

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
ARANSAS PASS DEVELOPMENT	§	TEXAS ETHICS COMMISSION
GROUP,	§	
RESPONDENT	§	SC-2611241

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 Aransas Pass Development Group, whose last known mailing address is P.O. Box 2065, Aransas Pass, Texas 78335-2065. A sworn complaint was filed with the Texas Ethics Commission against the respondent on November 17, 2006. The Notice of Hearing was mailed to the respondent on October 3, 2007, by certified mail, return receipt requested, restricted delivery.
2. The preliminary review hearing was held on October 25, 2007, 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 complaint alleges that the respondent Aransas Pass Development Group made a political contribution or political expenditure in violation of section 253.094(b) of the Election Code, by posting political advertising regarding a recall election on corporate property.
5. A recall election of the mayor and mayor pro tem of the City of Aransas Pass was ordered for November 4, 2006.
6. The evidence shows that on October 19, 2006, eight signs were attached to the interior side of windows of a business at 304 S. Commercial Street, Aransas Pass, Texas. The name on the wall of the building is Aransas Pass Development Group. The signs were visible from the road. From the photographs it appears that the signs state: "VOTE AGAINST RECALL, Citizens for SmartGrowth, www.aransaspasscitizens.com."

7. Records of the Texas Secretary of State show that Aransas Pass Development Company is a business corporation.
8. Records of the Texas Secretary of State include a document titled "Assumed Name Certificate" which states that the assumed name under which the business or professional service is, or is to be, conducted or rendered is Aransas Pass Development Group. It states that the name of the entity filing the assumed name is Aransas Pass Development Company and that the filing entity is a for-profit corporation.
9. The evidence shows that the location where the signs were posted, 304 S. Commercial Street, Aransas Pass, Texas, is the address of Aransas Pass Development Group, a dba of Aransas Pass Development Company.
10. On December 13, 2006, N. Allen signed for receipt of the notice of the complaint sent to the respondent. A response has not been filed for the respondent.

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 was provided 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. A corporation or labor organization may not make a political contribution or political expenditure in connection with a recall election. ELEC. CODE § 253.094(b).
4. The evidence indicates that Aransas Pass Development Company is a corporation and that it filed to conduct business under the assumed name Aransas Pass Development Group, the name of the respondent. The respondent's name is on the wall of the building where the signs were posted that state "VOTE AGAINST RECALL." A recall election is a measure election. The signs state that they are political advertising, and that they were paid for by "Friends of Jesse & Dorothy." In Ethics Advisory Opinion No. 336 (1996), the commission determined that a corporation may allow a candidate to display campaign materials only if all candidates are given the same opportunity. If not, the corporation may be found to have made a campaign contribution. In Ethics Advisory Opinion No. 340 (1996), the commission found that a corporation may not make a political expenditure to endorse a candidate. There is credible evidence that the respondent either posted or authorized the posting of the signs at issue in the windows of their office.
5. There is credible evidence that the respondent violated section 253.094(b) of the Election Code.

6. A respondent must respond to a Category Two sworn complaint within 25 business days from the date the respondent receives the sworn complaint. A respondent's failure to timely respond is a Category One violation. GOV'T CODE § 571.1242.
7. The respondent received the sworn complaint on December 13, 2006. More than 25 days business days have passed since that date. The respondent has not filed a response.
8. There is credible evidence that the respondent violated section 571.1242 of the Government Code.
9. 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 \$1,000.

Date: _____

FOR THE COMMISSION

David A. Reisman
Executive Director
Texas Ethics Commission