

TEXAS ETHICS COMMISSION

IN THE MATTER OF

**EDWIN E. RINEHART,
RESPONDENT**

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BEFORE THE

**TEXAS ETHICS COMMISSION
SC-240578**

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission met on November 12, 2004, to consider sworn complaint SC-240578. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.035(h), 254.031(a)(3), and 254.031(a)(8) 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 improperly reimbursed himself from political contributions for political expenditures from personal funds; that the respondent accepted political contributions from corporations; that the respondent made direct campaign expenditures and did not disclose the names of the candidates or the names of offices sought or held on certain campaign finance reports; that the respondent failed to report some payee addresses on certain campaign finance reports; and that the respondent did not report “cash on hand” on the January 2004 report.

III. Facts Supported by Credible Evidence

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

1. The complaint raises the issue of whether the respondent improperly reimbursed himself from political contributions for political expenditures from personal funds.
2. The respondent’s report covering the period beginning July 1, 2001, and ending on January 15, 2004, discloses that the respondent made \$6,876.86 in political expenditures from personal funds. \$3,335.75 of that amount was reported late.
3. During the same period the respondent reported payments to himself of \$16,315.53.

4. The evidence indicates that the respondent had not reported political expenditures from personal funds on reports covering any time period before July 1, 2001.
5. The complaint alleges certain donors listed on the respondents' reports were corporations.
6. The evidence indicates that the contributions at issue were from political committees and an individual.
7. The complaint alleges that the respondent made direct campaign expenditures and did not disclose the names of the candidates or the names of offices sought or held on the reports due on October 28, 2002; July 15, 2002; July 15, 2003; and January 15, 2004.
8. There is no evidence either in the complaint or on the face of the reports that any of the expenditures reported on the reports in question were direct campaign expenditures.
9. The complaint alleges that the respondent failed to report certain payee addresses on the reports due on October 28, 2002; January 15, 2003; and January 15, 2004.
10. The report due on October 28, 2002, lists 17 expenditures that total more than \$13,000. The report includes payee addresses in connection with 15 of those expenditures. The report does not include payee addresses in connection with two expenditures totaling \$900. In July 2004, the respondent filed a corrected report to correct the omissions.
11. The report due on January 15, 2003, lists 17 expenditures that total more than \$12,000. The report includes payee addresses in connection with 11 of those expenditures. The report does not include payee addresses in connection with six expenditures totaling more than \$1,200. In July 2004, the respondent filed a corrected report to correct the omissions.
12. The report due on January 15, 2004, lists 18 expenditures that total more than \$7,000. The report includes payee addresses in connection with 15 of those expenditures. The report does not include payee addresses in connection with three expenditures totaling \$600. In July 2004, the respondent filed a corrected report to correct the omissions.
13. The complaint alleges that the respondent did not report "cash on hand" on the January 2004 report.
14. The respondent filed the January 2004 semiannual report on an outdated form that did not include a place to enter "cash on hand." The respondent filed a corrected report in July 2004.

IV. Findings and Conclusions of Law

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

Improper reimbursement for political expenditures from personal funds

1. A candidate or officeholder is required to report political expenditures made from personal funds. ELEC. CODE § 254.031(a)(3); *see also* Ethics Commissions Rules §§ 20.219(16), 20.279(12).
2. A candidate or officeholder who makes political expenditures from personal funds may reimburse those personal funds from political contributions only if the expenditures from personal funds were properly reported. ELEC. CODE § 253.035(h).
3. Ethics Commission rules provide that a failure to comply with the procedures for reporting political expenditures made from personal funds may not be cured by filing a corrected report after the applicable filing deadline. Ethics Commission Rules § 22.19(e).
4. The evidence supports a finding that the respondent violated section 253.035(h) of the Election Code by reimbursing himself from political contributions for political expenditures from personal funds in amounts that exceeded the amounts that were timely reported.

Acceptance of corporate contributions

5. Corporations and labor organizations are prohibited from making political contributions to candidates or officeholders. ELEC. CODE § 253.094.
6. A person may not accept a political contribution the person knows to have been made in violation of section 254.094 of the Election Code. ELEC. CODE § 253.002(b).
7. The evidence shows that the contributions in question did not come from corporations. Therefore, there is credible evidence that the respondent did not violate section 253.002(b) of the Election Code in connection with the contributions in question.

Failure to report information about beneficiaries of direct campaign expenditures

8. A direct campaign expenditure is a campaign expenditure that is made without the prior consent or approval of the candidate or officeholder on whose behalf it was made. ELEC. CODE § 255.001(8); Ethics Commission Rules § 20.1(8).
9. A candidate or officeholder is required to report the name and other information about each candidate or officeholder who benefits from a direct campaign expenditure. ELEC. CODE § 254.031(a)(7).
10. There is no evidence that the respondent made direct campaign expenditures during the period covered by the reports in question. Therefore, there is no evidence that the respondent violated section 254.031(a)(7) of the Election Code.

Missing Payee Addresses

11. A report must include a payee address in connection with an expenditure that exceeds \$50 (or any connection with a political expenditure of \$50 or less if total payments to the payee during the reporting period exceed \$50). ELEC. CODE § 254.031(a)(3).
12. There is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code in connection with 11 expenditures.

Failure to report cash on hand

13. Under a law that took effect on September 1, 2003, a report is required to include the following information: As of the last day of a reporting period for which the person is required to file a report, 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).
14. Because the respondent's original report for the filing deadline did not include that information, there is credible evidence that the respondent violated section 254.031(a)(8) 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 who makes political expenditures from personal funds may reimburse those personal funds from political contributions only if the expenditures from personal funds were properly reported. The respondent further acknowledges that a report must include a payee address in connection with an expenditure or series of expenditures to a single payee that exceed \$50 during the reporting period. The respondent acknowledges that as of the last day of a reporting period for which the person is required to file a report, 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, must be included in the report. The respondent agrees to fully 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 \$1,000 civil penalty for the violations described under Section 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-240578.

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

Edwin E. Rinehart, Respondent

EXECUTED ORIGINAL received by the commission: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director