

TEXAS ETHICS COMMISSION

IN THE MATTER OF
VICKIE TATUM,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-990412

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on July 9, 1999, and voted to accept jurisdiction of Sworn Complaint SC-990412 filed against Vickie Tatum, Respondent, and against six other individuals. The commission met again on June 8, 2001, to consider Sworn Complaint SC-990412. 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 that the respondent violated Sections 254.031 and 254.061, 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

The complainant alleges that the respondent, a candidate for city council, failed to include on her campaign finance report that she had received notice from a political committee of direct campaign expenditures made on her behalf.

III. Facts Supported by Credible Evidence

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

At all times relevant to this complaint, the respondent was an opposed candidate for city council in the May 1, 1999, city election. The respondent was unsuccessful in the election.

IV. Findings and Conclusions of Law

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

1. A candidate's report must include, for each political committee from which a candidate received notice that the committee had made political expenditures for the candidate, the committee's full name and address, an indication of whether the committee is a general-purpose committee or a specific-purpose committee, and the full name and address of the committee's campaign treasurer. Section 254.061, Election Code. If the committee's

expenditure constitutes an in-kind contribution, the candidate's report of the contribution may satisfy this requirement.

2. The specific-purpose committee in question filed an 8-day before election report for the May 1, 1999, city election on April 23, 1999. This report discloses a political expenditure to the U. S. Postmaster on April 13, 1999, of \$3,895.83 for "mailing large postcard to endorse five candidates in 5/1/99 election." This report states that the purpose of the committee is to support or assist the respondent and four other candidates or officeholders named in the sworn complaint. Thus, there is credible evidence that the committee made political expenditures to support or assist the respondent.
3. The campaign treasurer of the specific-purpose committee filed an affidavit that states that on March 24, 1999, or shortly thereafter, the committee notified the five candidates named in the complaint of the committee's endorsement. He swears that all five candidates were sent by facsimile a committee agreement on or about April 9, 1999, in which each candidate was advised that the committee would prepare and send a campaign mailing to city residents informing them that each of the five candidates had been endorsed by the committee. He further swears that each candidate was verbally informed that expenditures would be made by the committee on behalf of their respective candidacies through the preparation of and mail-out of the campaign literature that endorsed their respective candidacies, and that each candidate was to acknowledge and agree to receive the committee's support by executing the agreement.
4. The specific-purpose committee, through its attorney, submitted a copy of a document, signed by the respondent, in which the respondent states that she agrees to accept the endorsement of the committee. In the agreement, the committee asks the respondent for a short biography, a list of what the respondent would like to accomplish while on the city council, and a photograph of the respondent for the committee's web site.
5. There is credible evidence that the committee notified the respondent of its support.
6. The respondent filed an affidavit stating that she knew the committee was endorsing her but that she did not see or approve the committee's mailing.
7. The respondent did not list the committee as a supporting committee, nor did she report that she had accepted the committee's expenditures on her behalf as an in-kind contribution. Thus, there is credible evidence that the respondent violated Section 254.031 and 254.061, 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. 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. Sanction

After considering the seriousness of the violation described under Sections III and IV, including the nature, circumstances, consequences, extent, and gravity of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$100 civil penalty for the violation 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-990412 as to the respondent;
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 \$100 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than July 6, 2001; and

4. that the executive director shall promptly refer SC-990412 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-990412 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 2001.

Vickie Tatum, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director