

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JEFF PELLETIER,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2506124

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on January 12, 2006, to consider sworn complaint SC-2506124. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of sections 253.031(b) and 253.004(a) of the Election Code, laws 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 complaint alleges that the respondent made political expenditures and accepted political contributions as a member of a political committee that never filed a campaign treasurer appointment.

III. Facts Supported by Credible Evidence

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

1. The complaint involves a group named Highland Village Unite (HVU) that was involved in an attempt to recall certain city council members.
2. HVU circulated recall petitions beginning in March 2005. The recall petition was not successful because the petitioners did not collect enough signatures. The respondent is a member of the group and a co-signor on the group's bank account.
3. HVU's website focused on the Wal-Mart issue and recall election. The website advocated the recall of four incumbent council members and provided information about how to sign HVU's recall petition, volunteer to assist HVU, and make monetary contributions to HVU.

4. HVU was also responsible for newspaper advertisements on March 18 and March 25, 2005, that asked people to sign the recall petition.
5. The municipal election was held on May 7, 2005. After the election HVU's website expressed its satisfaction that three council members had been defeated and stated that the recall effort would now continue with respect to the four remaining council members. HVU's website also continued to solicit contributions.
6. The evidence indicates that the respondent was involved in the group's decision making. The group's bank account was in the name, "Jeffrey A. Pelletier, DBA Highland Village Unite, the respondent was a co-signor on the bank account, and the respondent was the treasurer of HVU. In addition, in his sworn response the respondent details the history of how HVU came to be formed and acknowledges that he acted as its treasurer. He swears that HVU researched the issue to determine if HVU was a political committee that needed to file a treasurer appointment and determined that it did not. He submitted copies of some of the e-mail discussions between himself and others who were interested in HVU. The discussions disclose uncertainty about the need to file a treasurer appointment.
7. The respondent submitted copies of bank statements that he states show HVU's deposits and expenditures. He also submitted copies of checks, two of which show expenditures to the "News Connection," a newspaper that ran the HVU's advertisements. The total expenditures for the two advertisements was \$2,016. The respondent was one of the co-signors on the checks.
8. The respondent admits that HVU made the expenditures for the advertisements. The respondent also admits that HVU solicited and accepted contributions. The respondent asserts that HVU does not meet the definition of a political committee.

IV. Findings and Conclusions of Law

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

1. A political committee is a group of persons that has as a principal purpose accepting political contributions or making political expenditures. ELEC. CODE § 251.001(12).
2. A political expenditure includes a campaign expenditure, which is an expenditure made by any person in connection with a campaign for an elective office or on a measure. ELEC. CODE §§ 251.001(7) and (10).
3. A measure is a question or proposal submitted in an election for an expression of the voters' will and includes the circulation and submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters' will. ELEC. CODE § 251.001(19).

4. A communication supporting a measure that in return for consideration is published in a newspaper, or appears on an Internet website, is political advertising. ELEC. CODE § 251.001 (16).
5. HVU was responsible for communications supporting the recall of four officeholders and seeking signatures on a recall petition. HVU paid to have communications supporting the recall published as newspaper advertisements. There were also communications on HVU's website that supported the recall. Therefore, the communications were political advertising.
6. The evidence shows that accepting political contributions or making political expenditures was a principal purpose of HVU. Thus, HVU was a political committee.
7. The respondent was a member of HVU. The group's bank account was in his name and listed Highland Village Unite as a d.b.a. The respondent co-signed the checks used to pay for the advertisements, the respondent had responsibility for accepting contributions and making expenditures for the committee, and the respondent knew that the money that was contributed went toward paying for recall advertising.
8. A political committee may not knowingly accept political contributions totaling more than \$500 or make or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer appointment for the committee is not in effect. ELEC. CODE § 253.031(b).
9. HVU has not filed a treasurer appointment. The evidence indicates that the committee accepted political contributions totaling more than \$500. The evidence shows that the respondent, acting on behalf of the committee, accepted political contributions and made political expenditures totaling more than \$500. Therefore, there is credible evidence that the respondent violated section 253.031(b) of the Election Code.
10. A person may not knowingly make or authorize a political expenditure in violation of chapter 253 of the Election Code. ELEC. CODE § 253.004(a).
11. The respondent knew that contributions to the group were used for political advertising about the recall petition. The evidence shows that the respondent was a co-signor on the bank account and very involved with the committee's actions. Thus, the evidence shows that the respondent was responsible for making political expenditures totaling more than \$500 for the newspaper advertisements supporting the recall. Therefore, there is credible evidence that the respondent violated section 253.004(a) 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 political committee may not knowingly accept political contributions totaling more than \$500 or make or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer appointment for the committee is not in effect, and that a person may not knowingly make or authorize a political expenditure in violation of chapter 253 of the Election Code. 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 \$250 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-2506124.

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

Jeff Pelletier, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director