

TEXAS ETHICS COMMISSION

IN THE MATTER OF

WILLIAM J. SCHAEFER,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-290109

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 2, 2009, to consider sworn complaint SC-290109. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 252.001, 253.004, and 253.031(b) of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent: 1) knowingly accepted political contributions totaling more than \$500 and made or authorized political expenditures totaling more than \$500 for a political committee at a time when a campaign treasurer appointment for the committee was not in effect, 2) knowingly accepted political contributions that the respondent knew were made in violation of chapter 253 of the Election Code, 3) knowingly made or authorized political expenditures in violation of chapter 253 of the Election Code, 4) failed to maintain a record of all reportable activity, and 5) failed to file campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. During the time in question, the respondent was the president of the Goliad Democrat Club (GDC).
2. The complaint alleged that the GDC spent \$1,885 for political advertisements in calendar year 2008. The complaint included 17 newspaper advertisements that were published in The Texan Express, a newspaper in Goliad, Texas, and the Texan Express Rate Sheet effective October 1, 2007. The total amount for the advertisements was approximately \$1,885. The

dates the 17 advertisements were published in The Texan Express newspaper and the amount of each advertisement are as follows:

1. February 13, 2008. Page 12. "The Goliad County Democratic Club Urges You To Get Out & Support Your Democratic Candidates ... Pd. Pol. Adv. By Goliad Democratic Club, Sylvia Arrizola, Tres." \$275.
2. July 30, 2008. Page 2. "Goliad County Democratic Club BBQ Fundraiser ..." \$25.
3. August 6, 2008. Page 2. "Goliad County Democratic Club BBQ Fundraiser ..." \$25.
4. August 13, 2008. Page 4. "JUST THE FACTS, In the last year alone Goliad S.O. [Sheriff's Office] has written and received grant funding ... All of this received without burden to the taxpayers of Goliad County! Ad Paid For by Truth in Politics-Goliad Co. Democratic Club" \$20.
5. August 13, 2008. Page 6. "Goliad County Democratic Club BBQ Fundraiser ..." \$150.
6. September 3, 2008. Page 6. "'Just the Facts', Due to the diligence of residents ... illegal alien calls ... reduction of 66%." Pol. Ad. Paid for by "Truth in Politics," the Goliad County Democratic Club" \$20.
7. October 8, 2008. Page 5. "'Our Pledge To You, The Voter', We, the members of the Goliad County Democrats Club believe in and support our candidates ... Pd Pol Ad by The Goliad Democrat Club" \$275.
8. October 15, 2008. Page 2. "JUST THE FACTS SHERIFF'S BUDGET, The fact is in the last eight years, the Office of the Sheriff has ... Pol. Adv. By Goliad Democrat Club" \$40.
9. October 15, 2008. Page 4. "JUST THE FACTS TO PROTECT AND SERVE, Safety on our highways is one of the many priorities facing the sheriff ... Pol. Adv. By Goliad Democrat Club" \$90.
10. October 15, 2008. Page 11. "VOTE STRAIGHT PARTY TICKET-VOTE DEMOCRATIC PARTY ... Pol. Adv. By Goliad Democrat Club" \$180.
11. October 23, 2008. Page 2. "TRUTH IN POLITICS, VOTERS BEWARE! Legitimate and unbiased polling companies ... Pol. Ad. Paid for by the Goliad Democrat Club, Goliad, Texas 77963" \$30.
12. October 23, 2008. Page 7. "Come Meet The Candidates!!! ..." [The newspaper ran a correction on October 29, 2008, which stated, "In last week's ad placed by the Democrat Club, we overlooked putting their disclaimer at the bottom of their ad. The ad, which appeared on Page 7 and was "Come Meet the Candidates" was paid for by the Goliad Democrat Club and contained the disclaimer when it was brought to our office.] \$275.
13. October 23, 2008. Page 10. "'Our Pledge To You, The Voter' We, the members of the Goliad County Democrats Club believe in and support our candidates ... Paid Pol. Ad. for The Goliad Democrat Club" \$150.
14. October 29, 2008. Page 3. "JUST THE FACTS, Reported Budget Increase by Goliad County Sheriff's Office 2001-2009 ... Paid Pol. Adv. By Goliad Democrat Club" \$70.

15. October 29, 2008. Page 6. “‘Just the Facts’, ‘The Goliad D.A.R.E. programs ... Paid Pol. Adv. By The Goliad Democrat Club” \$20.
 16. October 29, 2008. Page 7. “JUST THE FACTS, Four-wheelers purchased by the Goliad County Sheriff’s Office ... Paid Pol. Adv. By The Goliad Democrat Club” \$90.
 17. October 29, 2008. Page 14. “‘Your VOTE is Your VOICE’ ... Paid Pol. Adv by The Goliad Democrat Club” \$150.
3. Based solely on the above listed political advertising, GDC exceeded \$500 in political contributions and expenditures no later than September 3, 2008.
 4. The complaint alleged that GDC received donations and made further expenditures hosting their August 17, 2008, BBQ Fundraiser advertised on page 2 of both the July 30, 2008, and August 6, 2008, issues and page 6 of the August 13, 2008, issue of The Texan Express. The complaint included a copy of the Democrat Club BBQ Ticket template for their fundraising event held on August 17, 2008.
 5. The complainant submitted three additional items of evidence. One item is the cover and two pages of the Zaragoza Society Program of April 25, 2008. One of the pages congratulates Zaragoza Society and lists the respondent as president of the Goliad County Democratic Club (some communications reference the Goliad County Democrat Club and some reference the Goliad County Democratic Club, but the evidence indicated they are the same group). Another item is a letter from the Goliad County Sheriff with accompanying documents. The letter states, “Attached hereto are copies of two items taken from the CD of Mr. Schaefer’s computer files. As you will see, Mr. Schaefer used his county computer to conduct matters on behalf of the Goliad County Democratic Club for non-appropriate, non-county business.” One of the documents is the Democrat Club BBQ Ticket template mentioned above. The other document is headed “Our Pledge To You, The Voter” and starts out with, “We, the members of the Goliad County Democrats Club.” The text is almost the same as the text of the political advertisement #13 mentioned above that was published on October 23, 2008, which stated, “Paid Pol. Ad. for The Goliad Democrat Club.” The other item was a letter from the owner, publisher, and editor of “The Texan Express,” the newspaper in which the above mentioned advertisements were published. The letter states in part “that all the ads placed by the Goliad Democrat Club in this newspaper, were placed by William J. Schaefer, President of the Club. He would bring in the ad copy and tell me that these would be paid for by the Democrat Club and he would advise [a person who was] the treasurer of the club to pay the same. She would do this.”
 6. The complaint also alleged that GDC made political expenditures and accepted political contributions in connection with the “Come Meet the Candidates” event held by GDC on October 25, 2008. The expenditures consisted of rent, electricity, and other expenditures related to the event.

7. The records of the Ethics Commission show that GDC did not file an appointment of campaign treasurer as a general-purpose committee.
8. The complaint alleged that the respondent violated section 254.001 of the Election Code by failing to maintain a record of all reportable activity. That section requires each candidate, each officeholder, and each campaign treasurer of a political committee to maintain a record of all reportable activity. The complaint also alleged that the respondent failed to file reports. The requirement to file reports applies to the campaign treasurer of a political committee. The respondent was not a candidate, officeholder, or the campaign treasurer of a political committee.
9. In response to the complaint, the respondent provided an affidavit in which he swears, “At the time of the alleged violation(s) this club did in fact have a treasurer, but did not file any paperwork with one on paper. The members were polled and voted that from this point on, it will not operate as an organization and will not continue in existence. We regret and apologize for any possible errors that were made, but they were not intentional.”

IV. Findings and Conclusions of Law

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

1. “Political committee” means a group of persons that has as a principal purpose accepting political contributions or making political expenditures. *Id.* § 251.001(12).
2. Each political committee shall appoint a campaign treasurer as provided by Chapter 252, Election Code. ELEC. CODE § 252.001.
3. 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. *Id.* § 253.031(b).
4. A person may not knowingly accept a political contribution the person knows to have been made in violation of this chapter. *Id.* § 253.003(b).
5. A person may not knowingly make or authorize a political expenditure in violation of this chapter. *Id.* § 253.004(a).
6. Each campaign treasurer of a political committee shall maintain a record of all reportable activity. *Id.* § 254.001(b). The record must contain the information that is necessary for filing the reports required by this chapter. *Id.* § 254.001(c).

7. The campaign treasurer of a general-purpose committee shall file two reports for each year as provided by this section. The first report shall be filed not later than July 15 and the second report shall be filed not later than January 15. *Id.* § 254.153.
8. In addition to other required reports, for each election in which a general-purpose committee is involved, the committee's campaign treasurer shall file two reports. The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before the election. The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. *Id.* § 254.154.
9. GDC did not file a campaign treasurer appointment as a general-purpose committee with the Ethics Commission.
10. The respondent contracted on behalf of GDC to publish the advertisements at issue.
11. GDC's expenditures for these advertisements were expenditures made in connection with a campaign for an elective office. Therefore, the expenditures were campaign expenditures and any funds contributed to the committee or expenditures made on behalf of the committee, for the advertisements and "Come Meet the Candidates" event were political contributions to GDC.
12. GDC had as a principal purpose the accepting of political contributions and the making of political expenditures. Therefore, the evidence shows that GDC was a political committee.
13. Based on the Texan Express Rate Sheet the cost of the advertisements was approximately \$1,885.
14. In addition to the advertising, GDC made expenditures for a "Come Meet the Candidates" event held on October 25, 2008.
15. Based on the advertisements, GDC exceeded \$500 in political contributions and political expenditures no later than September 3, 2008. The respondent authorized the expenditures. Thus, any political expenditures made and political contributions accepted after September 3, 2008, exceeded the \$500 threshold at which a campaign treasurer appointment was required. Thus, the respondent knowingly made political expenditures and accepted political contributions exceeding \$500 for the political committee at a time when a campaign treasurer appointment for the committee was not in effect. Therefore, there is credible evidence that the respondent violated sections 252.001 and 253.031(b) of the Election Code.
16. There is insufficient evidence to show that the respondent accepted on behalf of GDC political contributions that he knew were made in violation of chapter 253 of the Election

Code. Therefore, there is insufficient evidence that the respondent violated section 253.003 of the Election Code.

17. There is credible evidence that the respondent knowingly made or authorized political expenditures on behalf of GDC in violation of chapter 253 of the Election Code. Therefore, there is credible evidence that the respondent violated section 253.004 of the Election Code.
18. The campaign treasurer of a political committee must maintain the committee's campaign finance records and file the committee's campaign finance reports. The records of the Ethics Commission show that GDC did not file an appointment of campaign treasurer for a general-purpose committee. The respondent was not a candidate, officeholder, or the campaign treasurer of a political committee. Therefore, there is credible evidence that the respondent did not violate sections 254.001, 254.153 or 254.154 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 each political committee shall appoint a campaign treasurer as provided by Chapter 252, Election Code. The respondent also 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 appointment for the committee is not in effect. The respondent also acknowledges that a person may not knowingly make or authorize a political expenditure 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 \$500 civil penalty.

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-290109.

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

William J. Schaefer, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director