

TEXAS ETHICS COMMISSION

IN THE MATTER OF
BRYCE WELCH,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-260254

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on July 14, 2006, to consider sworn complaint SC-260254. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.004, 253.062, and 255.001 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, an individual, failed to appoint a campaign treasurer for a political committee and failed to file campaign finance reports. In the alternative, the complaint alleges that the respondent made political expenditures as an individual exceeding \$100 without filing campaign finance reports. The complaint also alleges that the respondent failed to include a political advertising disclosure statement on his political advertising. Finally, the complaint alleges that the respondent printed, broadcast, or published campaign material that contains false or misleading information in connection with a sports or community venue project.

III. Facts Supported by Credible Evidence

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

1. The following facts arise from a school bond election for Lago Vista ISD held on February 4, 2006.
2. The respondent engaged in the political activity at issue alone.
3. The respondent made political expenditures of approximately \$1,000 to oppose the bond. The respondent's political expenditures began on December 9, 2005, and continued through January 27, 2006.

4. The respondent did not file campaign finance reports to disclose his political expenditures.
5. In response to this complaint, on April 26, 2006, the respondent filed a campaign finance report disclosing his political expenditures.
6. Road signs requested that voters vote against the proposed bond. The road signs did not contain a political advertising disclosure statement. The road signs did contain a right-of-way notice.
7. The road signs were designed and paid for by other parties without the respondent's knowledge, approval, or assistance.
8. The respondent asked for and was given approximately 10 signs which he placed in his own yard and in the yards of neighbors.
9. A website requested that people vote against the proposed bond. A webpage contained the phrase "Vote No" in reference to the school bond measure. The website did not contain a political advertising disclosure statement.
10. The website was authored by the respondent.

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. The respondent's political activity was carried out alone. The respondent was not acting on behalf of a political committee.
3. Because the respondent acted alone, the allegations that the respondent failed to appoint a campaign treasurer or failed to file campaign finance reports for a political committee are not supported by the evidence. Therefore, there is credible evidence of no violation with respect to the allegations related to political committees.
4. An individual not acting in concert with another person may make one or more direct campaign expenditures in an election from the individual's own property that exceed \$100 on any one or more candidates or measures if the individual files campaign finance reports as if the individual were a campaign treasurer of a political committee and the individual receives no reimbursement for the expenditures. ELEC. CODE § 253.062.

5. A direct campaign expenditure is a campaign expenditure that does not constitute a campaign contribution by the person making the expenditure. ELEC. CODE § 251.001(8).
6. A person may not knowingly make or authorize a political expenditure in violation of chapter 253 of the Election Code. ELEC. CODE § 253.004.
7. The respondent was not acting in concert with another person. He made approximately \$1,000 in direct campaign expenditures. The respondent did not file campaign finance reports as if he were the campaign treasurer of a political committee. Therefore, there is credible evidence of a violation of section 253.062 of the Election Code.
8. Because there is credible evidence that the respondent violated section 253.062 of the Election Code, the respondent made political expenditures in violation of chapter 253 of the Election Code. Therefore, there is credible evidence of a violation of section 253.004 of the Election Code.
9. A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising that it is political advertising and the full name of the person who paid for the political advertising. ELEC. CODE § 255.001.
10. Political advertising is a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that in return for consideration; is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or on an Internet website. ELEC. CODE § 251.001(16).
11. The respondent placed several road signs that did not contain a political advertising disclosure statement. Because the signs advocate against the bond they are political advertising. Therefore, the respondent distributed political advertising that did not contain a political advertising disclosure statement.
12. Given the number of signs involved, and the fact that the respondent did not create the signs, there is credible evidence of a technical or *de minimis* violation of section 255.001 of the Election Code with regard to the road signs.
13. The website contains express advocacy against the school bond. The respondent authored the website at issue. The website did not contain a political advertising disclosure statement. Therefore, there is credible evidence of a violation of section 255.001 of the Election Code with respect to the website.

14. A person may not print, broadcast, or publish, or cause to be printed, broadcast, or published, campaign material that contains false and misleading information in connection with a venue project. LOCAL GOV'T CODE § 335.055.
15. The political advertising at issue was made in connection with a school bond measure election. Section 335.055 of the Local Government Code does not apply to school bond measures. Therefore, there is credible evidence of no violation of section 335.055 of the Local Government 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 person may not knowingly make or authorize a political expenditure in violation of chapter 253 of the Election Code. The respondent also acknowledges that except as otherwise provided by law, an individual not acting in concert with another person may make one or more direct campaign expenditures in an election from the individual's own property that exceed \$100 on any one or more candidates or measures if the individual files campaign finance reports as if the individual were a campaign treasurer of a political committee and the individual receives no reimbursement for the expenditures. The respondent further acknowledges that a person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising that it is political advertising, the full name of the person who paid for the political advertising, the political committee authorizing the political advertising, or the candidate or specific-purpose committee supporting the candidate if the political advertising is authorized by the candidate. The respondent agrees to comply with these requirements 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 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-260254.

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

Bryce Welch, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director