

TEXAS ETHICS COMMISSION

IN THE MATTER OF
BART STANDLEY,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-970422, SC-970422A, SC-970422B,
SC-970422C, SC-970422D,
SC-970422E, and SC-970422F

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on January 14, 2000, to consider Sworn Complaints SC-970422, SC-970422A, SC-970422B, SC-970422C, SC-970422D, SC-970422E, and SC-970422F filed against Bart Standley, Respondent. A quorum of the commission was present. The commission voted to accept jurisdiction of the complaint but to refuse jurisdiction of the allegations relating to campaign finance reports required to be filed before April 11, 1995.

Based on the investigation conducted by commission staff, the commission determined that there is credible evidence of violations of Sections 254.161 and 254.151(4) and (6), Election Code, laws 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

Seven complainants filed identical complaints against the respondent in his capacity as campaign treasurer for Citizens for American Restoration, P.A.C., a general-purpose committee. In this order and agreed resolution, “complainant” refers to all seven complainants.

The complainant alleges that the respondent violated Title 15, Election Code, by:

1. failing to give written notice to candidates of political contributions or political expenditures made on their behalf;
2. failing to identify the candidates supported by certain expenditures and to disclose the principal occupation of contributors; and
3. failing to include the required political advertising disclosure statement on political advertising.

III. Facts Supported by Credible Evidence

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

1. At all times relevant to this complaint, the respondent was the campaign treasurer of Citizens for American Restoration, P.A.C., a general-purpose committee.
2. On November 16, 1987, Citizens for American Restoration, P.A.C. filed a campaign treasurer appointment for a general-purpose committee with the Secretary of State, the commission's predecessor in function, and named the respondent as the campaign treasurer.
3. Commission records show that the respondent, as campaign treasurer of Citizens for American Restoration, P.A.C., filed the committee's January 1992 report seven days late, the committee's January 1993 report 129 days late, the committee's July 1994 report ninety days late, the committee's October 11, 1994, 30-day before election report two days late, the committee's January 1995 report two days late, and the committee's October 26, 1998, 8-day before election report two days late and paid a \$100 fine for each of the first five late reports and a \$200 fine for the sixth late report. Commission records show that the fines, which total \$700, have been paid.
4. The respondent disclosed that Citizens for American Restoration, P.A.C. made expenditures for items such as postage, mailing, and stamps approximately (\$8,000) and printing approximately (\$2,500) during the period covered by the 8-day before election and runoff reports for the 1996 primary election. The committee's reports do not disclose the names of the candidates or officeholders that it supports. None of the candidates identified on the sample ballots and campaign literature reported receiving a notice from the respondent that the respondent's committee accepted political contributions or made political expenditures on their behalf.
5. The respondent's July 1995 and January 1996 semiannual reports reported expenditures only for payment of a late fine, purchase of voice mail phones, and bank service fees. The respondent does not list any candidates supported on these reports.
6. The complainant submitted copies of sample ballots listing Citizens for American Restoration, P.A.C. as the source and recommending votes for specific candidates. The respondent's 8-day before election report for the 1996 primary election discloses approximately \$1,700 in expenditures for "mailing." The runoff report for the 1996 primary runoff election discloses approximately \$8,800 in expenditures for postage, mailing, and printing. The respondent lists "multiple candidates" on both reports in the section for listing the names of candidates supported.
7. The respondent's July 1996 semiannual report discloses expenditures for mailing and printing. The report discloses that expenditures were made but does not disclose the names of any candidates or officeholders the committee was supporting or opposing.
8. The respondent's 30-day before election report for the 1996 general election does not disclose any expenditures.
9. The respondent's 8-day before election report for the 1996 general election discloses an expenditure in the form of a contribution to a senate candidate.
10. The respondent's July 1995, January 1996, and July 1996 semiannual reports, 30-day before election report for the 1996 general election, and 8-day before election report for

the 1996 general election do not disclose the acceptance of any contributions from individuals. The 8-day before election report for the 1996 primary election discloses three contributions and also provides contributor occupations. The runoff report for the 1996 primary runoff election discloses \$100 contributions from two individuals without listing occupations.

11. The complainant submitted a copy of a flier containing a sample ballot for the primary election that was allegedly mailed to thousands of voters in the Harris County area. The flier appears to have been folded in half, and the name and address of Citizens for American Restoration, P.A.C. appear on the outside of the flier. The sample ballot contains the statement, "Paid Pol. Adv. By Citizens for American Restoration, P.A.C.-B. Tandlely, Treas." and recommends voting for candidates whose names are circled. The disclosure statement does not contain any address, and the complainant alleges that the treasurer's name should have been listed as B. Standley. The complainant further alleges that the address on the outside of the envelope was the address of Steven Hotze, one of the committee's decision makers, not the address of the committee.
12. The complainant also submitted a copy of a flier containing a sample ballot for the primary runoff election that states "Citizens for American Restoration P.A.C. Sample Ballot." The sample ballot recommends voting for certain candidates. The back of the sample ballot contains the name and address of Citizens for American Restoration, P.A.C. The flier does not contain the words "political advertising" or its abbreviation.

IV. Findings and Conclusions of Law

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

1. The campaign treasurer of a general-purpose committee that accepts political contributions or makes political expenditures for a candidate or officeholder is required to deliver written notice of that fact to the affected candidate or officeholder not later than the end of the reporting period in which the reportable activity occurs. Sections 254.128 and 254.161, Election Code. In turn, a candidate's or officeholder's report is required to include certain information for each committee from which it receives such a notice. Section 254.061 and 254.091, Election Code.
2. The complainant alleges that the respondent made political expenditures supporting 19 candidates in the 1996 primary election and nine candidates in the 1996 primary runoff election. In support of this allegation, the complainant submitted copies of sample ballots that support these candidates and that identify Citizens for American Restoration, P.A.C. as the source of the sample ballots. The complainant alleges that the respondent failed to give the candidates supported on these sample ballots the required notice of political contributions accepted and political expenditures made by the committee on their behalf.
3. In response to this allegation, the respondent swears that the committee "believed that this provision was triggered when the GPAC raised funds or made expenditures on behalf of the candidate, that is, that the GPAC solicited in the name of those candidates or made expenditures on behalf of or at the direction of those candidates." The respondent also swears that the committee "viewed their contributions and expenditures as being for, on behalf of, and directed by, CAR, and as being completely independent of any candidate's direction or influence." The respondent further swears that the "political contributions and expenditures called for the election of particular candidates but were not 'for' those

candidates in the sense contemplated or commonly understood by a reasonable person reading the provisions as being in lieu of a candidate's expenditure or at the direction of a candidate."

4. The reports of Citizens for American Restoration, P.A.C. do not disclose the names of the candidates or officeholders that it supports. None of the candidates identified on the sample ballots and campaign literature reported receiving a notice from the committee. It is clear from the respondent's affidavit that he misunderstood the notice provision and that the committee did make expenditures supporting certain candidates. Ethics Commission filing instructions make it clear that notice is required whenever a general-purpose committee makes expenditures supporting a candidate. There is credible evidence that the respondent failed to give notice to the candidates supported by Citizens for American Restoration, P.A.C., and thus credible evidence of a violation of Section 254.161, Election Code.
5. Each report filed by the campaign treasurer of a general-purpose committee is required to include the name of each identified candidate or classification by party of candidates supported by the committee and the name of each identified officeholder or classification by party of officeholders assisted by the committee. Section 254.151(4) and (5), Election Code. Each report is also required to include the principal occupation of each person from whom political contributions that in the aggregate exceed \$50 are accepted during the reporting period. Section 254.151(6), Election Code.
6. The complainant alleges that the respondent failed to identify the candidates the committee supported on the committee's campaign finance reports filed in 1994, 1995, and 1996. The complainant further alleges that the respondent failed to provide the principal occupations of contributors on these reports.
7. The respondent's affidavit states that Citizens for American Restoration, P.A.C. was unaware of the requirement to identify the candidates it supported or to disclose contributor occupations on its campaign finance reports at the time the reports were filed.
8. Ethics Commission rules prohibit the commission from considering an allegation barred from criminal prosecution by operation of the applicable statute of limitations. Section 12.5(3), Ethics Commission Rules. A person commits an offense that is a Class C misdemeanor if the person knowingly fails to file a campaign finance report on time or fails to include required information in a campaign finance report. Section 254.041, Election Code. The statute of limitations for Class C misdemeanors is two years from the date of the commission of the offense. Article 12.02, Code of Criminal Procedure.
9. The complaint was filed April 11, 1997; any alleged offenses that occurred before April 11, 1995, are therefore not within the commission's sworn complaint jurisdiction. Thus, allegations relating to the five reports filed in 1994 and to the report filed in January 1995 are not within the commission's sworn complaint jurisdiction.
10. As to the July 1995 and January 1996 semiannual reports, because there were no expenditures supporting candidates, there is credible evidence of no violation of Sections 254.151(4) and (5), Election Code.
11. As to the 8-day before election report for the 1996 primary election and the runoff report for the 1996 primary runoff election, the sample ballots and the committee's reports show

that the committee made expenditures supporting “multiple candidates” but did not disclose the names of those candidates on its reports. There is credible evidence that the respondent failed to identify the candidates supported by the committee on these reports. There is thus credible evidence of a violation of Section 254.151(4), Election Code, as to those reports.

12. As to the July 1996 semiannual report, because there is insufficient evidence that the expenditures reported were made to support candidates, there is insufficient evidence of a violation of Sections 254.151(4) or (5), Election Code.
13. As to the 30-day before election report for the 1996 general election, because the report does not disclose any expenditures, there is no evidence of a violation of Sections 254.151(4) or (5), Election Code.
14. As to the 8-day before election report for the 1996 general election, because the expenditure reported clearly identifies the candidate supported, there is credible evidence of no violation of Section 254.151(4) or (5), Election Code.
15. The July 1995, January 1996, and July 1996 semiannual reports, 30-day before election report for the 1996 general election, 8-day before election report for the 1996 general election, and the 8-day before election report for the 1996 primary election, either do not disclose the acceptance of any contributions from individuals or provide the occupations of contributors. As to those reports, there is credible evidence of no violation of Section 254.151(6), Election Code.
16. As to the runoff report for the 1996 primary runoff election, because the report discloses contributions from individuals without listing principal occupations, there is credible evidence of a violation of Section 254.151(6), Election Code.
17. A person may not enter into a contract or other agreement to print political advertising that does not indicate that it is political advertising and that does not contain the full name and address of the individual who entered into the contract or agreement with the printer or the full name and address of the person that individual represents. Section 255.001(a), Election Code. Political advertising is defined in relevant part as a communication supporting a candidate for nomination or election to a public office that appears in a pamphlet, circular, flier, or similar form of written communication. Section 251.001(16), Election Code.
18. The respondent swears that the committee’s name and address appeared on all the materials it produced and distributed and that there was no effort to deceive or mislead the public.
19. As to the sample ballot for the primary election, the respondent swears that the material clearly showed the name and appropriate address of the responsible party. He also swears that the material clearly reflected that it was political advertising and states that the fact that the address appeared in a different space than the committee’s name and the phrase “Pol. Adv.” should not be held against the committee. He states that there was a typographical error involving his name, which was mere surplusage as the committee’s name was properly listed. As to the sample ballot for the primary runoff, he states that the material on its face was political and there was no need to tell the voters that it was political because it was self-evident.

20. The fliers constitute political advertising because they are communications supporting candidates for election to a public office that appear in a flier.
21. The fliers contain the name and address of Citizens for American Restoration, P.A.C. but do not contain the words “political advertising.” An Ethics Commission rule excepts from the disclosure requirement “political advertising printed on letterhead stationery if the letterhead contains the [name and address of the person who had the advertising printed].” Section 26.5, Ethics Commission Rules. The fliers in question include the name and address of Citizens for American Restoration, P.A.C., which appears to be the entity that was responsible for printing the fliers. Therefore, there is credible evidence that no violation of Section 255.001, Election Code, and Section 26.3, Ethics Commission Rules, occurred.

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 4, 11, and 16, 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 violations that the commission has determined are 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 violations described under Sections III and IV, including the nature, circumstances, consequences, extent, and gravity of the violations, after considering the fact that the respondent had previous reporting violations, and after considering the sanction necessary to deter future violations, the commission imposes a civil penalty of \$1,400 for the violations described under Section IV, Paragraphs 4, 11, and 16.

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-970422, SC-970422A, SC-970422B, SC-970422C, SC-970422D, SC-970422E, and SC-970422F;
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 civil penalty of \$1,400 to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than February 11, 2000; and
4. that the executive director shall promptly refer SC-970422, SC-970422A, SC-970422B, SC-970422C, SC-970422D, SC-970422E, and SC-970422F 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-970422, SC-970422A, SC-970422B, SC-970422C, SC-970422D, SC-970422E, and SC-970422F as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 2000.

Bart Standley, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director