

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
COOKE COUNTY	§	TEXAS ETHICS COMMISSION
	§	
DEMOCRATIC CLUB,	§	SC-981183, SC-981187,
	§	
RESPONDENT	§	SC-981188, and SC-981189

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 12, 1999, and voted to accept jurisdiction of Sworn Complaints SC-981183, SC-981187, SC-981188, and SC-981189, filed against the Cooke County Democratic Club (the respondent). The commission met again on July 9, 1999, to consider these complaints. A quorum of the commission was present at both meetings. Based on the investigation conducted by commission staff, the commission determined that there is credible evidence of a violation of Sections 252.001 and 253.031(b), Election Code, laws administered and enforced by the commission. To resolve and settle these complaints without further proceedings, the commission proposes this agreed resolution to the respondent.

II. Allegations

1. The complainant alleges that the respondent failed to file a campaign treasurer appointment.
2. The complainant alleges that the respondent failed to timely file campaign finance reports.
3. The complainant alleges that the respondent made and accepted unlawful political contributions and made political expenditures from unlawful political contributions.
4. The complainant alleges that the respondent accepted political contributions from corporations.

III. Facts Supported by Credible Evidence

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

1. The president and treasurer of the respondent submitted to the commission an affidavit in response to these complaints in which they swear that in January 1998, a group of people formed a club to support a political party's candidates who were seeking county offices in the 1998 primary and general elections.
2. According to the affidavit submitted by the president and treasurer of the respondent, during 1998, the respondent accepted a total of \$10,730.21 in political contributions and made \$10,306.13 in political expenditures.
3. The respondent did not file a campaign treasurer appointment or any campaign finance reports with either the commission or the county filing authority during 1998.
4. The president and treasurer of the respondent swear in their affidavit they were new to politics and that they were unaware of any filing requirements.
5. The president and treasurer of the respondent stated in their affidavit that they had consulted individuals who had been active in state party politics in the past and that these individuals had also been unaware of the filing requirements.
6. The president and treasurer of the respondent swear that it was their impression that they were in compliance with the law as long as the candidates reported any money received from the respondent.
7. The president and treasurer of the respondent swear that at no time did they try to hide anything or know that they were in violation of the Election Code, and that they did not knowingly make or accept a political expenditure in violation of the Election Code.
8. The president and treasurer of the respondent swear that the respondent did not accept a contribution from any corporation or labor organization.
9. The president and treasurer of the respondent submitted a summary of club financial activity for 1998 showing that the respondent made political expenditures in the form of political contributions to candidates.
10. The respondent has filed a campaign treasurer appointment for a specific-purpose political committee with the county filing authority.

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 defined as a group of persons that has as a principal purpose accepting political contributions or making political expenditures. Section 251.001(12), Election Code.
2. The affidavit from the president and treasurer of the respondent and the summary of the respondent's financial activity establish that the respondent is a group of persons that has as a principal purpose accepting political contributions or making political expenditures. Therefore, the respondent is a political committee.
3. A political committee is required to appoint a campaign treasurer before the committee makes or authorizes political expenditures totaling more than \$500. Sections 252.001 and 253.031(b), Election Code.
4. Because the respondent accepted a total of \$10,730.21 in political contributions and made \$10,306.13 in political expenditures with no campaign treasurer appointment in effect, there is credible evidence that the respondent violated Sections 252.001 and 253.031(b), Election Code.
5. The statutory requirement to file campaign finance reports is imposed upon the campaign treasurer of a political committee. Sections 254.123, 254.124, 254.153, and 254.154, Election Code.
6. Because the respondent did not file a campaign treasurer appointment during 1998, the requirements to file campaign finance reports did not apply. Thus, there is credible evidence that the respondent club did not violate Sections 254.123, 254.124, 254.153, or 254.154, Election Code.
7. A person may not knowingly make a political contribution in violation of Chapter 253, Election Code. Section 253.003(a), Election Code.
8. Because there is credible evidence that the respondent made political expenditures in the form of political contributions in violation of Sections 252.001 and 253.031(b), Election Code, the respondent's activity may constitute a violation of Section 253.003(a), Election Code. Sections 252.001 and 253.031(b), Election Code, however, are the more specific statutes that prohibit this conduct.
9. A person may not knowingly accept a political contribution the person knows to have been made in violation of Chapter 253, Election Code. Section 253.003(b), Election Code.
10. A person may not knowingly make or authorize a political expenditure wholly or partly from a political contribution the person knows to have been made in violation of Chapter 253, Election Code. Section 253.005(a), Election Code.

11. A corporation or labor organization may not make a political contribution that is not authorized by Subchapter D, Chapter 253, Election Code. Section 253.094(a), Election Code.
12. Because the president and treasurer of the respondent swear that they did not accept a contribution from any corporation or labor organization and because there is no evidence that the respondent accepted any other political contributions that were made in violation of Chapter 253, Election Code, there is credible evidence that the respondent did not violate Section 253.003(b) or 253.005(c), 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 and 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 and settling these sworn complaints.
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, 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 described under Section IV, Paragraphs 3 and 4, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

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, 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, consequences, extent, and gravity of the violation, after considering the fact

that no previous violations by this respondent are known to the commission, and after considering the sanction necessary to deter future violations, the commission imposes a \$750 civil penalty for the violation described under Section IV, Paragraphs 3 and 4.

VIII. Order

The commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to the respondent;
2. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-981183, SC-981187, SC-981188, and SC-981189;
3. 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 \$750 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than August 6, 1999; and
4. that the executive director shall promptly refer SC-981183, SC-981187, SC-981188, and SC-981189 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 these complaints as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 199__.

(Print and sign name)
On behalf of:
Cooke County Democratic Club, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director