

U.S. Court of Appeals for the Fifth Circuit Ruling in Texans for Free Enterprise v. Texas Ethics Commission

On October 16, 2013, the United States Court of Appeals for the Fifth Circuit issued a ruling affirming a district court's decision in [*Texans for Free Enterprise v. Texas Ethics Commission, David Reisman, in His Official Capacity as Executive Director of the Texas Ethics Commission \(Texans for Free Enterprise\)*](#), enjoining the Texas Ethics Commission (Commission) from enforcing sections [253.094\(a\)](#) and [253.003\(b\) of the Election Code](#) against Texans for Free Enterprise (TFE). The court found that those provisions conflict with the First Amendment as applied to TFE. The following relevant facts were included in the ruling:

1. TFE is a general-purpose committee that files with the Commission.
2. According to TFE's bylaws and a letter sent to the Commission, TFE acts exclusively as a "direct campaign expenditure only committee," meaning that it does not make any contributions to candidates or their official committees.
3. TFE spends funds only to support its own speech in favor of or against candidates. To engage in that advocacy, it solicits contributions from individuals and corporations.

Barring a court decision ruling to the contrary, the Commission must abide by the ruling in *Texans for Free Enterprise*. Additionally, in light of this ruling, the Commission will not enforce sections [253.094\(a\)](#) and [253.003\(b\) of the Election Code](#) against other political committees that submit a sworn statement to the Commission stating the following:

1. That the committee intends to act exclusively as a "direct campaign expenditure only committee," in accordance with *Texans for Free Enterprise*.
2. That the committee will not use its political contributions to make political contributions to candidates for elective office, officeholders, or political committees that support or oppose candidates or that assist officeholders.

To make the statement, you may use the [sample template](#). To file as a new political committee, you must also file the appropriate campaign treasurer appointment form. If you have any questions, please call the Texas Ethics Commission.