

TEXAS ETHICS COMMISSION

IN THE MATTER OF
TOMMY ROBNETT,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2805217

FINAL ORDER

The Texas Ethics Commission, having heard this case and voting to find a violation of laws under its jurisdiction, makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. The respondent is Tommy Robnett, whose last known mailing address is P. O. Box 25, Rowlett, Texas 75030-0025. A sworn complaint was filed with the Texas Ethics Commission against the respondent on May 1, 2008. The Notice of Hearing was mailed to the respondent on March 25, 2009, by certified mail, return receipt requested, restricted delivery.
2. The preliminary review hearing was held on April 16, 2009, at 2:00 p.m., by the Texas Ethics Commission in Austin, Texas.
3. The respondent did not file a reply to the Notice of Hearing and did not appear at the hearing.
4. The respondent is president of the Rowlett Firefighters Association.
5. The complaint relates to the May 10, 2008, election on a civil service proposition in Rowlett.
6. The complaint included copies of two flyers, a photograph of a sign, a printed page from the Rowlett Professional Firefighters' Internet website, and two newspaper advertisements. Each of the documents urges voters to vote for the proposition. The first flyer states, "For more info visit: www.rowlettpoliceassoc.com, www.rowlettfirefighters.com," and does not contain a disclosure statement. The second flyer states, "You Trust Us with your Family, You Trust Us with your Home, On May 10th Trust us with your Vote for Fire & Police Chapter 143 Civil Service," and lists the names "Rowlett Firefighter Association" and "Rowlett Police Association." The flyer does not include a disclosure statement. The sign includes the statement, "Paid for by Rowlett Firefighters Association, Ben Blanton Treasurer." The page from the Rowlett

Professional Firefighters' website does not contain a disclosure statement, although it includes a copyright statement indicating it was published by the Rowlett Professional Fire Fighters. One newspaper advertisement includes the statement "PAID ADVERTISEMENT," and the other includes the statement "Paid Political Advertisement."

7. On May 30, 2008, the commission sent a notice of sworn complaint to the respondent by certified mail. The notice of sworn complaint stated that the complaint would be processed as a Category Two violation and that the respondent was required to respond to an allegation of a Category Two violation not later than 25 business days from the date he received notice of the complaint. The notice also stated that failure to respond would constitute a separate violation for which a separate civil penalty may be assessed.
8. United States Postal Service (USPS) records show that on June 16, 2008, the respondent received the sworn complaint notice.
9. On September 4, 2008, the commission sent a second notice of complaint to the respondent by certified mail, stating that the respondent was required to respond to an allegation of a Category Two violation not later than 25 business days from the date he received notice of the complaint, and that USPS records indicated the respondent received the sworn complaint notice on June 16, 2008. The letter also stated that, as of the date of the letter, the commission had not received a response to the complaint. On October 6, 2008, the second notice of complaint was returned to the commission as unclaimed. On October 22, 2008, the commission resent the second notice of sworn complaint to the respondent by certified mail and delivery confirmation. USPS records indicate the second notice of sworn complaint was delivered to the respondent's address on October 23, 2008.
10. On July 1, 2008, October 6, 2008, and January 12, 2009, the commission sent notice of quarterly status letters to the respondent stating that the matter is still pending.
11. To date, the respondent has not filed a response.
12. On September 3, 2008, the local filing authority provided to the commission all documents filed with that office by individuals or committees supporting the May 2008 civil service proposition.
13. On April 28, 2008, the Rowlett Firefighters Association for Civil Service filed an appointment of campaign treasurer by a specific-purpose committee, naming an individual other than the respondent as treasurer. The campaign treasurer appointment lists the respondent as the person appointing the treasurer. The campaign treasurer appointment discloses that the committee's only purpose is supporting the civil service proposition in the May 10, 2008, election.

14. On May 2, 2008, the Rowlett Firefighters Association for Civil Service filed a 30-day pre-election report for the May 10, 2008, election, covering the period from February 1, 2008, through March 31, 2008. The report discloses \$10,000 in total political contributions, \$1,403.46 in total political expenditures, and \$8,596.54 as the total amount of political contributions maintained as of the last day of the reporting period. Although the affidavit that accompanies the report is signed by the treasurer and a notary public, the affidavit does not include a notary stamp. Schedule A (used for itemizing political contributions) discloses a \$10,000 in-kind contribution from the Rowlett Firefighters Association on February 1, 2008. The description of the in-kind contribution is, "Support Measure to Adopt Civil Service." Schedule F (used for itemizing political expenditures) discloses the following expenditures, each with the listed purpose supporting the civil service measure:
- \$222 to Double Dave's on March 24, 2008
 - \$992.04 to Star/Lakeshore Times (Rowlett) on March 18, 2008
 - \$189.42 to Signs and Screen Printing on April 11, 2008
15. On May 2, 2008, the Rowlett Firefighters Association for Civil Service also filed an 8-day pre-election report for the May 10, 2008, election, covering the period from April 1, 2008, through April 30, 2008. The report discloses \$10,000 in total political contributions, \$3,684.52 in total political expenditures, and \$6,315.48 as the total amount of political contributions maintained as of the last day of the reporting period. Although the affidavit that accompanies the report is signed by the treasurer and a notary public, the affidavit does not include a notary stamp. Schedule A discloses a \$10,000 in-kind contribution from the Rowlett Firefighters Association on February 1, 2008. The description of the in-kind contribution is, "To Support Measure To Adopt Civil Service." Schedule F discloses the following expenditures, each with the listed purpose of supporting the civil service measure:
- \$992.04 to Rowlett Lakeshore Times on March 18, 2008
 - \$222 to Double Dave's Pizza on March 24, 2008
 - \$189.42 to Signs and Screen Printing on April 11, 2008
 - \$358.30 to Signs and Screen Printing on April 24, 2008
 - \$1,826.72 to Boroughs Signs on April 25, 2008
 - \$96.04 to Home Depot on April 27, 2008

Conclusions of Law

1. Disposition of this case is within the jurisdiction of the Texas Ethics Commission. GOV'T CODE § 571.061.
2. The respondent received legally sufficient notice of the hearing in this case. GOV'T CODE § 571.032 and 1 TAC § 12.21. The hearing was held in accordance with section 12.23, 1 Texas Administrative Code.

3. Each political committee shall appoint a campaign treasurer as provided by Chapter 252, Election Code. ELEC. CODE § 252.001.
4. 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 appointment for the committee is not in effect. ELEC. CODE § 253.031(b).
5. The campaign treasurer of a specific-purpose committee shall file two reports for each year. The first report shall be filed not later than July 15 and covers the period beginning January 1, the day the committee's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through June 30. The second report shall be filed not later than January 15 and covers the period beginning July 1, the day the committee's campaign treasurer appointment is filed, or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through December 31. ELEC. CODE § 254.123. A specific-purpose political committee continues to owe reports until it files a dissolution report. *Id.* § 254.125, Ethics Commission Rules § 20.341.
6. For each election in which a specific-purpose political committee supports or opposes a candidate or measure, the committee's campaign treasurer shall file two reports. ELEC. CODE § 254.124(a). The first report shall be filed not later than the 30th day before election day. The report covers the period beginning the day the committee's campaign treasurer appointment is filed or the first day after the period covered by the committee's last required report, as applicable, and continuing through the 40th day before election day. *Id.* § 254.124(b). The second report shall be filed not later than the eighth day before election day. The report covers the period beginning on the 39th day before election day and continuing through the 10th day before election day. *Id.* § 254.124(c).
7. The evidence indicates that the Rowlett Firefighters Association for Civil Service, a specific-purpose political committee, accepted a \$10,000 political contribution on February 1, 2008. The evidence also indicates that the committee made political expenditures totaling approximately \$3,680 between March 18, 2008, and April 27, 2008. The committee did not file a campaign treasurer appointment until April 28, 2008. A specific-purpose political committee is required to file a campaign treasurer appointment with the appropriate filing authority before it accepts political contributions totaling more than \$500 or makes or authorizes political expenditures totaling more than \$500. Therefore, there is credible evidence that the respondent, as president of the Rowlett Firefighters Association, violated sections 252.001 and 253.031(b) of the Election Code.
8. The campaign treasurer of a political committee is responsible for filing the committee's reports. The respondent was not the committee's campaign treasurer during the period at issue. Therefore, there is credible evidence that the respondent did not violate section

- 254.124 of the Election Code as to the 30-day and 8-day pre-election reports. (The 8-day pre-election report was timely filed by the committee's treasurer).
9. Political advertising means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television, or that appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication, or on an Internet website. ELEC. CODE § 251.001(16).
 10. A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising that it is political advertising and the full name of the person who paid for the political advertising, the political committee authorizing the advertising, or the candidate or specific-purpose committee supporting the candidate, if the advertising is authorized by the candidate. ELEC. CODE § 255.001(a).
 11. Political advertising that is authorized by a candidate, an agent of a candidate, or a political committee filing reports under this title shall be deemed to contain express advocacy. ELEC. CODE § 255.001(b).
 12. The evidence indicates that the respondent authorized flyers, two newspaper advertisements, a sign, and an Internet website supporting the civil service proposition. The advertising contains express advocacy. The flyers and Internet website contain no disclosure statement, but the website contains a copyright indicating its source is the Rowlett Professional Firefighters. The sign indicates it was paid for by the Rowlett Firefighters Association, and lists the treasurer's name, but does not state that it is political advertising. The newspaper advertisements indicate that they are paid advertisements, but do not provide the name of the committee that authorized them, and one does not state that it is political advertising. Therefore, as to the sign and website, there is credible evidence of a technical or *de minimis* violation of section 255.001 of the Election Code, and, as to the flyers and newspaper advertisements, there is credible evidence of a violation of section 255.001 of the Election Code.
 13. A respondent must respond to the notice of a Category Two violation not later than the 25th business day after the date the respondent receives the notice. Failure to respond to a notice of sworn complaint within the time required is a separate Category One violation. GOV'T CODE § 571.1242(a)(c).
 14. The respondent received the notice of sworn complaint on June 16, 2008. The notice stated that the respondent was required to respond within 25 business days from receipt of the notice. The respondent failed to respond. Therefore, there is credible evidence of a violation of section 571.1242 of the Government Code.

15. The Texas Ethics Commission may impose a sanction against the respondent of not more than \$5,000 or triple the amount at issue, whichever amount is greater. GOV'T CODE § 571.173

Therefore, the Texas Ethics Commission orders that:

1. The respondent pay to the Texas Ethics Commission, within 30 days of the date of this order, a civil penalty in the amount of \$2,000.

Order Date: _____

FOR THE COMMISSION

David A. Reisman
Executive Director
Texas Ethics Commission