

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ORLANDO SANCHEZ,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2507148

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on January 12, 2006, to consider sworn complaint SC-2507148. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 254.031 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 report the full name and address, dates and purposes of expenditures on his 30-day and 8-day pre-election campaign finance reports due before a November 2003 election in violation of section 254.031 of the Election Code. The complaint also alleges that the respondent converted political contributions to personal use in violation of section 253.035 of the Election Code.

III. Facts Supported by Credible Evidence

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

1. At issue in this complaint are the respondents' 30-day and 8-day pre-election campaign finance reports due before a November 2003 City of Houston election.
2. There are 23 instances on the 30-day pre-election campaign finance report and 10 instances on the 8-day pre-election campaign finance report in which the respondent lists expenditures as reimbursements to campaign workers.
3. The respondent does not deny that the expenditures at issue were reimbursements to campaign workers for campaign expenditures they made out of their personal funds.

4. The respondent disclosed an expenditure on the 30-day pre-election campaign finance report of \$2,194.50 to Adams Insurance for the purpose of "Property Insurance." The complaint alleges that this is a failure to report the purpose of an expenditure.
5. The evidence indicates the expenditure was for an insurance policy on the respondent's campaign headquarters.
6. On the 30-day pre-election campaign finance report, the respondent disclosed \$75 to the US Cuba Polling Report and listed "Membership Dues" as the purpose of the expenditure. The complaint alleges that the expenditure constituted a conversion of political contributions to a personal use.
7. The respondent swears that this expenditure was for a monthly periodical to which the campaign subscribed. When asked how this subscription related to the respondent's campaign, he stated that as a Cuban immigrant and city council member, he was approached by other officials, the public and the media with questions about US and Cuba relations. Additionally, he was appointed by the Mayor to chair the International Trade Committee of the city.

IV. Findings and Conclusions of Law

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

1. 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.
2. When a campaign worker makes an expenditure and is then reimbursed by the candidate during the same reporting period, the proper way to report the expenditure is for the candidate to report the expenditure made by the campaign worker, not the reimbursement. This method of reporting expenditures was clarified in Ethics Advisory Opinion No. 450 (2003).
3. Ethics Advisory Opinion No. 450 was issued the September before the reports at issue were filed, and the opinion states that technically, the correct way to report such expenditures is to show them as a loan, but the method described in the opinion is an alternative reporting method for such expenditures and reimbursements that occur in the same reporting period.
4. On the two reports at issue, the respondent did not use either method to report, but instead only reported the expenditures to his campaign workers, and not the actual payee. Therefore, there is credible evidence of a violation of section 254.031 of the Election Code.
5. A candidate must report the purpose of political expenditures that in the aggregate exceed \$50 during the reporting period. ELEC. CODE § 254.031. On his 30-day pre-election campaign finance report, the respondent disclosed the purpose of an expenditure as

“Property Insurance.” The expenditure was for a property insurance policy for the respondent’s campaign headquarters. Therefore, there is credible evidence that the respondent did not violate section 254.031 of the Election Code.

6. A person who accepts a political contribution as a candidate or officeholder may not convert the contribution to personal use. Personal use is 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 and does not include payments made to defer ordinary and necessary expenses incurred with activities as a candidate or in connection with the performance of duties or activities as a public officeholder. ELEC. CODE § 254.035.
7. The expenditure that the respondent disclosed for the “US Cuba Policy Report” was for a periodical to which the campaign subscribed, and it was used to assist in the respondent’s official duties, it can be considered a payment to defer ordinary and necessary expenses incurred in connection with activities as a candidate. Therefore, there is credible evidence of no violation of section 254.035 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 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. The respondent agrees to comply with this requirement of the law.

VI. Confidentiality

This order and agreed resolution describes a violation that the commission has determined is 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 violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$500 civil penalty for the violation 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-2507148.

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