

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
ADRIAN GARCIA,  
RESPONDENT

§  
§  
§  
§  
§

BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-2510179

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on May 11, 2006, to consider sworn complaint SC-2510179. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.032 and 254.031(a)(3) of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

### II. Allegations

The complaint alleges that the respondent failed to include with his campaign finance reports certain documentation from out-of-state political committees from which he accepted political contributions. The complaint also alleges that the respondent improperly reported reimbursements to staff members on his campaign finance reports. Finally, the complaint alleges that the respondent converted political contributions to personal use.

### III. Facts Supported by Credible Evidence

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

1. The respondent is a member of the Houston City Council.
2. The respondent did not include with his January and July 2004 semiannual campaign finance reports certain documentation from out-of-state political committees from which he accepted political contributions.
3. The reports disclose six \$500 contributions from out-of-state political committees. The reports did not include statements of organization for the out-of-state political committees.

4. The respondent has filed correction affidavits supplementing his campaign finance reports to include statements of organization for the out-of-state political committees from whom he accepted contributions.
5. The respondent reported on his January 2004 semiannual report \$600 of political expenditures as reimbursements to staff members instead of as expenditures to the actual payee.
6. The respondent reported on his July 2004 semiannual report \$1,000 of political expenditures as reimbursements to staff members instead of as expenditures to the actual payee.
7. Regarding the \$600 of reimbursements to a staff member reported on the January 2004 semiannual report, the reimbursements were actually contributions that were incorrectly reported as expenditures. The respondent filed a corrected report to include this information.
8. \$900 of the reimbursements reported on the July 2004 semiannual report constituted mileage reimbursement to campaign workers at reasonable and customary rates for the use of their personal vehicles for campaign business. For each expenditure for mileage the respondent disclosed the payee's name and address, the date of the expenditure, and the amount of the expenditure.
9. The \$100 expenditure reported on the July 2004 semiannual report was disclosed as "reimbursement for postage." The reimbursement and initial expenditure by the staff member occurred in the same reporting period. The expenditure at issue discloses a staff member as the payee and discloses the date the staff member was reimbursed.
10. The respondent reported political expenditures of a \$100 membership to the Houston Police Retired Officers Association, and a \$250 expenditure to Richard Reyes for union dues on his July 2004 semiannual report.
11. The \$100 expenditure to the Houston Police Retired Officers Association and the \$250 spent on union dues were expended to further his relationship with his constituency rather than for personal reasons.

#### **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 that accepts political contributions totaling \$500 or less from an out-of-state political committee shall include with the appropriate report a copy of the out-of-state committee's statement of organization filed as required by law

- with the Federal Election Commission and certified by an officer of the out-of-state committee. ELEC. CODE § 253.032(e).
2. Six of the contributions disclosed by the respondent are from out-of state political committees. Each of these contributions were for \$500. The respondent's reports did not include the statements of organization at issue. Therefore, there is credible evidence of a violation of section 253.032(e) of the Election Code.
  3. A candidate must report 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).
  4. Although he later corrected the report, the respondent admits that the \$600 of reimbursement expenditures disclosed on his January 2004 report was reported incorrectly. Therefore, with respect to the \$600 of expenditures, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code.
  5. Regarding the \$900 of political expenditures disclosed as reimbursement to staff members for their mileage, reporting an expenditure to staff members was the proper way to report that expense. Therefore, with respect to those expenditures there is credible evidence of no violation of section 254.031 of the Election Code.
  6. The \$100 expenditure to reimburse the staff worker for postage did not disclose the date the expenditure was initially made by the staff worker or the address of the actual payee. Therefore, with respect to the expenditure for staff member reimbursement of postage there is credible evidence of a violation of section 254.031(a)(3) of the Election Code.
  7. A person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use. ELEC. CODE § 253.035(a).
  8. Personal use means a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office. ELEC. CODE § 253.035(d).
  9. The two expenditures at issue were made for political reasons, and not primarily to further individual or family purposes. There is no evidence to counter that assertion. Therefore, there is credible evidence of no violation of section 253.035 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 a candidate or officeholder that accepts political contributions totaling \$500 or less from an out-of-state political committee must include as part of the report filed under Chapter 254 that covers the reporting period in which the contribution is accepted, the same information required to be disclosed by a general purpose committee on a campaign treasurer appointment, or a copy of the out-of-state political committee's statement of organization filed with the Federal Election Commission and certified by an officer of the out-of state political committee. The respondent further acknowledges that 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. The respondent agrees to comply with these requirements of the law.

## **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 \$500 civil penalty for the violations described under Sections III and IV.

## **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-2510179.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Adrian Garcia, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
David A. Reisman, Executive Director