

TEXAS ETHICS COMMISSION

IN THE MATTER OF
CAROL ALVARADO,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2510180

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on September 21, 2006, to consider sworn complaint SC-2510180. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.032 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 failed to include with her campaign finance report certain documentation from out-of-state political committees from which she accepted contributions. The complaint also alleges that the respondent improperly reported political expenditures as reimbursements to herself or to staff members instead of as expenditures to the actual payee.

III. Facts Supported by Credible Evidence

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

1. The respondent is a member of the city council and Mayor Pro Tem of the City of Houston.
2. The respondent's January 2004 semiannual report, July 2004 semiannual report, July 2005 semiannual report, and 30-day pre-election report for the November 8, 2005, city election, disclose ten contributions totaling \$18,000 from out-of-state political committees.
3. Two of the political contributions were for \$500, four of the political contributions were for \$1,000, two of the political contributions were for \$2,500, one of the political contributions was for \$3,000, and one of the political contributions was for \$5,000.
4. Eight of the committees file with the Federal Election Commission (FEC). One of the contributions from the FEC committees was for \$500, and the other seven of these

- contributions were over \$500. Two of the committees file with the State of Illinois. One of the contributions from the Illinois committee was for \$500, and the other one was for \$1,000.
5. The respondent submitted a sworn response. The respondent's affidavit acknowledged that she failed to provide a copy of the statement of organization of the ten out-of-state political committees that made contributions to her and states that the errors were not intentional, that they were clerical mistakes.
 6. The respondent filed correction affidavits supplementing her campaign finance reports to include statements of organization or statements of contributors for the out-of-state political committees from whom she accepted contributions.
 7. The respondent's affidavit acknowledges that she improperly reported political expenditures as reimbursements to herself or to staff members instead of as expenditures to the actual payee on her 8-day pre-election report for the November 4, 2003, city election, January 2004 semiannual report, July 2004 semiannual report, January 2005 semiannual report, and 30-day pre-election report for the November 4, 2005, city election. The respondent admits that the \$7,111.65 of reimbursement expenditures disclosed on her reports was reported incorrectly.
 8. The respondent's affidavit states that the errors were not intentional, that they were clerical mistakes.
 9. The respondent filed corrected reports that included the full name and address of the persons to whom the expenditures were made and the dates and purposes of the expenditures except for three expenditures for which she states they are unable to locate records due to a fire at the home of the campaign manager who had the records.

IV. Findings and Conclusions of Law

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

1. 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: 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 a copy of the out-of-state political 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. ELEC. CODE § 253.032(a).

2. A candidate, officeholder, or political committee shall include the statement of contributors or copy of statement of organization as a part of the report filed under chapter 254 of the Election Code that covers the reporting period during which the political contributions totaling more than \$500 from an out-of-state political committee are accepted. ELEC. CODE § 253.032(d).
3. A candidate, officeholder, or political committee that accepts political contributions totaling \$500 or less from an out-of-state political committee shall include as part of the report filed under chapter 254 of the Election Code that covers the reporting period in which the contributions are accepted, the same information required on a campaign treasurer appointment filed by a general-purpose committee in Texas, or 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. ELEC. CODE § 253.032(e), 1 T.A.C. § 22.7.
4. All of the contributions alleged to be from out-of-state political committees are from out-of-state committees. Eight of the committees file with the Federal Election Commission (FEC). One of these contributions was for \$500. The other seven of these contributions were over \$500. Two of the committees file with the State of Illinois. One of these contributions was for \$500. The other one of these contributions was for \$1,000.
5. The respondent did not include the proper documentation with her campaign finance reports.
6. Therefore, there is credible evidence of violations of sections 253.032(d) and (e) of the Election Code.
7. 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(a)(3).
8. The respondent reported \$7,111.65 of reimbursement expenditures on her reports incorrectly. Therefore, there is credible evidence of a violation of section 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 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 political committee: a written statement, certified by an officer of the out-of-state political committee, listing the full name and address of each person who contributed more than \$100 to the out-of-state political committee during the 12 months immediately preceding the date of the contribution; or a copy of the out-of-state political 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 political committee.
4. The respondent also acknowledges that a candidate, officeholder, or political committee shall include the statement of contributors or copy of statement of organization as a part of the report filed under chapter 254 of the Election Code that covers the reporting period during which the political contributions totaling more than \$500 from an out-of-state political committee are accepted.
5. The respondent also acknowledges that a candidate, officeholder, or political committee that accepts political contributions totaling \$500 or less from an out-of-state political committee shall include as part of the report filed under chapter 254 of the Election Code that covers the reporting period in which the contributions are accepted, the same information required on a campaign treasurer appointment filed by a general-purpose committee in Texas, or 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.
6. The respondent also 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.
7. 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 \$500 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-2510180.

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

Carol Alvarado, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director