

TEXAS ETHICS COMMISSION

IN THE MATTER OF
SHAROLYN WOOD,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-201074

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 8, 2000, and voted to accept jurisdiction of Sworn Complaint SC-201074 filed against Sharolyn Wood, Respondent. The commission met again on November 9, 2001, to consider Sworn Complaint SC-201074. 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 Section 254.0611, 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. Allegations

1. The complainant alleges that the respondent, a district judge, failed to identify her contributors on her 30-day before election report for the 2000 primary election.
2. The complainant also alleges that the respondent failed to include contributor information on her 8-day before election report for the 2000 primary election and on her July 2000 semiannual report.
3. The complainant also alleges that the respondent misrepresented her identity by identifying herself as a judge of a judicial district of which she was not the judge.

III. Facts Supported by Credible Evidence

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

1. The respondent is currently district judge of the 127th Judicial District and has held that position at all times relevant to this complaint. She sought and won reelection to that position in the 2000 primary and general elections.

2. The respondent filed two timely 30-day before election reports for the 2000 primary election. One report did not include the contributions schedule. The second report included the contribution schedule but was missing contributor information (occupation, job title, and/or employer/law firm) for most of the contributors.
3. The respondent filed a timely 8-day before election report for the 2000 primary election. The report was missing contributor information (occupation, job title, and/or employer/law firm) for most of the contributors.
4. The respondent filed a timely July 2000 semiannual report. The report was missing contributor information (occupation, job title, and/or employer/law firm) for slightly less than half of the contributors.
5. In support of the allegation relating to misrepresentation of identity, the complainant submitted a copy of an invitation to an event honoring the respondent which indicated that the respondent is the district judge of the 125th Civil District Court.
6. In response to this complaint, the respondent submitted two sets of corrected reports for the reports in question. The first set of corrected reports was filed to add most of the missing information except contributor job titles. The second set of corrected reports was filed with good-faith affidavits and provided most of the missing contributor information.
7. As to the allegation relating to the 30-day before election report, the respondent swears that after she mailed the report, she realized that the contribution schedules were not attached to the report. She swears that she timely placed a corrected report including the contributions schedule in the same mailbox.
8. As to the missing contributor information, the respondent swears that contributor occupation and contributor employer/law firm information was missing from the original reports due to the failure of a computer merge program. As to missing contributor job title, the respondent swears that she did not understand the requirement to provide that information.
9. As to the allegation that the respondent misrepresented her identity, the respondent swears to the following:

The 127th District Court was incorrectly stated as the 125th District Court on an invitation to a Tea held in my honor by a friend. The invitees that received the invitation with the error are political activists who received at least nine political mailings that correctly identified the court of which I am the judge—three mailings from my campaign, at least four mailings in support of my opponent's candidacy, and at least four other communications.

A political consulting firm . . . was paid to prepare and send the invitations to the tea. . . . Because of the press of the firm's political work, the invitation

was delayed and I did not see the invitation before printing. You can be certain that if I [had] seen the incorrect court number, it would have been corrected. . . .

The [firm] also represents the judge of the 125th District Court. For this reason, I have concluded that the use of the wrong court number was likely not a typographical error. I think they just got made a human error and confused the two courts.

IV. Findings and Conclusions of Law

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

Contributor Information

1. A person filing a campaign finance report is required to itemize contributions accepted during a reporting period that in the aggregate exceed \$50, including the name and address of the contributor, and the date of the contribution. Section 254.031, Election Code. A report filed by a judicial candidate or officeholder is also required to include the principal occupation and job title of the contributor, and the full name of the contributor's employer or of the law firm of which the contributor or the contributor's spouse is a member, if any. Sections 254.0611 and 254.0911, Election Code.
2. Commission records show that on February 14, 2000, the respondent filed two timely 30-day before election reports, one of which was marked "AMENDED." The amended report includes the contributions schedule whereas the other does not. In the report marked "AMENDED," however, some of the contributors are missing the contributor's occupation, job title, and/or employer.
3. The respondent's original 8-day before election report for the 2000 primary election and the July 2000 semiannual report were timely filed but were also missing contributor information.
4. In response to this complaint, the respondent filed corrected reports with good-faith affidavits providing most of the missing contributor information.
5. A filer may correct a reporting error at any time by filing a corrected report. Section 18.43, Ethics Commission Rules. A corrected report, other than one correcting a report due eight days before an election, is deemed to be timely filed and no fine is assessed for the incomplete report if the filer submits an affidavit establishing that the corrected report was filed because of a good-faith error. Sections 18.49 and 18.83, Ethics Commission Rules. The respondent filed corrected reports and good-faith affidavits providing most of the missing contributor information.

6. As to the 30-day before election report and the July 2000 semiannual report, because they are not 8-day before election reports, they are not subject to a late fine for failure to include the required information.
7. As to the 8-day before election report, although the respondent filed a corrected report and good-faith affidavit in connection with this report, a corrected 8-day before election report is treated as a late report for all purposes, including assessment of a fine. Section 18.81, Ethics Commission Rules. Because the respondent failed to include the information required by Section 254.0611, Election Code, there is credible evidence that the respondent violated Section 254.0611, Election Code.

Misrepresentation of Identity

8. A person is prohibited from misrepresenting his or her identity in political advertising or a campaign communication with the intent to injure a candidate or to influence the result of an election. Section 255.005, Election Code.
9. In support of the allegation relating to misrepresentation of identity, the complainant submitted a copy of an invitation to an event honoring the respondent which indicated that the respondent is the district judge of the 125th Civil District Court.
10. The respondent swears that her campaign paid a consulting firm for the invitation to be done correctly. She swears that she did not see the invitation before printing and that if she had seen the incorrect court number, it would have been corrected. There is credible evidence that the respondent contracted with a consulting company to prepare the invitation in question with the correct district court number. Thus, there is credible evidence that the respondent did not violate Section 255.005, 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 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, and further waives any right to a post-hearing procedure established or provided by law.
3. The respondent acknowledges that a report filed by a judicial candidate or officeholder subject to the Judicial Campaign Fairness Act is required to include the principal occupation

and job title of the contributor, and the full name of the contributor's employer or of the law firm of which the contributor or the contributor's spouse is a member, if any. Sections 254.0611 and 254.0911, Election Code. The respondent agrees to fully and strictly comply with these requirements of the law.

4. 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 violation described under Section IV, Paragraph 7, 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. No Sanction

After considering the seriousness of the violations described under Sections III and IV, including the nature, circumstances, consequences, extent, and gravity of the violations, after considering the fact that no previous violations by this respondent are known to the commission, after considering the fact that an administrative penalty in the amount of \$1,000 has been assessed against the respondent by the commission in connection with the 8-day before election report for the 2000 primary election, and after considering the sanction necessary to deter future violations, the commission does not impose a civil penalty for the violations described under Section IV, Paragraph 7.

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-201074;
3. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than December 7, 2001; and
4. that the executive director shall promptly refer SC-201074 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-201074 as proposed in this ORDER and AGREED RESOLUTION.

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

Sharolyn Wood, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director