

# TEXAS ETHICS COMMISSION

<b>IN THE MATTER OF</b>	§	<b>BEFORE THE</b>
	§	
<b>CARLOS AGUILAR, III,</b>	§	<b>TEXAS ETHICS COMMISSION</b>
	§	
<b>RESPONDENT</b>	§	<b>SC-95004</b>

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission ("commission") met on October 13, 1995, to consider sworn complaint SC-95004 filed against Carlos Aguilar III (the "respondent"). A quorum of the commission was present. Based on the investigation conducted by commission staff to date, the commission determined there was credible evidence of violations of certain 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. Facts Supported by Credible Evidence

Credible evidence available to the commission would support the following findings of fact:

1. The respondent was a candidate for county commissioner in a local election scheduled for March 8, 1994.
2. The respondent filed certain sworn reports of contributions and expenditures (form "C/OH") with the proper filing authority.
3. The respondent used another person's property for a campaign headquarters without reporting on any C/OH report either that he had made a political expenditure to rent the property or that the use of the property had been contributed to his campaign.
4. Additionally, the respondent accepted a contribution of more than \$500 from an out-of-state committee without providing any additional information with his C/OH report.
5. The respondent listed on page 2 (the totals page) of one C/OH report filed in April 1994 a loan or loans totaling \$9,000. He did not disclose in that report or any other prior report the source of any loan or loans totaling \$9,000.

### III. Conclusions of Law

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

- 1 § 254.031 (General Contents of Reports) of the Election Code requires a filer to report campaign contributions and expenditures.

There is sufficient credible evidence that the respondent violated this section by failing to report either an in-kind contribution of property used or an expenditure for rental or use of property for his campaign headquarters.

2. § 253.032 (Limitation on Contribution by Out-Of-State Committee) of the Election Code provides in material part:

*(a) In a reporting period, a candidate, officeholder, or political committee may not knowingly accept political contributions totaling more than \$500 from an out-of-state political committee unless, before accepting a contribution that would cause the total to exceed \$500, the candidate, officeholder, or political committee, as applicable, receives from the out-of-state committee:*

*(1) a written statement, certified by an officer of the out-of-state committee, listing the full name and address of each person who contributed more than \$100 to the out-of-state committee during the 12 months immediately preceding the date of the contribution; or*

*(2) 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. Respondent accepted a contribution of more than \$500 from an out-of-state committee. Election Code § 253.032 requires a filer to file additional information with his report of contributions and expenditures when he accepts such a contribution.*

\* \* \*

There is sufficient credible evidence that the respondent violated § 253.032 by failing to file the required additional information with his C/OH reports.

3. § 254.031 requires a filer to disclose the source of all campaign loans.

There is sufficient credible evidence that the respondent violated § 254.031 by failing to disclose the source of a campaign loan or loans totaling \$9,000.

#### **IV. Representations and Agreement by Respondent**

By signing this ORDER and AGREED RESOLUTION and returning it to the commission:

1. Respondent neither admits nor denies the facts detailed under Section II and the commission's findings and conclusions of law detailed under Section III, and consents to the entry of this ORDER and AGREED RESOLUTION solely for the purpose of resolving and settling this sworn complaint.
2. 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. Respondent waives any right to a hearing before the commission or an administrative law judge appointed by the commission, and further waives any right to a post-hearing procedure established or provided by law.
3. The respondent acknowledges that: § 254.031 of the Election Code requires the disclosure of contributions and expenditures and the source of campaign loans; and section 253.032 requires providing additional information with a report of contributions and expenditures when a filer has accepted a contribution of more than \$500 from an out-of-state committee. The respondent also acknowledges that he will faithfully comply with these sections in the future.
4. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, Respondent understands and agrees that the commission will consider the Respondent to have committed the

violation detailed in Section III if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the Respondent.

### **V. Confidentiality**

This ORDER and AGREED RESOLUTION describes an alleged violation that the commission has determined would be neither technical nor *de minimis*. Accordingly, this ORDER and AGREED RESOLUTION is not confidential under Texas Government Code, § 571.140(b), and may be disclosed by members and staff of the Texas Ethics Commission.

### **VI. Sanction**

After considering the seriousness of the violation described under Sections II and III, including the nature, circumstances, consequences, extent, and gravity of the violation; that no previous violations by this respondent are known to the commission; and after considering the sanction deemed necessary to deter future violations, the commission imposes a \$300.00 civil penalty for the violation described under Section III.

### **VII. Order**

The Texas Ethics Commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to the respondent;
2. that the executive director shall promptly refer SC-95004 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 disposition of SC-95004 as proposed in this ORDER and AGREED RESOLUTION;
3. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete disposition of SC-95004;
4. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original together with payment for the \$300.00 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, no later than November 12, 1995.

AGREED to by Carlos Aguilar, III on \_\_\_\_\_, 1995.

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**Carlos Aguilar, III, Respondent**

EXECUTED ORIGINAL received by the commission on \_\_\_\_\_, 1995.

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**Tom Harrison, Executive Director  
Texas Ethics Commission**