

TEXAS ETHICS COMMISSION

IN THE MATTER OF
DARLENE WILSON,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-250579

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission met on November 2, 2005, to consider sworn complaint SC-250579. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 254.154 of the Election Code, a law administered and enforced by the commission. To resolve this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaint alleges that the respondent unlawfully accepted a political contribution from a corporation and failed to file pre-election campaign finance reports for a committee.

III. Facts Supported by Credible Evidence

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

1. The respondent is the campaign treasurer of general-purpose political committee established by a homeowners association ("HOA").
2. The HOA is incorporated under the Texas Non-Profit Corporation Act.
3. The general-purpose political committee created a letter dated March 1, 2005, that was addressed to the residents of the HOA community and recommended a vote for three candidates for city council in a May 7, 2005, election.
4. A copy of the letter appeared in a May 2005 issue of the HOA's monthly community newsletter, which was delivered to approximately 3,200 members of the HOA on or about May 2, 2005.

5. The newsletter included a statement from the president of the HOA that asked readers to vote in the election and directed them to the committee's recommendations.
6. The complainant swore that the committee provided flyers at a March 23, 2005, HOA meeting that included a list of candidates endorsed by the committee.
7. The respondent filed the committee's July 2005 semiannual campaign finance report that covered January 1, 2005, through June 30, 2005. The report did not indicate that the committee supported or opposed any candidates, officeholders, or measures in the reporting period.
8. The respondent did not file a pre-election campaign finance report for the May 2005 election.

IV. Findings and Conclusions of Law

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

1. A corporation organized under the Texas Non-Profit Corporation Act may not make a political contribution to a general-purpose political committee that supports or opposes a candidate for public office unless the contribution is to finance the establishment or administration of the committee. ELEC. CODE §§ 253.094, 253.100.
2. 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. ELEC. CODE § 253.003.
3. A political contribution includes a campaign contribution. ELEC. CODE § 251.001(5). A campaign contribution is a direct or indirect transfer of money, goods, services, or any other thing of value to a political committee that is offered or given with the intent that it be used in connection with a campaign for elective office. ELEC. CODE §§ 251.001(2), (3).
4. A corporation may make one or more direct campaign expenditures from its own property for the purpose of communicating directly with its stockholders or members, as applicable, or with the families of its stockholders or members. ELEC. CODE § 253.098(a).
5. There is insufficient evidence that the HOA's publication of the committee's letter in its newsletter was a political contribution to the committee. The evidence indicates that HOA intended the newsletter as a direct communication to its members. Therefore, there is insufficient evidence that the respondent violated section 253.003 of the Election Code by knowingly accepting a political contribution from the HOA on behalf of the political committee.
6. A campaign treasurer of a general-purpose political committee must file two campaign finance reports for each election in which the committee is involved. The first report is due the 30th day before election day and covers a period ending on the 40th day before election

day. The second report is due the 8th day before election day and covers the period beginning on the 39th day before election day and continuing through the 10th day before election day. ELEC. CODE § 254.154.

7. The evidence shows that the committee produced and distributed a letter endorsing candidates in the May 7, 2005, election. Therefore, there is credible evidence that the committee was involved in the May 7, 2005, election during the time period covered by the 30-day pre-election report, and the respondent failed to properly file pre-election campaign finance reports in violation of section 254.154 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 campaign treasurer of a general-purpose political committee must file two campaign finance reports for each election in which the committee is involved. The respondent also acknowledges that the first report is due the 30th day before election day and covers a period ending on the 40th day before election day, and that the second report is due the 8th day before election day and covers the period beginning on the 39th day before election day and continuing through the 10th day before election day. The respondent agrees to comply with these requirements of the law.

VI. Confidentiality

This order and agreed resolution describes a violation that the commission has determined is 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 violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$100 civil penalty for the violation described under Sections III and 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-250579.

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

Darlene Wilson, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director