

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
SYLVIA HANDY,  
RESPONDENT

§  
§  
§  
§  
§

BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-96037

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on November 22, 1996, to consider sworn complaint SC-96037 filed against Sylvia Handy (the respondent). A quorum of the commission was present. The commission voted to accept jurisdiction of this complaint. Based on the investigation conducted by commission staff, the commission determined there was credible evidence of a violation of Section 254.064, Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this agreed resolution to the respondent.

### II. Facts Supported by Credible Evidence

Credible evidence available to the commission would support the following findings of fact:

1. At all times relevant to this complaint, the respondent was a candidate for county commissioner.
2. The respondent won the primary runoff election held on April 9, 1996, and was unopposed in the general election.
3. The complainant alleges that the respondent lists contributors who did not make contributions to her, that the respondent accepted more than \$100 cash in the aggregate from one person in a reporting period, and that the respondent has not filed all the required contribution and expenditure reports.
4. The evidence submitted by the complainant consists of one contribution and expenditure report, which does not indicate that any of the contributions were made in cash.
5. The respondent's 8-day before election report for the primary was due on March 4, 1996, and was filed 133 days later. The report discloses expenditures totaling \$8,611.72 and contributions totaling \$320. The respondent's 8-day before the election report for the primary runoff was due on April 1, 1996, and was filed 105 days later. The report discloses expenditures totaling \$15,817.50 and contributions totaling \$635.

### **III. Conclusions of Law**

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

1. Section 253.001, Election Code, prohibits a person from knowingly making a political expenditure or a political contribution in the name of another unless the person discloses the other's name for the proper disclosure to be made. There is no credible evidence that the respondent violated Section 253.001, Election Code.
2. Section 253.033, Election Code, prohibits a candidate or officeholder from knowingly accepting from a contributor in a reporting period political contributions in cash that in the aggregate exceed \$100. The complainant alleges that the respondent accepted more than \$100 in cash in the aggregate from one person in a reporting period in violation of Section 253.033, Election Code. There is no credible evidence that the respondent violated Section 253.033, Election Code.
3. Section 254.064, Election Code, requires opposed candidates to file pre-election reports. The respondent failed to file a timely 8-day before election report for the primary and a timely 8-day before election report for the primary runoff. Ethics Commission rules authorize the commission to consider fine amounts established by rule to determine the amount of a fine assessed in a sworn complaint. *See* 1 T.A.C. § 18.95(b). A person filing with the Ethics Commission would have accrued a fine of \$10,000 for each of the reports.

### **IV. Representations and Agreement by the Respondent**

By signing this ORDER and AGREED RESOLUTION and returning it to the commission:

1. The respondent neither admits nor denies the facts detailed under Section II and the commission's findings and conclusions of law detailed under Section III, and consents to the entry of this ORDER and AGREED RESOLUTION solely for the purpose of resolving and settling this sworn complaint.
2. The respondent consents to the entry of this Order before any adversarial evidentiary hearings or argument before the commission, and before any formal adjudication of law or fact by the commission. The respondent waives any right to a hearing before the commission or an administrative law judge appointed by the commission, and further waives any right to a post-hearing procedure established or provided by law.
3. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, the respondent understands and agrees that the commission will consider the respondent to have committed the violations detailed in Section III, Paragraph 3, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

### **V. Confidentiality**

This ORDER and AGREED RESOLUTION describes an alleged violation that the commission has determined would be neither technical or *de minimis*. Accordingly, this ORDER and AGREED RESOLUTION is not confidential under Section 571.140, Government Code, and may be disclosed by members and staff of the Texas Ethics Commission.

**VI. Sanction**

After considering the seriousness of the violation described under Sections II and III, including the nature, circumstances, consequences, extent, and gravity of the violation; that no previous violations by this respondent are known to the commission; and after considering the sanction deemed necessary to deter future violations, the commission imposes an \$800 civil penalty for the violations described under Section III, Paragraph 3.

**VII. Order**

The Texas Ethics Commission hereby ORDERS:

1. that the portions of this sworn complaint that allege violations under Section III, Paragraphs 1 and 2, are dismissed;
2. that this proposed AGREED RESOLUTION be presented to the respondent;
3. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-96037;
4. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original and the \$800 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than December 23, 1996; and
5. that the executive director shall promptly refer SC-96037 to either the commission or to an administrative law judge to conduct hearings on the commission's behalf and to propose findings of fact and conclusions of law to the commission in accordance with law if the respondent does not agree to the resolution of SC-96037 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

\_\_\_\_\_  
Sylvia Handy, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_  
DATE

Texas Ethics Commission

By: \_\_\_\_\_  
Tom Harrison, Executive Director