

# TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
RODOLFO “RUDY” FRANZ,	§	
VICE CHAIRMAN,	§	TEXAS ETHICS COMMISSION
CONCERNED CITIZENS OF HIDALGO,	§	
	§	
RESPONDENT	§	SC-31110241

## FINAL ORDER

The Texas Ethics Commission, having heard this case and voting to find violations of laws under its jurisdiction, makes the following Findings of Fact and Conclusions of Law:

### Findings of Fact

1. The respondent is Rodolfo “Rudy” Franz. Sworn complaint SC-31110241 was filed with the Texas Ethics Commission against the respondent on October 24, 2011. The Notice of Hearing was mailed to the respondent’s attorney of record on November 8, 2013, by certified mail, return receipt requested, restricted delivery and delivery confirmation. United States Postal Service records indicate that the respondent’s attorney received the Notice of Hearing on November 12, 2013.
2. The preliminary review hearing was held on December 2, 2013, by the Texas Ethics Commission in Austin, Texas.
3. The respondent did not appear at the hearing.
4. During the period of time relevant to the complaint, the respondent was the vice chairman of Concerned Citizens of Hidalgo (CCH), a specific-purpose committee that is required to file campaign finance reports with the Hidalgo city secretary.
5. The complaint alleged that the respondent accepted political contributions totaling more than \$500 and made or authorized political expenditures totaling more than \$500 when a campaign treasurer appointment for CCH was not on file.
6. On April 13, 2011, CCH filed a campaign treasurer appointment as a specific-purpose committee with the Hidalgo city secretary. The treasurer appointment form indicated that the committee’s purpose was to oppose a City of Hidalgo bond measure in the May 2011 uniform election. Based on the campaign treasurer appointment form, the respondent was listed as the person appointing the campaign treasurer and was identified as the committee chairman.

7. CCH sponsored their fourth biennial golf tournament on October 29, 2011, and was supporting unidentified local candidates. In addition, the tournament registration form indicated that the entry fee was \$150 per team of three players, and that there were prizes of \$600 for first place, \$400 for second place, \$300 for third place, and \$200 for fourth place. The form also showed that there were hole sponsorships starting at \$1,000 per hole, and the respondent's name was listed as a person to contact for more information.
8. The complaint included a copy of a \$4,000 contribution check made payable to Concerned Citizens of Hidalgo that appeared to be dated September 2007. The endorsement signature on the back of the check appeared to be the signature of CCH's former campaign treasurer.
9. The respondent provided bank statements for CCH covering from March 2011 through December 2011. The bank statement covering March 2011 shows that CCH had a bank balance of \$15.85 on March 1, \$1,115.85 on March 8, and \$455.34 on March 11. The statement shows that CCH made a deposit of \$1,100 on March 8, 2011, and also that CCH wrote a check for approximately \$660 on March 11, 2011.
10. The bank statement covering April 2011 shows that CCH had a bank balance of \$455.34 on April 1, \$880.34 on April 6, -\$154.65 on April 11, and \$45.35 on April 13. The statement shows that CCH made a deposit of \$425 on April 6, 2011, and also that CCH wrote a check for \$1,000 on April 11, 2011.
11. The respondent submitted an additional response and swore that "C.C.H.C. was organized in 1998 for the purpose of encourage [sic] and community unity in the election process." The respondent swore that on February 20, 1998, he established a bank account for CCH and had signature authorization on the account, and that CCH had approximately \$65,000 in activity from 1998 through 2011.

### **Conclusions of Law**

1. Disposition of this case is within the jurisdiction of the Texas Ethics Commission. GOV'T CODE § 571.061.
2. The respondent received legally sufficient notice of the hearing in this case. GOV'T CODE § 571.032 and 1 TAC § 12.21. The hearing was held in accordance with section 12.23, 1 Texas Administrative Code.
3. Each political committee shall appoint a campaign treasurer as provided by chapter 252 of the Election Code. ELEC. CODE § 252.001.
4. A person may not knowingly make or authorize a political expenditure in violation of chapter 253 of the Election Code. *Id.* § 253.004(a).

5. 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. *Id.* § 253.031(b).
6. “Political committee” means a group of persons that has as a principal purpose accepting political contributions or making political expenditures. *Id.* § 251.001(12).
7. “Political contribution” means a campaign contribution or an officeholder contribution. *Id.* § 251.001(5). “Campaign contribution” means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. Whether a contribution is made before, during, or after an election does not affect its status as a campaign contribution. *Id.* § 251.001(3). “Contribution” means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, other than those expressly excluded by this subdivision, and a guarantee of a loan or extension of credit, including a loan described by this subdivision. *Id.* § 251.001(2).
8. “Political expenditure” means a campaign expenditure or an officeholder expenditure. *Id.* § 251.001(10). “Campaign expenditure” means an expenditure made by any person in connection with a campaign for an elective office or on a measure. Whether an expenditure is made before, during, or after an election does not affect its status as a campaign expenditure. *Id.* § 251.001(7). “Expenditure” means a payment of money or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a payment. *Id.* § 251.001(6). “Measure” means a question or proposal submitted in an election for an expression of the voters’ will and includes the circulation and submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters’ will. *Id.* § 251.001(19).
9. CCH filed its campaign treasurer appointment with the Hidalgo city secretary on April 13, 2011. The evidence indicates that, prior to April 13, 2011, CCH was a political committee and that the respondent was acting as vice chairman for CCH and was actively involved with its activities.
10. Credible evidence indicates that the respondent was an authorized agent and officer of CCH who had authority to make political expenditures and accept political contributions on behalf of the committee. The bank statements submitted show that CCH had accepted political contributions and made political expenditures in excess of \$500 prior to April 13, 2011. Moreover, the evidence also indicates that CCH accepted a \$4,000 political contribution check around September 2007. The golf tournament registration form is also evidence that CCH had been active for approximately eight years before CCH filed its treasurer appointment. There is credible evidence that the respondent accepted political contributions

totaling more than \$500 and made or authorized political expenditures totaling more than \$500 when a campaign treasurer appointment for CCH was not on file. Therefore, there is credible evidence of violations of sections 253.004(a) and 253.031(b) of the Election Code.

11. The Texas Ethics Commission may impose a sanction against the respondent of not more than \$5,000 or triple the amount at issue, whichever amount is greater. GOV'T CODE § 571.173.

**Therefore, the Texas Ethics Commission orders that:**

1. The respondent pay to the Texas Ethics Commission, within 30 days of the date of this order, a civil penalty in the amount of \$5,000.

Order Date: \_\_\_\_\_

FOR THE COMMISSION

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David A. Reisman  
Executive Director  
Texas Ethics Commission