

TEXAS ETHICS COMMISSION

IN THE MATTER OF
NORMA CHAVEZ,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2912309

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 21, 2011, to consider sworn complaint SC-2912309. A quorum of the commission was present. The commission determined that there is credible evidence of violations including a technical or *de minimis* violation of sections 254.031 and 254.0612 of the Election Code, and sections 20.61 and 20.62 of the Ethics Commission Rules, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent: 1) did not properly report political contributions and political expenditures, 2) did not include on campaign finance reports the principal occupation or job title and the full name of the employer for individuals who contributed \$500 or more to the respondent during a reporting period, 3) converted political contributions to personal use, 4) improperly disclosed political expenditures as reimbursements, 5) accepted political contributions from corporations or labor organizations, and 6) did not include on campaign finance reports required information for political expenditures for travel outside of the state of Texas.

III. Facts Supported by Credible Evidence

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

1. During the time at issue, the respondent was the state representative for District 76.

Total Political Contributions Maintained

2. The complaint alleged that the respondent incorrectly reported the amount of total political contributions maintained on her January and July semiannual reports for calendar years 2008

and 2009. The allegations were based on a calculation using information disclosed in the reports. There was no specific evidence to support the allegations.

Political Contributions from Corporations or Labor Unions

3. The complaint alleged that, based on disclosures in the respondent's July 2008 and January 2009 semiannual reports, the respondent accepted seven political contributions totaling approximately \$4,350 from corporations or labor organizations. Three contributions totaling approximately \$1,750 were from political committees or an entity that was not incorporated.
4. Public records did not establish the status of the remaining entities.

Disclosure of Full Names of Persons Making Political Contributions

5. The complaint alleged that the respondent failed to disclose the full name for approximately \$13,550 in political contributions disclosed on the respondent's January 2008, July 2008, and January 2009 semiannual reports.
6. Approximately \$6,000 of the contributions at issue (three from EPIC, TBA Bank PAC-State, BMCPAC, TSA-PAC, and TSCPA PAC) do not include the full name of the contributor. One of those contributions (a \$500 contribution from TBA Bank PAC-State) disclosed an easily found abbreviation of the Texas Bank Association PAC.
7. The remaining \$10,050 in contributions at issue disclosed the recognized acronym or full name of political committees available on the ethics commission website.

Disclosure of Full Name or Addresses of Persons Receiving Political Expenditures

8. The complaint alleged that the respondent failed to disclose the full address for approximately \$4,170 in political contributions disclosed on the respondent's January 2008, July 2008, January 2009, and July 2009 semiannual reports.
9. Approximately \$3,620 in expenditures at issue disclosed "gen del," "congress," "nationwide," "unknown," "unsure," "general delivery," or "admin office," as their street address. Approximately \$200 of those expenditures on the reports at issue were to "CATALG.COM," and also did not contain the correct name.
10. One \$274.03 political expenditure at issue to "America" disclosed the correct address but not the correct payee for the expenditure.
11. The remaining approximately \$270 at issue disclosed payee names (AT&T, FTD Florist, NALEO, and IBEW) that are commonly recognized as the names of those entities.

Disclosure of Purposes of Political Expenditures

12. The complaint alleged that the respondent failed to properly disclose the purposes of approximately \$14,200 in political expenditures on the reports at issue.
13. Examples of purposes disclosed on the reports at issue include, but are not limited to: lunch meal with staff, rental vehicle, gifts for constituents, campaign dinner with volunteers, staff lunch, staff recognition dinner, breakfast meeting, computer database solutions and information systems, thank you lunch for GOTV, phone replacement, food and beverages for El Paso office, shipping expense, hotel lodging, leadership meeting, door prizes, volunteer lunch, bucket of chicken, repair for campaign vehicle, and lunch meeting with valley leaders.
14. One \$86.57 political expenditure to “Stars of Austin” on the respondent’s January 2009 semiannual report disclosed “?” as the purpose.
15. The respondent filed corrected reports to further clarify the purposes of some political expenditures. The respondent’s corrected report disclosed “phone equipment and resources books for capitol office,” for the \$86.57 “Stars of Austin,” expenditure on her January 2009 semiannual report.

Reporting Political Expenditures as Reimbursements

16. The complaint alleged that the respondent improperly reported staff reimbursement for approximately \$35,520 in political expenditures on her January 2008, July 2008, January 2009, and July 2009 semiannual reports.
17. Approximately \$6,740 in political expenditures were disclosed as staff reimbursements, and did not disclose the actual payees.
18. The respondent filed corrections to her January 2008 semiannual report. The purpose of three political expenditures totaling approximately \$580 alleged in the complaint as improperly reported staff reimbursements were corrected to show that they were actually payments for personal services to those payees. Two of the purposes were changed to “contract labor,” and one was changed to “campaign contract labor.”
19. The respondent filed corrections to her July 2008 semiannual report. The purpose of 10 political expenditures totaling approximately \$1,710 alleged in the complaint as improperly reported staff reimbursements were corrected to show that they were actually payments to those payees. The purpose of three political expenditures alleged in the complaint as improperly reported staff reimbursements were corrected to show that they were actually stipend payments to those payees. The purposes of an additional seven political expenditures were corrected to show that they were actually donations to those payees.

20. The respondent filed corrections to her January 2009 semiannual report. The purpose of six political expenditures totaling approximately \$1,190 alleged in the complaint as improperly reported staff reimbursements were corrected to show that they were actually payments to those payees. The purpose of three political expenditures alleged in the complaint as improperly reported staff reimbursements were corrected to show that they were actually stipend, contract labor, or video service payments to those payees. The purposes of the remaining three political expenditures were corrected to show that they were actually donations to those payees.

Disclosure of Political Expenditures for Travel Outside of Texas

21. The complaint alleged that the respondent failed to disclose approximately \$4,240 in political expenditures made for travel outside of Texas on Schedule T on her January 2008, July 2008, January 2009, and July 2009 semiannual reports. Most of the alleged expenditures on those reports were not for actual travel. Examples for the purposes for those expenditures are “Texas Flags for DNC convention,” “Lodging in Albuquerque from DNC convention,” “travel items,” “extra baggage fee,” and “temporary phone for D.C. convention.” The respondent’s July 2008 semiannual report did disclose an expenditure to “Southwest Airlines,” however, the purpose of that expenditure was disclosed on schedule T of the report.

Principal Occupation or Job Title and Employer Information for Contributors

22. The complaint alleged that the respondent failed to include the principal occupation or job title and employer for approximately \$20,150 in political contributions disclosed on the respondent’s January 2008, July 2008, and January 2009 semiannual reports.
23. The respondent left blank spaces for the principal occupation or job title and the full name of the employer for three political contributions on the reports at issue totaling approximately \$2,050 from individuals who contributed \$500 or more during the reporting period.
24. The respondent disclosed “undetermined” or “unable to determine” as the principal occupation or job title and the full name of the employer for two political contributions on the reports at issue totaling \$1,100 from individuals who contributed \$500 or more during the reporting period.
25. The remaining contributions disclosed a principal occupation or job title and the full name of the employer from individuals who contributed \$500 or more during a reporting period.

Personal Use of Political Contributions

26. The complaint alleged that the respondent converted approximately \$1,430 in political contributions to personal use based on political expenditures that the respondent disclosed on the January 2008, July 2008, January 2009, and July 2009 semiannual reports.
27. The respondent swore that all expenditures made from political funds were made in connection with a campaign or officeholder purpose. The evidence was insufficient to determine that the expenditures were for an individual or family purpose not connected to her candidate or officeholder activities or duties.

IV. Findings and Conclusions of Law

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

Total Political Contributions Maintained

1. Each report must include as of the last day of the reporting period, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period. ELEC. CODE § 254.031(a)(8).
2. There is insufficient evidence of violations of section 254.031(a)(8) of the Election Code.

Political Contributions from Corporations or Labor Unions

3. A corporation may not make a political contribution or political expenditure that is not authorized by this subchapter. ELEC. CODE § 253.094. This subchapter applies only to corporations that are organized under the Texas Business Corporation Act, the Texas Non-Profit Corporation Act, *the Texas For-Profit Corporation Law*, the Texas Non-Profit Corporation Act, *the Texas Nonprofit Corporation Law*, federal law, or law of another state or nation. *Id.* § 253.091.
4. For purposes of this subchapter, the following associations, whether incorporated or not, are considered to be corporations covered by this subchapter: banks, trust companies, savings and loan associations or companies, insurance companies, reciprocal or interinsurance exchanges, railroad companies, cemetery companies, government-regulated cooperatives, stock companies, and abstract and title insurance companies. *Id.* § 253.093.
5. A corporation or labor organization may not make a political contribution to a candidate. *Id.* § 253.094.

6. A person may not knowingly make a political contribution in violation of this chapter nor knowingly accept a political contribution the person knows to have been made in violation of this chapter. *Id.* § 253.003.
7. There is insufficient evidence of violations of sections 253.003 and 253.094 of the Election Code with regard to four contributions. As to the remaining three contributions at issue, there is credible evidence of no violation of sections 253.003 and 253.094 of the Election Code.

Disclosure of Full Names of Persons Making Political Contributions

8. Each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).
9. With respect to six entries (three from EPIC, BMCPAC, TSA-PAC, and TSCPA PAC), totaling approximately \$5,500, there is credible evidence of violations of sections 254.031(a)(1) of the Election Code.
10. With respect to one \$500 entry (TBA Bank PAC-State), there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(1) of the Election Code.
11. Eighteen political contributions, totaling approximately \$10,050, disclosed the recognized acronym or full name of political committees available in public records. Therefore, with respect to those contributions, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code.

Disclosure of Full Name or Addresses of Persons Receiving Political Expenditures

12. A campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
13. Approximately \$3,620 in expenditures at issue disclosed “gen del,” “congress,” “nationwide,” “unknown,” “unsure,” “general delivery,” or “admin office,” as their street address. Those are general terms that do not constitute the street address of a payee. Additionally, the expenditures to “CATALG.COM,” on the reports at issue did not contain the name or address of the correct payee.

14. One \$274.03 political expenditure to “America” disclosed the correct address but not the correct payee for the expenditure.
15. For approximately \$270 at issue the entity names disclosed as payees (AT&T, FTD Florist, NALEO, and IBEW) are commonly recognized as the names of those entities.
 - Therefore, with respect to the addresses for payees for approximately \$3,890, there is credible evidence of violations of sections 254.031(a)(3) of the Election Code.
 - With respect to the payee names for approximately \$270 in political expenditures, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code.

Disclosure of Purposes of Political Expenditures

16. A campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
17. The report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure. Ethics Commission Rules § 20.61.
18. The purpose of one \$86.57 political expenditure to “Stars of Austin” on the respondent’s January 2009 semiannual report was changed from “?” to “phone equipment and resources books for capitol office” on her corrected report. It is clear from the reports that the respondent did not originally provide a purpose or category of goods or services for that expenditure. Therefore, in regard to that expenditure, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules.
19. Although the respondent filed corrected reports to further clarify many of the political expenditures at issue, the original disclosures for the remaining political expenditures were adequate. Therefore, as to the remaining alleged expenditures, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules.

Reporting Political Expenditures as Reimbursements

20. Ethics Commission Rule § 20.62 states that political expenditures made out of personal funds by a staff member of an officeholder or candidate, with the intent to seek reimbursement from the officeholder or candidate, that in the aggregate do not exceed

\$5,000 during the reporting period may be reported as follows if the reimbursement occurs during the same reporting period that the initial expenditure was made:

- (1) 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; and
 - (2) Included with the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period.
21. Ethics Commission Rule § 20.62 also states, in relevant part, that if the staff member is not reimbursed during the same reporting period, or is reimbursed more than \$5,000 in the aggregate during the reporting period, then a political expenditure made out of personal funds by the staff member of an officeholder or candidate with the intent to seek reimbursement from the officeholder or candidate must be reported as follows:
- (1) The aggregate amount of the expenditures made by the staff member as of the last day of the reporting period is reported as a loan to the officeholder, or candidate;
 - (2) The expenditure made by the staff member is reported as a political expenditure by the officeholder or candidate; and
 - (3) The reimbursement to the staff member to repay the loan is reported as a political expenditure by the officeholder or candidate.
22. The complaint alleged that the respondent improperly reported staff reimbursement for approximately \$35,520 in political expenditures on her January 2008, July 2008, January 2009, and July 2009 semiannual reports. Approximately \$6,740 in political expenditures did not show the correct payee and were improperly reported as reimbursements.
23. As a result of this complaint the respondent filed corrections to her January 2008 semiannual report. The purpose of three political expenditures totaling approximately \$580 alleged in the complaint as improperly reported staff reimbursements were corrected to show that they were actually payments for personal services to those payees. Two of the purposes were changed to “contract labor,” and one was changed to “campaign contract labor.” Thus, although not alleged, the respondent’s originally filed report did not disclose the correct purpose for those expenditures.
24. As a result of this complaint the respondent filed corrections to her July 2008 semiannual report. The purpose of 10 political expenditures totaling approximately \$1,710 alleged in the complaint as improperly reported staff reimbursements were corrected to show that they were actually payments to those payees. The purpose of three political expenditures alleged in the complaint as improperly reported staff reimbursements were corrected to show that they were actually stipend payments to those payees. The purposes of an additional seven

political expenditures were corrected to show that they were actually donations to those payees. Thus, although not alleged, the respondent's originally filed report did not disclose the correct purpose for those expenditures.

25. As a result of this complaint the respondent filed corrections to her January 2009 semiannual report. The purpose of six political expenditures totaling approximately \$1,190 alleged in the complaint as improperly reported staff reimbursements were corrected to show that they were actually payments to those payees. The purpose of three political expenditures alleged in the complaint as improperly reported staff reimbursements were corrected to show that they were actually stipend, contract labor, or video service payments to those payees. The purposes of the remaining three political expenditures were corrected to show that they were actually donations to those payees. Thus, although not alleged, the respondent's originally filed report did not disclose the proper purpose for those expenditures.
- Therefore, with regard to approximately \$6,740 in political expenditures, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.
 - Approximately \$3,480 of the political expenditures at issue did not originally disclose the correct purpose, therefore there is credible evidence of violations of section 254.031(a)(3) of the Election Code with regard to those expenditures.
 - As to the remaining allegations, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.

Disclosure of Political Expenditures for Travel Outside of Texas

26. The respondent was required to disclose information about travel outside of the state of Texas on Schedule T. Only one of the expenditures at issue was not for actual travel outside of Texas. The expenditure that was for travel outside of Texas disclosed the proper information on Schedule T of the respondent's campaign finance report. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.61(b) of the Ethics Commission Rules with regard to the alleged travel outside of the state of Texas.
27. In addition to the contents required by sections 254.031 and 254.061 of the Election Code, each report by a candidate for a statewide office in the executive branch or a legislative office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate equal or exceed \$500 and that are accepted during the reporting period, the individual's principal occupation or job title and the full name of the individual's employer. ELEC. CODE § 254.0612. (The complaint alleged a violation of section 254.0912 of the Election Code, which applies to officeholders, but the

respondent was a candidate during the period at issue, so section 254.0612 of the Election Code is the appropriate provision.)

Principal Occupation or Job Title and Employer Information for Contributors

28. By leaving blank spaces on the reports at issue the respondent failed to disclose the principal occupation or job title and the full name of the employer for three political contributions totaling approximately \$2,050 from individuals who contributed \$500 or more during the reporting period. Therefore with regard to those allegations, there is credible evidence of violations of section 254.0612 of the Election Code.
29. On the reports at issue the respondent also disclosed “undetermined” or “unable to determine” as the principal occupation or job title and the full name of the employer for two political contributions totaling \$1,100 from individuals who contributed \$500 or more during the reporting period. Therefore, with regard to those allegations, there is credible evidence of violations of section 254.0612 of the Election Code.
30. The remaining contributions complied with the requirement to disclose a principal occupation or job title and the full name of the employer from individuals who contributed \$500 or more during a reporting period. Therefore, with regard to the remaining allegations, there is credible evidence of no violation of section 254.0612 of the Election Code.

Personal Use of Political Contributions

31. A person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use. 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(a).
32. The complaint alleged that the respondent converted political contributions to personal use based on expenditures totaling approximately \$1,430. There is insufficient evidence of a violation of section 253.035(a) 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 each report filed under this chapter must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions. The report must also 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 also acknowledges the proper way to report the purpose of a political expenditure is in accordance with section 20.61 of the Ethics Commission Rules, and that the proper way to report reimbursements to staff is in accordance with section 20.62 of the Ethics Commission Rules.

The respondent also acknowledges that each report by a candidate for a statewide office in the executive branch or a legislative office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate equal or exceed \$500 and that are accepted during the reporting period, the individual's principal occupation or job title, and the full name of the individual's employer.

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 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 \$1,000 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 SC-2912309.

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

Norma Chavez, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director