

TEXAS ETHICS COMMISSION

IN THE MATTER OF
EDWIN E. RINEHART,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2509165

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on March 23, 2006, to consider sworn complaint SC-2509165. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.003, 253.035, and 254.031(a)(3) 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 accepted corporate contributions and that the respondent failed to properly report expenditures on his July 2005 semiannual report. The complaint also alleges that the respondent reimbursed personal funds from campaign contributions without properly reporting the original expenditures from personal funds.

III. Facts Supported by Credible Evidence

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

1. The respondent is the Montgomery County Commissioner for Precinct 4.
2. The respondent's July 2005 semiannual report discloses that the respondent accepted a political contribution from three corporations. The aggregate total of the three contributions was \$1,050.
3. The respondent received notice of the complaint on October 3, 2005.
4. The respondent returned the corporate contributions on October 18, 2005.
5. The July 2005 semiannual report discloses two expenditures totaling \$602 that have no purpose disclosed.

6. On June 14, 2005, before the complaint was filed, the respondent filed a corrected January 2004 semiannual report. The report discloses that the respondent reimbursed himself \$1,650 and did not disclose any political expenditures from personal funds.
7. After the complaint was filed the respondent filed another corrected January 2004 semiannual report.
8. The second corrected report did not adequately disclose the actual payees to which the respondent made the original expenditures, or the date of the expenditures.
9. The respondent submitted a third correction to his January 2004 semiannual report.
10. The third correction disclosed a political expenditure from personal funds, but does not disclose the amount of the expenditure.
11. The third report still disclosed the reimbursement to the respondent in the amount of \$1,650, but did not clearly disclose who was the actual payee, or payees of that expenditure.
12. The respondent provided no evidence that the reimbursement was for political expenditures made from personal funds that had been properly reported.

IV. Findings and Conclusions of Law

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

1. A corporation or labor organization may not make a political contribution or political expenditure that is not authorized by this subchapter. ELEC. CODE § 253.094. A person may not knowingly accept a political contribution the person knows to have been made in violation of this chapter. ELEC. CODE § 253.003.
2. The respondent disclosed that he accepted three corporate contributions during the July 2005 semiannual reporting period. These contributions were reported on the July 2005 semiannual report.
3. The respondent acknowledges that he is aware that corporate contributions are illegal. That acknowledgement, coupled with the fact that the respondent disclosed the contributions and signed the affidavit section of the report swearing that the report is true and correct is evidence that the respondent knowingly accepted political contributions that he knew were made in violation of section 253.094 of the Election Code. Therefore, there is credible evidence that the respondent violated section 253.003 of the Election Code.

4. Each campaign finance report must 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. ELEC. CODE § 254.031(a)(3).
5. The original January 2005 semiannual report disclosed no purpose for two expenditures. Although the respondent corrected the reports, he did so after the sworn complaint was filed. Therefore, there is credible evidence of a violation of section 254.031 (a)(3) of the Election Code.
6. Each campaign finance report must 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. ELEC. CODE § 254.031(a)(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).
7. A candidate or officeholder who makes political expenditures from his or her personal funds may reimburse those personal funds from political contributions in the amount of the expenditures only if: (1) the expenditures from personal funds were fully reported as political expenditures on the report covering the period during which the expenditures were made; and (2) the report on which the expenditures from personal funds are disclosed clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement. ELEC. CODE § 253.035(h).
8. A candidate's or officeholder's failure to report political expenditures made from personal funds may not be cured by filing a corrected report after the report deadline has passed. Ethics Commission Rules § 20.63(e).
9. The respondent's January 2004 semiannual report disclosed a \$1,650 reimbursement to the respondent. However, the respondent provided no evidence that political expenditures from personal funds were disclosed in a prior reporting period or in the January 2004 reporting period.
10. The respondent filed a corrected report more than a year after the deadline for filing the report that disclosed political expenditures from personal funds but did not disclose the amount of the expenditures.
11. The respondent was not permitted to reimburse himself for the political expenditure from personal funds because he did not report the expenditure in the reporting period in which it was made and designate that the expenditure was subject to reimbursement. The respondent improperly reimbursed himself. Therefore, there is credible evidence of a violation of sections 253.035 and 254.031 (a)(3) 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 person may not knowingly accept a political contribution the person knows to have been made in violation of chapter 253 of the Election Code, which prohibits political contributions from corporations. The respondent also acknowledges that a person who makes political expenditures from his or her personal funds may reimburse those personal funds from political contributions in the amount of the expenditures only if: (1) the expenditures from personal funds were fully reported as political expenditures on the report covering the period during which the expenditures were made; and (2) the report on which the expenditures from personal funds are disclosed clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement. ELEC. CODE § 253.035(h). The respondent further acknowledges that each campaign finance report must 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 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 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 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-2509165.

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

Edwin E. Rinehart, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director