

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ORLANDO SANCHEZ,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2512241

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on July 14, 2006, to consider sworn complaint SC-2512241. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 254.031(a)(3) of the Election Code, a law 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 disclose on his January 2004 semiannual campaign finance report the full name and address of the persons to whom 20 political expenditures were made. The complaint further 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 served three two-year terms on the Houston City Council and left office at the end of December 2001. He was a candidate for mayor of Houston in November 2001. He was also a candidate for mayor of Houston in the run-off election held on December 6, 2003.
2. The respondent disclosed the names of individuals who he reimbursed but not the actual payees on his January 2004 semiannual report.
3. The respondent filed a corrected report providing the full name and address of the persons to whom the original political expenditures were made and the dates and purposes of those expenditures.

4. On his January 2004 semiannual campaign finance report the respondent disclosed an expenditure to HLS&R for "membership dues", and 14 expenditures to restaurants for "political meeting expense."
5. The evidence indicates that the expenditure to HLS&R was a contribution to the Houston Livestock Show and Rodeo which is a 501(c)(3) nonprofit organization.
6. The evidence indicates that the other expenses cited by the complaint were for candidate related activities.

IV. Findings and Conclusions of Law

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

1. A candidate's campaign finance report must include the amount of political expenditures that in the aggregate exceed \$50 and that are made during the reporting period, in addition to 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).
2. The respondent's report did not include the original payees' names and addresses or the dates of 20 political expenditures. The respondent filed a corrected report providing this information. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code in connection with these expenditures.
3. 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). "Personal use" means a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate or holder of a public office. *Id.* § 253.035(d). An expenditure of political contributions for one of the purposes set out in section 254.204 of the Election Code (dealing with the use of unexpended political contributions) is not a personal use of political contributions. Ethics Advisory Opinion No. 47 (1992). Section 254.204 of the Election Code includes giving to a recognized tax-exempt, charitable organization formed for educational purposes as a proper use of unexpended political contributions. ELEC. CODE § 254.204(a)(5).
4. The evidence shows that the respondent made an expenditure to the Houston Livestock Show and Rodeo as a contribution. The evidence shows that the Houston Livestock Show and Rodeo is a recognized tax-exempt charitable organization formed for educational purposes. Therefore, there is credible evidence that the respondent did not violate section 253.035(d) of the Election Code as to this expenditure.
5. A campaign expenditure is an expenditure made by any person in connection with a campaign for an elective office or on a measure. Whether an expenditure is made before,

during, or after an election does not affect its status as a campaign expenditure. ELEC. CODE § 251.001(7).

6. The evidence shows that the respondent made 14 expenditures to different restaurants for "political meeting expense." An expenditure of political contributions for political meeting expenses is a campaign expenditure and not an expenditure for personal use. There is no evidence to show conversion to personal use. Therefore, there is credible evidence that the respondent did not violate section 253.035(d) of the Election Code as to these expenditures.

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's campaign finance report must include the amount of political expenditures that in the aggregate exceed \$50 and that are made during the reporting period, in addition to 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 this requirement 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-2512241.

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

Orlando Sanchez, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director