

TEXAS ETHICS COMMISSION

IN THE MATTER OF
GARY WALL,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-96023

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (“commission”) met on June 14, 1996, to consider sworn complaint SC-96023 filed against Gary Wall (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 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. At all times relevant to this complaint, the respondent was a candidate for state representative.
2. The respondent did not include the political advertising disclosure on his fund-raising invitations. The complaint alleges that this a violation of Section 255.001, Election Code.
3. Two additional allegations in the complaint are that the respondent failed to report expenditures for the postage to mail the fund-raising literature and failed to itemize a \$9,235.66 expenditure on a 30-day report. The respondent filed a document itemizing the expenditure.
4. The final allegation is that the respondent failed to file his personal financial statement as required by Section 572.021, Government Code. The respondent submitted his personal financial statement one month after the due date. The commission administratively assessed a \$100 late filing penalty, which was promptly paid by the respondent.

III. Conclusions of Law

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

1. Section 255.001, Election Code, requires a disclosure statement on all political advertising resulting from an agreement to print political advertising. This section specifically excludes invitations to political fund-raising events. Since the fund-raising literature in question consists

of invitations to a political fund-raising event, no disclosure statement was required and thus no violation occurred.

2. Sections 254.031 and 254.061, Election Code require a candidate for public office to report all campaign expenditures on the candidate's contribution and expenditure report. The statute provides that the first report covers the period beginning on the date the campaign treasurer appointment is filed. In response to this complaint, the respondent filed a document itemizing the \$9,235.66 expenditure, which included the postage expenditures.
3. Section 572.021, Government Code, requires candidates for state representative to file a personal financial statement by a certain date. The respondent submitted his personal financial statement one month after the due date. The commission administratively assessed a \$100 late filing penalty, which was promptly paid by the respondent.

IV. Representations and Agreement by the Respondent

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

1. The respondent neither admits nor denies the facts detailed under Section II and the commission's findings and conclusions of law 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. The respondent consents to the entry of this Order before any adversarial evidentiary hearings or argument before the commission, and before any formal adjudication of law or fact by the commission. The 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. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, the respondent understands and agrees that the commission will consider the respondent to have committed the violation detailed in Section III, Paragraph 3, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

V. Confidentiality

This ORDER and AGREED RESOLUTION describes an alleged violation that the commission has determined would be neither technical or *de minimis*. Accordingly, this ORDER and AGREED RESOLUTION is confidential under Section 571.140, Government Code, and may be disclosed by members and staff of the Texas Ethics Commission.

VI. No 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 the commission assessed the respondent a \$100 late filing penalty for failure to file the personal financial statement in question; and that in sworn complaint SC-96010, the commission imposed upon this respondent a \$200

civil penalty for failure to file an appointment of a campaign treasurer before making political expenditures, the commission does not impose a sanction for the violation described under Section III, Paragraph 2 and 3.

VII. Order

The Texas Ethics Commission hereby ORDERS:

1. that the portion of this sworn complaint that alleges violations described under Section III, Paragraph 1, is dismissed;
- (1) that this proposed AGREED RESOLUTION be presented to the respondent;
- (2) that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-96023;
- (3) that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than July 12, 1996;
- (4) that the executive director shall promptly refer SC-96023 to either the commission or to an administrative law judge to conduct hearings on the commission's behalf and to propose findings of fact and conclusions of law to the commission in accordance with law if the respondent does not agree to the resolution of SC-96023 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of, _____ 1996.

Gary Wall, Respondent

EXECUTED ORIGINAL received by the commission on: _____
DATE

Texas Ethics Commission

By: _____

Tom Harrison, Executive Director