

TEXAS ETHICS COMMISSION

IN THE MATTER OF

DAVID RAY BROOKS,
RESPONDENT

SC-93011

§
§
§
§
§
§

BEFORE THE

TEXAS ETHICS COMMISSION

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission ("commission") met on September 2, 1993, to consider sworn complaint SC-93011 filed against DAVID RAY BROOKS, (the "Respondent"). A quorum of the Commission was present. Based on the investigation conducted by commission staff to date, the Commission determined there was credible evidence of a violation of § 254.124(a), Texas Election Code, laws administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the commission proposes this Agreed Resolution to the Respondent.

II. Facts Supported by Credible Evidence

Credible evidence available to the Commission would support the following findings of fact:

1. Respondent is a resident of the Farmersville Independent School District (the "FISD"). The FISD held an election on bond measures on March 6, 1993.
2. Respondent signed and filed a "Specific-purpose Committee Sworn Report of Contributions and Expenditures" with the secretary of FISD dated April 6, 1993. In that report, Respondent identified himself as the campaign treasurer of a specific-purpose political committee named "Citizens for Quality Schools." The report was characterized as a final report and was for the period from January 15, 1993, through April 5, 1993. It listed contributions that totalled \$2,685,00 and expenditures that totalled \$2,185.81 in support of the March 6, 1993, bond election. No other report by Respondent or anyone acting on behalf of "Citizens for Quality Schools" has been filed with the secretary of FISD.

III. Findings

The facts described in Section II would support the following findings:

1. Respondent, as the treasurer of "Citizens for Quality Schools," violated § 254.124(a), Texas Election Code, by failing to file two (2) reports of contributions and expenditures on behalf of "Citizens for Quality Schools," the first due not later than the 30th day before the election, the second due not later than the 8th day before the election.

IV. Representations and Agreement by Respondent

By signing this ORDER and AGREED RESOLUTION and returning it to the Commission:

1. Respondent neither admits nor denies the facts detailed under Section II and the Commission's findings detailed under Section III and consents to the entry of this Order and Agreed Resolution solely for the purpose of resolving and settling this Sworn Complaint.
2. Respondent consents to the entry of this Order and Agreed Resolution before any adversarial evidentiary hearings or argument before the Commission, and before any formal adjudication of law or fact by the Commission. Respondent waives any right to a hearing before the Commission or an administrative law judge appointed by the Commission and further waives any right to a post-hearing procedure established or provided by law.
3. Respondent acknowledges that § 252.001, Texas Election Code, requires a person who acts in concert with another person to make political expenditures supporting or opposing a measure at an election to file an appointment of campaign treasurer for the political committee with the proper authority. Respondent agrees to fully and strictly comply with this requirement of the law.
4. Respondent acknowledges that before September 1, 1993, under § 253.031(b), Texas Election Code, it was illegal for a political committee to knowingly accept a political contribution or make or authorize a political expenditure in any amount at a time when a campaign treasurer appointment for the committee was not in effect. On and after September 1, 1993, a political committee that accepts political contributions totaling more than \$500.00 or makes or authorizes political expenditures that total more than \$500.00 may not do so at a time when a campaign treasurer appointment for the committee is not in effect. Respondent agrees to fully and strictly comply with this requirement of the law.
5. Respondent acknowledges that § 254.124(a), Texas Election Code, requires the campaign treasurer of a specific-purpose political committee involved in an election to file reports of contributions and expenditures no later than the 30th day before the election report and no later than the 8th day before the election. Respondent agrees to fully and strictly comply with this requirement of the law.

V. Confidentiality

This Order and Agreed Resolution describes an alleged violation that the Commission has determined would be neither technical nor *de minimis*. Accordingly, this Order and Agreed Resolution is not confidential under Texas Government Code, § 571.140(b), and may be disclosed by members and staff of the Texas Ethics Commission.

VI. Sanction

After considering the seriousness of the alleged violation described under Sections II and III, including the nature, circumstances, consequences, extent, and gravity of the violation; that no previous violations by this Respondent are known to the Commission; and the sanction deemed necessary to deter future violations; the Commission imposes a civil penalty of \$100.00 for the violation described under Section III.

VII. Order

The Texas Ethics Commission hereby ORDERS:

- 1 that this proposed Order and Agreed Resolution be presented to Respondent;
- 2 that the Executive Director shall promptly refer SC-93011 to an administrative law judge to conduct hearings on the Commission's behalf and to propose findings to the Commission in accordance with law if Respondent does not agree to the disposition of SC-93011 as proposed in this Order and Agreed Resolution;
- 3 that if Respondent consents to the proposed Order and Agreed Resolution, this Order and Agreed Resolution is a final and complete disposition of SC-93011; and
- 4 that Respondent may consent to the proposed Order and Agreed Resolution only by signing an original of this document and mailing the signed original together with payment of the \$100.00 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than November 15, 1993.

AGREED to by Respondent on this _____ day of _____, 1993.

DAVID RAY BROOKS, RESPONDENT

The executed original received by the Commission on: _____.

**JOHN STEINER
EXECUTIVE DIRECTOR
TEXAS ETHICS COMMISSION**