

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ELLEN CLARK,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-270597

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 12, 2008, to consider sworn complaint SC-270597. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 253.031(b) 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. Allegation

The complaint alleges that respondent knowingly accepted political contributions totaling more than \$500, or made or authorized political expenditures totaling more than \$500, for a political committee at a time when a campaign treasurer appointment for the committee was not in effect.

III. Facts Supported by Credible Evidence

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

1. The respondent is the former campaign treasurer of specific-purpose political committees Bond 006 and Friends of LISD (FLISD).
2. The evidence indicates that the only record on file with the local authority for a specific-purpose committee named Bond 006 is an affidavit of dissolution which was filed March 23, 2007.
3. On March 23, 2007, FLISD filed a specific-purpose committee special session report (Form SPAC-SS), which disclosed the respondent as the campaign treasurer.
4. The evidence indicates that the respondent intended to file a campaign treasurer appointment for FLISD on March 23, 2007, but used the wrong form.

5. The evidence indicates that the respondent ordered signs for FLISD on March 22, 2007, and that the respondent knew she had about \$1,190 for that sign order.

IV. Findings and Conclusions of Law

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

1. A campaign treasurer appointment takes effect at the time it is filed. ELEC. CODE § 252.011.
2. 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).
3. A political expenditure is not considered to have been made until the amount is readily determinable by the person making the expenditure. ELEC. CODE § 254.035.
4. On March 22, 2007, the respondent ordered signs for FLISD. The cost of the signs was approximately \$1,177. The evidence indicates that the respondent knew that she had approximately \$1,190 to use for the order. From this information it is reasonable to conclude that the cost of the signs were readily determinable at the time they were ordered. Thus, the respondent made a political expenditure exceeding \$500 for FLISD on that date. FLISD did not have a campaign treasurer on file until March 23, 2007, when the respondent was named as treasurer. Therefore, there is credible evidence of a violation of section 253.031(b) of the Election Code.
5. There is insufficient evidence to show that the respondent accepted any political contributions at a time when a campaign treasurer appointment for FLISD was not in effect.
6. There is insufficient evidence to show that the respondent accepted any political contributions or made any political expenditures at a time when a campaign treasurer appointment for Bond 006 was not in effect.

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 political expenditures totaling more than \$500 for a political committee at a time when a campaign treasurer appointment for the committee is not in effect. The respondent agrees to comply with this requirement 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 \$200 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-270597.

AGREED to by the respondent on this _____ day of _____, 2008.

Ellen Clark, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director