

TEXAS ETHICS COMMISSION

IN THE MATTER OF

SHELLI MILLER,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-3140381, SC-3140382, AND
SC-31405132

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on August 15, 2016, to consider sworn complaints SC-3140381, SC-3140382, and SC-31405132. A quorum of the Commission was present. The Commission determined that there is credible evidence of a violation of section 253.039(b) of the Election Code, a law administered and enforced by the Commission. To resolve and settle these complaints without further proceedings, the Commission proposed this resolution to the respondent.

II. Allegation

The complaints alleged that the respondent knowingly accepted a political contribution in a courthouse.

III. Facts Supported by Credible Evidence

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

1. At the time at issue in the complaints, the respondent was a candidate for re-election to the office of Rockwall County Clerk in the November 4, 2014, election.
2. Sworn complaints SC-3140381, SC-3140382, and SC-31405132 alleged that the respondent, while working in the courthouse, accepted political contributions in the county clerk's office, which is located in the Rockwall County Courthouse, by selling tickets to a February 1, 2014, fundraising event held by the Rockwall County Republican Party (Rockwall GOP).

3. According to Commission records, the Rockwall GOP is a county executive committee that files campaign finance reports semiannually with the Commission. Rockwall GOP holds a fundraiser every February in honor of former President Ronald Reagan (Reagan Day Celebration). The Rockwall GOP invites leading state and local Republican candidates and officeholders to speak at the event. The Rockwall GOP sells tickets to attend the event in the amounts of \$100 for an individual and up to \$10,200 for the largest table sponsorship. The website advertising the February 1, 2014, Reagan Day Celebration stated that the event was the Rockwall GOP's primary fundraiser, and the money raised supports the group's networking functions and community events. The website also stated that no funds are used for any candidate's campaign.
4. However, according to campaign finance reports on file with the Commission, Rockwall GOP reported the money received from ticket sales to the event as political contributions and on March 24, 2014, the Rockwall GOP made a political contribution to the Republican Party of Texas' Candidate Resources Committee fund. According to the Republican Party of Texas' website, this fund provides monetary support for Republican candidates in local-level races in Texas.
5. The respondent was given tickets to sell for the February 1, 2014, Reagan Day Celebration. The respondent was the county clerk at the time the tickets were sold and the county clerk's office was located in the Rockwall County Courthouse. In January of 2014, the respondent advertised on her personal Facebook page that persons could buy tickets to the event at the county clerk's office.
6. Sworn complaints SC-3140381 and SC-3140382 also alleged that the respondent sold a ticket to a particular Rockwall county resident. The Rockwall GOP reported that resident's contribution of \$100 on Schedule A (used to disclose political contributions) of its 30-day pre-election campaign finance report filed on January 31, 2014.
7. In response to the three sworn complaints, the respondent admitted to selling one ticket (\$100 value) to the Reagan Day Celebration out of her office located in the courthouse and to advertising on her Facebook page that persons could buy tickets from her at her office located in the courthouse. However, the respondent swore that she understood that selling the ticket from her office in the courthouse was legal and that ticket funds were not political contributions because the event was open to the public and the "funds raised by the ticket would be used to defray the costs and expenses for the event."

IV. Findings and Conclusions of Law

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

1. A candidate, officeholder, or political committee or a person acting on behalf of a candidate, officeholder, or political committee may not knowingly accept a political contribution, and shall refuse a political contribution that is received, in the Capitol or a courthouse. ELEC. CODE § 253.039(b).
2. “Contribution” means, in pertinent part, 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. *Id.* § 251.001(2).
3. “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).
4. “Political contribution” means a campaign contribution or an officeholder contribution. *Id.* § 251.001(5).
5. In Ethics Advisory Opinion No. 131 (EAO 131), the Commission stated:

A contribution given with the restriction that it be used to hire lobbyists to influence legislators in regard to legislation would not be a political contribution since it does not meet the definition of either campaign contribution or officeholder contribution. If, on the other hand, funds are not restricted to uses not regulated by title 15, the funds must be reported as a political contribution.

Ethics Advisory Opinion No. 131 (1993). The Commission also stated in Ethics Advisory Opinion No. 132 (EAO 132) that a contribution earmarked for payment of general-purpose committee expenses that are neither general administrative nor political expenses would not be required to be reported under chapter 254 of the Election Code. Ethics Advisory Opinion No. 132 (1993).

6. In this case, the respondent accepted at least \$100 and transferred the money to the Rockwall GOP. The payment was a direct or indirect transfer of money to a political committee. Under EAOs 131 and 132, the payment to the committee would have been a political contribution unless it was earmarked for non-political purposes. There is no evidence that the Rockwall County resident, who bought the ticket from the respondent, earmarked the contribution to be used as payment for non-political purposes. In fact, the Rockwall GOP categorized the \$100 contribution from the resident as a political contribution and reported it

as such on its 30-day pre-election campaign finance report. Moreover, after the Reagan Day Celebration event, the Rockwall GOP made a contribution to a political party to fund Republican candidates in local elections. Thus, the money collected by the respondent from the sale of the ticket to attend the Reagan Day Celebration was a political contribution to the Rockwall GOP. In addition, the respondent admitted to accepting the \$100 in the courthouse from the resident in exchange for a ticket to the Reagan Day Celebration. Lastly, the respondent was not only a candidate for an elective office at the time the ticket was sold, but she was selling tickets to the event on behalf of the Rockwall GOP. Therefore, there is credible evidence of a violation of section 253.039(b) 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 these sworn complaints.
2. The respondent consents to this order and agreed resolution and waives any right to further proceedings in these matters.
3. The respondent acknowledges that a candidate, officeholder, or political committee or a person acting on behalf of a candidate, officeholder, or political committee may not knowingly accept a political contribution, and shall refuse a political contribution that is received, in the Capitol or a courthouse.

The respondent agrees to comply with this requirement of the law.

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 of the Government Code and may be disclosed by members and staff of the Commission.

VII. Sanction

After considering the nature, circumstances, and consequences of the violation described under Sections III and IV, and after considering the sanction necessary to deter future violations, the Commission imposes a \$500 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 sworn complaints SC-3140381, SC-3140382, and SC-31405132.

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

Shelli Miller, Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director