

returned it to the contributor when he was made aware of the error, on or about October 14, 2010. Along with his response, the respondent submitted a copy of a \$5,000 cashier's check dated October 28, 2010, made out to Derrick Construction Company, Inc.

3. The respondent ran for the position of Aransas County Navigation District Commissioner, Precinct 2, on five separate occasions. The respondent filed a campaign treasurer appointment four of the five times he ran for office. On those four campaign treasurer appointments, the respondent signed a statement stating that he was aware of the restrictions in Title 15 of the Election Code on contributions from corporations or labor organizations.

Acceptance of Political Contributions Without A Campaign Treasurer Appointment in Effect

4. The complaint alleged that the respondent accepted political contributions without a campaign treasurer appointment in effect. The respondent filed his campaign finance documents with the Aransas County Navigation District. The documents were not date-stamped by the filing authority.
5. The allegations were based on two contributions totaling \$5,500 disclosed on the respondent's 30-day pre-election report for the November 2010 election. The respondent disclosed that he accepted the contributions on September 7, 2010. The complaint alleged that the respondent did not appoint a treasurer until September 20, 2010, and thus the contributions were accepted before the respondent's campaign treasurer appointment was in effect.
6. According to the Aransas County Navigation District Elections Administrator, the respondent ran for a commissioner position with the Aransas County Navigation District in years 2001, 2003, 2005, 2007, and 2010. The respondent filed a new campaign treasurer appointment four different times. Prior to the November 2010 election, the respondent's most recent campaign treasurer appointment was signed and dated by the respondent on August 20, 2007. The respondent never filed a final report.

Misrepresentation of Office

7. The complaint alleged that the respondent represented in a campaign communication that he held an elective public office that he did not hold at the time the representations were made.
8. At issue in the complaint is an advertisement that appeared in The Rockport Pilot on September 29, 2010. The advertisement indicated that the respondent was seeking re-election to the position of Aransas County Navigation District commissioner, Precinct 2. At the time, the respondent was not an officeholder. The advertisement also listed accomplishments the respondent made while serving as commissioner. In response to the complaint, the respondent swore that the newspaper printed the same advertisement that was used by the respondent four years ago, when the respondent was an officeholder.

The respondent further swore that he did not proofread the advertisement before it was used.

IV. Findings and Conclusions of Law

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

Political Contribution from Corporation

1. A person may not knowingly accept a political contribution that the person knows was made in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003.
2. A corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, Election Code. ELEC. CODE § 253.094.
3. The prohibition applies to corporations that are organized under the Texas Business Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation Act, the Texas Nonprofit Corporation Law, federal law, or law of another state or nation. ELEC. CODE § 253.091.
4. The respondent ran for the position of Aransas County Navigation District Commissioner, Precinct 2, on five separate occasions. The respondent filed a campaign treasurer appointment four of the five times he ran for office. On those four campaign treasurer appointments, the respondent signed a statement stating that he was aware of the restrictions in Title 15 of the Election Code on contributions from corporations or labor organizations. Nevertheless, the respondent accepted a contribution check with the payor name of Derrick Construction Company, Inc., and disclosed it as such on his campaign finance report. Therefore, there is credible evidence of a violation of sections 253.003 and 253.094 of the Election Code.

Acceptance of Political Contributions Without A Campaign Treasurer Appointment in Effect

5. A campaign treasurer appointment takes effect at the time it is filed with the authority specified by chapter 252, Election Code, and continues in effect until terminated. ELEC. CODE § 252.011.
6. A candidate may not knowingly accept a campaign contribution or 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).
7. The respondent filed a campaign treasurer appointment on or about August 20, 2007. The respondent never filed a final report. Thus, that treasurer appointment was in effect when the respondent accepted contributions on September 7, 2010. Therefore, there is credible evidence of no violation of section 253.031(a) of the Election Code.

Misrepresentation of Office

8. “Campaign communication” means, in pertinent part, a written or oral communication relating to a campaign for nomination or election to public office. ELEC. CODE § 251.001(17).
9. A person commits an offense if the person knowingly represents in a campaign communication that a candidate holds a public office that the candidate does not hold at the time the representation is made. ELEC. CODE § 255.006(b).
10. The advertisement at issue supported the respondent’s election to the office of Aransas County Navigation District Commissioner, Precinct 2. Thus, it was a campaign communication. The language of the advertisement indicated that the respondent was seeking re-election to a position that the respondent did not hold at the time the representation was made. Therefore, there is credible evidence of a violation of section 255.006(b) 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 corporation may not make a political contribution or political expenditure that is not authorized by chapter 253 of the Election Code, and that chapter does not authorize a political contribution to a candidate by a corporation. The respondent further acknowledges that a person may not knowingly accept a political contribution the person knows to have been made in violation of chapter 253 of the Election Code. The respondent also acknowledges that a person commits an offense if the person knowingly represents in a campaign communication that a candidate holds a public office that the candidate does not hold at the time the representation is made. 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 \$1,000 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-31011391.

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

Tony Dominguez, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director