TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
RHONDA TRUITT WELCH,	§	TEXAS ETHICS COMMISSION
	§	
RESPONDENT	§	SC-3100369

ORDER
and
AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 11, 2010, to consider sworn complaint SC-3100369. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 of the Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent failed to disclose political expenditures and failed to include a disclosure statement and highway right-of-way notice on political advertising.

III. Facts Supported by Credible Evidence

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

1.   The respondent was an incumbent candidate for Upshur County Justice of the Peace, Precinct 3, in Gilmer, Texas.

Disclosure of Political Contributions and Expenditures

2.   The complaint alleged that the respondent failed to disclose expenditures made for political advertisements that appeared on February 10, 2010, in a local newspaper, and expenditures for food items that were given away at a campaign event.

3.   In response to the complaint, the respondent swore that the advertisements and food items were contributed to her campaign. The respondent did not disclose the advertisements and food items in her original 8-day pre-election report for the March 2010 election.

4.   The respondent filed a corrected report on April 1, 2010, with the Upshur County Clerk and disclosed the advertisements and food items as in-kind contributions totaling approximately $270.

5.   The complaint also alleged that the respondent failed to disclose expenditures made for newspaper advertisements that appeared on February 24, 2010, and February 27, 2010, in a local newspaper. In response to the complaint, the respondent swore that the advertisements were paid for on February 22, 2010, after the end of the reporting period for the 8-day pre-election report for the March 2010 primary election. The respondent also swore that the order for the newspaper advertisements was placed on February 22, 2010.

Political Advertising

6.   The complaint alleged that the respondent failed to include a disclosure statement and the highway right-of-way notice on a political advertising sign. The complaint included a photograph of one of the respondent's campaign signs that did not include a disclosure statement or highway right-of-way notice. In response to the complaint, the respondent also sent a photograph of her campaign sign with the disclosure statement and highway right-of-way notice taped to it. The respondent swore that the disclosure statement and highway right-of-way notice were originally taped on all of her signs, but she believed that some of them had been "removed."

IV. Findings and Conclusions of Law

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

Disclosure of Political Contributions and Expenditures

1.   Each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed $50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).

2.   Each campaign finance report must include the amount of political expenditures that in the aggregate exceed $50 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).

3.   The respondent filed a corrected report on April 1, 2010, to disclose the in-kind contributions made to her campaign. However, the respondent failed to disclose this information in her original 8-day pre-election report. Therefore, there is credible evidence of violations of section 254.031(a)(1) of the Election Code.

4.   The last day in the reporting period for an 8-day pre-election report is the tenth day before the election. ELEC. CODE § 254.064(c). For the March 2, 2010, primary election, the 8-day pre-election report was required to disclose activity that occurred through February 20, 2010.

5.   The political expenditures for the respondent's newspaper advertisements were made on February 22, 2010, after the last day of the reporting period for the 8-day pre-election report. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code.

Political Advertising

6.   A political advertising disclosure statement must include either the full name of the person who paid for the political advertising, or the name of the candidate or committee who authorized the political advertising. ELEC. CODE § 255.001.

7.   The following notice must be written on each political advertising sign: "NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE), TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY." *Id*. § 255.007(a). A person commits an offense if the person knowingly enters into a contract to print or make a political advertising sign that does not contain the notice or instructs another person to place a political advertising sign that does not contain the notice. *Id*. § 255.007(b). "Political advertising sign" means a written form of political advertising designed to be seen from a road but does not include a bumper sticker. *Id*. § 255.007(e).

8.   The respondent included a photo of her campaign sign that had the disclosure statement and highway right-of-way notice taped to the sign. The respondent swore that both the disclosure statement and highway right-of-way notice were originally taped on the sign but she believed that they were removed. There is insufficient evidence of violations of section 255.001 and 255.007 of the 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 or 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 this sworn complaint.

2.   The respondent consents to this order and agreed resolution and waives any right to further proceedings in this matter.

3.   The respondent acknowledges that each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed $50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions.

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, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a $100 civil penalty.

VIII. Order

The commission hereby orders that if the respondent consents to the proposed resolution, this order and agreed resolution is a final and complete resolution of SC-3100369.

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

_____
Rhonda Truitt Welch, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director