Election Code.
4. A candidate may not knowingly make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. ELEC. CODE § 253.031(a).
5. "Campaign expenditure" means an expenditure made by any person in connection with a campaign for an elective office or on a measure. ELEC. CODE § 251.001(7).
6. The respondent paid a filing fee on January 2, 2006, to have his name placed on the ballot. The expenditure for the filing fee was made in connection with a campaign for elective office. Thus, the expenditure was a campaign expenditure. Therefore, there is credible evidence of a violation of section 253.031(a) of the Election Code.
7. A candidate who has an opponent whose name is to appear on the ballot is required to file a report due not later than the thirtieth day before election day and another report not later than the eighth day before election day. ELEC. CODE § 254.064(b) and (c).
8. An opposed candidate is not required to file the 30-day and 8-day pre-election reports if the candidate files with his campaign treasurer appointment a written declaration of intent not to exceed \$500 in political contributions or political expenditures in the election. The amount

of a filing fee paid by a candidate is excluded from the \$500 maximum expenditure limit. ELEC. CODE §§ 254.181, 254.182(a) and 254.184(b).

9. The respondent filed a written declaration of intent not to exceed \$500 in political contributions or political expenditures with his campaign treasurer appointment. There is no evidence that the respondent exceeded \$500 in political contributions or political expenditures, excluding his payment of his filing fee. The respondent was not required to file the 30-day and 8-day pre-election reports. Therefore, the respondent did not violate section 254.064(b) and (c) 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 is required to appoint a campaign treasurer. The respondent further acknowledges that a candidate may not knowingly make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect.
4. 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 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 \$200 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-2604103.

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

Charles Wayne Robison, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director