

TEXAS ETHICS COMMISSION

IN THE MATTER OF
DIANA P. RAWLINS,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-240338

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission met on July 16, 2004, to consider sworn complaint SC-240338. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 254.001 of the Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complainant alleges that the respondent violated the prohibition against accepting cash contributions in excess of \$100 from a contributor during a reporting period. The complainant also alleges that the respondent failed to maintain the required records of political contributions.

III. Facts Supported by Credible Evidence

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

1. The respondent was a city council person in Corsicana, Texas, and the sworn complaint relates to a November 4, 2003, election to recall the respondent.
2. The 30-day and 8-day pre-election reports disclose six anonymous cash contributions.
3. The respondent swears that she found "small (some \$20 or less) cash contributions at my front door, which had been left anonymously."
4. The respondent accepted the contributions but swears that she did not realize doing so was improper.
5. The respondent reported the contributions.
6. The respondent submitted a statement indicating she had donated an amount equal to the anonymous contributions to a charity.

IV. Findings and Conclusions of Law

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

1. A candidate, officeholder, or specific-purpose committee may not knowingly accept from a contributor in a reporting period political contributions in cash that in the aggregate exceed \$100. ELEC. CODE § 253.033.
2. A candidate shall maintain a record of all reportable activity, and the record must contain the information that is necessary for filing the required reports. ELEC. CODE § 254.001.
3. With respect to accepting cash contributions in excess of \$100 from a contributor, the evidence is insufficient to show if any contributor exceeded \$100 limit.
4. The commission discussed anonymous contributions in Ethics Advisory Opinion No. 207 (1994). The commission determined it was necessary to know the source of a contribution in order to assure compliance with the detailed reporting requirements, and the prohibitions against corporate contributions and cash contributions in excess of \$100. The commission went on to explain that in cases where the contribution is received but not accepted there is no statutory solution to this problem. In those cases the commission advised that no violation would result if the contribution was transferred to a charity.
5. In this case the respondent received and accepted anonymous contributions.
6. After learning she could not accept anonymous contributions she donated to charity an amount equal to the anonymous contributions she accepted.
7. Because the contributions that the respondent accepted were anonymous, there is credible evidence that the respondent failed to maintain records necessary to file required reports.

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 candidate shall maintain a record of all reportable activity, and the record must contain the information that is necessary for filing the required reports. The respondent agrees to fully comply with this requirement 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 \$200 civil penalty for the violations described under Section IV.

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-240338.

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

Diana P. Rawlins, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Sarah Woelk, Acting Executive Director