

TEXAS ETHICS COMMISSION

IN THE MATTER OF

ANN HODGE,

RESPONDENT

§
§
§
§
§

BEFORE THE

TEXAS ETHICS COMMISSION

SC-2610216 and SC-2611231

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 13, 2007, to consider sworn complaints SC-2610216 and SC-2611231. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 253.037 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 complaints allege that the respondent, as treasurer of a general-purpose political committee, made political expenditures exceeding \$500 within 60 days of the committee filing a campaign treasurer appointment and before the committee had accepted contributions from 10 different persons, and that the respondent made political contributions to another general-purpose committee without first disclosing the recipient committee on its campaign treasurer appointment.

III. Facts Supported by Credible Evidence

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

1. The respondent's general-purpose political committee, Partners for Progress, filed a campaign treasurer appointment on July 21, 2006, naming the respondent as its treasurer. The treasurer appointment did not list any recipient general-purpose committees.
2. On October 10, 2006, the committee filed a 30-day pre-election campaign finance report that disclosed a total of \$40 of unitemized political contributions. The same report disclosed that the committee accepted a \$50,000 political contribution on August 21, 2006, and a \$15,000 political contribution on September 19, 2006. The report also disclosed that the committee made a single \$2,084.84 political expenditure on August 24, 2006.
3. On October 19, 2006, Partners for Progress filed an amended treasurer appointment that added "Keep Investing in District Schools" as a recipient general-purpose committee.

4. Partners for Progress filed an 8-day pre-election report on November 1, 2006, that discloses two political expenditures made as political contributions totaling \$14,826.67 to “Keep Investing in District Schools (K.I.D.S).” The political contributions were made on October 11, 2006, and October 17, 2006.
5. Commission records show that “Keep Investing in District Schools” is a general-purpose political committee with the acronym “KIDS.” The complaint alleges that the contributions were improper because the recipient was not disclosed in the respondent’s campaign treasurer appointment.
6. Both SC-2610216 and SC-2611231 allege that the \$2,084.84 political expenditure was improper because the respondent made the expenditure within 60 days of the date that the committee’s treasurer appointment was filed and before the committee had accepted political contributions from 10 persons.
7. SC-2611231 also alleges that the committee’s later political expenditures were improper because the two itemized contributions plus the \$40 of unitemized contributions disclosed on the respondent’s October 10, 2006, report did not actually represent that the respondent complied with the statutory requirement to accept contributions from at least 10 different persons before exceeding \$500 in political expenditures.
8. The respondent filed a sworn response in which she acknowledges that she made the August 24, 2006, expenditure of \$2,084.84 within 60 days of the committee filing its campaign treasurer appointment and before the committee had accepted contributions from 10 persons.
9. The evidence indicates that between August 24, 2006, and October 10, 2006, Partners for Progress accepted contributions totaling \$40 from eight individuals.

IV. Findings and Conclusions of Law

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

1. A general-purpose committee may not knowingly make or authorize a political contribution or political expenditure unless the committee has filed its campaign treasurer appointment not later than the 60th day before the date the contribution or expenditure is made and accepted political contributions from at least 10 persons. ELEC. CODE § 253.037(a). In harmonizing various statutes the commission determined that a general-purpose committee may make political expenditures that do not exceed \$500 during the 60 day period and before the committee has accepted contributions from 10 persons. *See* Ethics Advisory Opinion No. 161 (1993).

2. With respect to the August 24, 2006, \$2,084.84 expenditure, the evidence shows that the respondent made a political expenditure exceeding \$500 within 60 days of the committee filing its campaign treasurer appointment and before accepting contributions from 10 persons. Therefore, there is credible evidence that the respondent violated section 253.037(a) of the Election Code, as alleged in sworn complaints SC-2610216 and SC-2611231.
3. With respect to the remaining expenditures, they were made more than 60 days after the committee filed its treasurer appointment. The evidence shows that the \$40 of unitemized contributions was from eight contributors. Thus, when those eight contributions are added to the two itemized contributions the respondent met the 10 person requirement. Therefore, there is credible evidence that the respondent did not violate section 253.037(a) of the Election Code with respect to the committee's political expenditures made in October 2006, as alleged in sworn complaint SC-2611231.
4. A general-purpose committee may not knowingly make a political contribution to another general-purpose committee unless the other committee is listed in the campaign treasurer appointment of the contributor committee. ELEC. CODE § 253.037(b).
5. Partners for Progress amended its campaign treasurer appointment on October 19, 2006, to disclose "KIDS" as a recipient general-purpose committee. However, the evidence shows that the respondent made political contributions totaling \$14,826.67, to KIDS before making the proper disclosure. Therefore, there is credible evidence that the respondent violated section 253.037(b) of the Election Code, as alleged in sworn complaint SC-2611231.

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 general-purpose committee may not knowingly make or authorize a political contribution or political expenditure unless the committee has filed its campaign treasurer appointment not later than the 60th day before the date the contribution or expenditure is made and accepted political contributions from at least 10 persons. The respondent also acknowledges that a general-purpose committee may not knowingly make a political contribution to another general-purpose committee unless the other committee is listed in the campaign treasurer appointment of the contributor committee. 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 \$1,000 civil penalty.

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-2610216 and SC-2611231.

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

Ann Hodge, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director