

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ROBERTO R. ALONZO,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2910227

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 23, 2011, to consider sworn complaint SC-2910227. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.031 of the Election Code and section 20.62 of the Ethics Commission Rules, and credible evidence of technical or *de minimis* violations of sections 254.0612 and 254.0912 of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent: 1) did not properly disclose political contributions and political expenditures, 2) accepted a political contribution from a corporation or labor organization, 3) improperly reported political expenditures as reimbursements, and 4) did not disclose, for each individual from whom he accepted political contributions that in the aggregate equaled or exceeded \$500 during the reporting period, the individual's principal occupation or job title and the full name of the individual's employer.

III. Facts Supported by Credible Evidence

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

1. The respondent is the state representative for District 104.
2. The reports at issue, the allegations, and the responses to the allegations, related to each report are as follows:

Political ContributionsName of Contributor

3. The complaint alleged that the respondent failed to fully disclose the names of 15 persons making political contributions totaling \$10,700 on his January 2008 semiannual report, 8-day pre-election report for the March 2008 primary election, and July 2008 and January 2009 semiannual reports.
4. The reports disclosed the receipt of contributions from the following entities: Texas DENPAC, TRUCK PAC, A&M PAC, NaIFA-Texas PAC, Friends of UTA PAC, KIRBY PAC, Texas UAW CAP Volunteer Fund Committee, RAMPAC, TAIFAPAC, TWOA PAC, TCACC-PAC, TeFPAC, TSA-PAC, AFSCME-AFLCIO, and FIP PAC.

Occupation of Contributor

5. The complaint alleged that the respondent failed to disclose the principal occupation or job title and the full name of the employer of individuals from whom the respondent accepted political contributions that in the aggregate equaled or exceeded \$500 during the reporting period on his 30-day and 8-day pre-election reports for the March 2008 primary election, and July 2008 and January 2009 semiannual reports.
6. For two of the contributions at issue, the respondent disclosed the following:

County Commissioner / Self
Consultant / New Car Dealers

Total Political Contributions Maintained

7. The complaint alleged that the respondent failed to properly disclose total political contributions maintained on his January 2008 semiannual report, 30-day and 8-day pre-election reports for the March 2008 primary election, and July 2008, January 2009, and July 2009 semiannual reports. The sworn complaint based the allegations on a calculation where total political contributions are added to the previous contribution balance, and then political expenditures and in-kind contributions are subtracted from that amount to get total political contributions maintained.
8. The evidence was inconclusive as to this allegation.

Corporate and/or Labor Organization Contributions

9. The complaint alleged that the respondent unlawfully accepted \$4,550 in political contributions from corporations or labor organizations as disclosed on his 30-day and 8-day

pre-election reports for the March 2008 primary election, and January 2008, July 2008, and January 2009 semiannual reports.

10. The reports disclosed contributions from the following entities:

Texas State Council of Machinists and Aerospace Workers
General Drivers Warehousemen and Helpers Local Union 745
CWA Local 6186
CWA Local 6215
Blackridge
Caballero Governmental Affairs
AFSCME-AFLCIO

11. With the exception of the AFSCME-AFLCIO contribution, the evidence indicates that the contributions were made by political committees or unincorporated entities. The evidence was insufficient to show the source of the AFSCME-AFLCIO contribution.

Political Expenditures

Reimbursements/Actual Vendor

12. The complaint alleged that the respondent failed to disclose the actual vendor's name and address and the date and amount of the expenditures on the respondent's January 2008, July 2008, January 2009, and July 2009 semiannual reports.
13. The complaint alleged that there were 13 such expenditures totaling \$4,771.28 disclosed on the January 2008 semiannual report. The report disclosed the name of an individual as the payee for nine of the expenditures totaling \$2,149.67. Five of those expenditures to individuals, totaling \$1,120.85, were for "consulting." The purpose of two of the expenditures to individuals totaling \$350, was for "donation." The purpose of one of the expenditures to an individual, in the amount of \$200, was "reimbursements of prizes for MADxmas party." The purpose of the last of the expenditures to an individual, in the amount of \$478.82, was "reimbursements of travel expenses to TAMACC Convention." The respondent disclosed "Texas House of Representatives" as payee on four expenditures. One of these expenditures in the amount of \$280 was for "flags". The other three of these expenditures totaling \$2,341.61 were for "Airline Travel to Austin."
14. The complaint alleged that there were 11 such expenditures totaling \$6,531.84 disclosed on the July 2008 semiannual report. The report disclosed the name of an individual as the payee for each of the expenditures. The purpose of six of the expenditures totaling \$5,762.50 was "consulting." The purpose of two of the expenditures totaling \$175 was "donation." The purpose of one of the expenditures in the amount of \$318.52 was "food for volunteers." The purpose of another one of the expenditures in the amount of \$137.82 was "reimbursement of

- supplies.” The purpose of the last expenditure in the amount of \$138 was “camera reimbursement (Target).”
15. The complaint alleged that there were 13 such expenditures totaling \$11,363.81 disclosed on the January 2009 semiannual report. The report disclosed the name of an individual as the payee for each of the expenditures. The purpose of seven of the expenditures totaling \$9,242.50 was “consulting.” The purpose of four of the expenditures totaling \$1,450 was “donation.” The purpose of one of the expenditures in the amount of \$100 was “donation for medical expenses.” The purpose of the last expenditure in the amount of \$571.31 was “reimbursement – rental car expense (Spain Delegation).”
16. The complaint alleged that there were 12 such expenditures totaling \$1,790.72 disclosed on the July 2009 semiannual report. The report disclosed the name of an individual as the payee for each of the expenditures. The purpose of three of the expenditures totaling \$646.75 was “consulting.” The purpose of seven of the expenditures totaling \$765 was “donation.” The purpose of one of the expenditures in the amount of \$200 was “Cost for office utensils coffee and supplies.” The purpose of the last expenditure in the amount of \$178.97 was “reimbursement of utensils for swearing-in ceremonies.”
17. The total for all the expenditures at issue was approximately \$24,460.
18. The respondent’s affidavit stated, “The payee, address, date, and amount of most of the expenditures complained about are true, accurate, and correct.”

Name of Payee

19. The complaint alleged that the respondent failed to fully disclose the names of payees on the January 2008 semiannual report, the 8-day pre-election report for the March 2008 primary election, and the January 2009 semiannual report.
20. The names of the payees and the amount of the expenditures at issue are:
- | | |
|-------|------------|
| \$200 | N.A.L.E.O. |
| \$450 | PVL |
| \$100 | NHCSL |
21. N.A.L.E.O. is commonly used as the name for the National Association of Latino Elected Officials.

Purpose of Expenditure

22. The complaint alleged that the respondent failed to disclose the purpose of a December 3, 2008, political expenditure of \$200 to UT Systems disclosed on the respondent's January 2009 semiannual report.
23. The report did not disclose a purpose for this expenditure.

IV. Findings and Conclusions of Law

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

Political ContributionsName of Contributor

1. Each report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).
2. In a number of instances the contributor's acronym at issue is on file with the commission and may be found by searching the database or the political committee lists. The respondent disclosed the full name of the contributor, a portion of the contributor's name, or an acronym on file with the commission for the following eight contributors: Texas DENPAC, TRUCK PAC, A&M PAC, NaIFA-Texas PAC, Friends of UTA PAC, KIRBY PAC, Texas UAW CAP Volunteer Fund Committee, RAMPAC, TAIFAPAC, and TeFPAC. Therefore, regarding these contributions, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code.
3. The respondent failed to disclose the full name of the following seven contributors: TWOA PAC, TCACC-PAC, TSA-PAC, AFSCME-AFLCIO, and FIP PAC. Therefore, there is credible evidence that the respondent violated section 254.031(a)(1) of the Election Code regarding these contributions.

Occupation of Contributor

4. Each report by a candidate for a statewide office in the executive branch or a legislative office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate equal or exceed \$500 during the reporting period, the individual's principal occupation or job title and the full name of the individual's employer. ELEC. CODE § 254.0612.

5. Each report by a holder of a statewide office in the executive branch or a legislative office must include the contents prescribed by section 254.0612 of the Election Code. ELEC. CODE § 254.0912.
6. For ten of the contributions at issue, the disclosure facially complied with the requirement to disclose the contributor's principal occupation or job title and the full name of the individual's employer. Therefore, regarding these disclosures, there is credible evidence of no violation of sections 254.0612 and 254.0912 of the Election Code.
7. The respondent did not properly disclose the contributor's principal occupation or job title and the full name of the individual's employer for the following:

County Commissioner / Self
Consultant / New Car Dealers
8. The errors in context are minor. Therefore, there is credible evidence of technical or *de minimis* violations of sections 254.0612 and 254.0912 of the Election Code with regard to these contributions.

Total Political Contributions Maintained

9. Each report must include as of the last day of the reporting period, 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).
10. There is insufficient evidence that the respondent violated section 254.031(a)(8) of the Election Code.

Corporate and/or Labor Organization Contributions

11. A corporation or labor organization may not make a political contribution or political expenditure that is not authorized by subchapter D, Chapter 253, Election Code. ELEC. CODE § 253.094. That subchapter does not authorize a corporation or labor organization to make a political contribution to a candidate.
12. "Corporation" means a corporation that is organized under the Texas Business Corporation Act, the Texas Non-Profit Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation Act, the Texas Nonprofit Corporation Law, federal law, or law of another state or nation. ELEC. CODE § 253.091.
13. A person may not knowingly accept a political contribution that the person knows was made in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003(b).

14. In order to show a violation of section 253.003(b) of the Election Code, the evidence must show that the contributor was a corporation or labor organization, that at the time the respondent accepted the contribution he knew that corporate or labor organization contributions were illegal, and that the respondent knew the particular contribution at issue was from a corporation or labor organization.
15. With the exception of the contribution from AFSCME-AFLCIO, the evidence indicates that the sources of the contributions at issue were not corporations or labor organizations. The evidence is insufficient to show that the source of the AFSCME-AFLCIO contribution was a labor organization or corporation as opposed to a political committee. Therefore, there is insufficient evidence that the respondent violated sections 253.003(b) or 253.094(a) of the Election Code as to the AFSCME-AFLCIO contribution and credible evidence of no violation of sections 253.003(b) or 253.094(a) of the Election Code as to the other contributions.

Political Expenditures

16. A campaign finance report must include, for all 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 political expenditures are made and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
17. Political expenditures made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee that in the aggregate do not exceed \$5,000 during the reporting period may be reported as follows if the reimbursement occurs during the same reporting period that the initial expenditure was made: 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; and included with the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. Except as provided above, a political expenditure made out of personal funds by a staff member of an officeholder, a candidate, or political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee must be reported as follows: the aggregate amount of the expenditures made by the staff member as of the last day of the reporting period is reported as a loan to the officeholder, candidate, or political committee; the expenditure made by the staff member is reported as a political expenditure by the officeholder, candidate, or political committee; and the reimbursement to the staff member to repay the loan is reported as a political expenditure by the officeholder, candidate, or political committee. Ethics Commission Rules § 20.62.
18. The respondent properly reported the expenditures made to individuals for the purposes of “consulting,” “donation,” and “donation for medical expenses,” and the expenditure made to

the Texas House of Representatives for flags because he disclosed the actual recipient of each expenditure, their address, and the date and amount of the expenditure.

19. The respondent disclosed expenditures totaling approximately \$2,340, to the Texas House of Representatives for "Airline Travel to Austin." The true payee and purpose of the expenditure is not clear from the disclosure. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code regarding these expenditures.
20. The respondent failed to properly report the remaining expenditures, totaling \$2,223.44, because he disclosed the information regarding the reimbursement of the individual who made the original expenditures and did not disclose the actual recipient of the expenditure (the vendor), their address, or the date and amount of the original expenditures. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.
21. The respondent failed to disclose the full name of the payee for three expenditures totaling \$550 to PVL and NHCSL. Therefore, there is credible evidence that the respondent violated section 254.031(a)(3) of the Election Code.
22. The respondent failed to disclose the purpose of the December 3, 2008, political expenditure of \$200 to UT Systems. Therefore, there is credible evidence that the respondent violated 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: 1) each report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions, 2) each report by a candidate for or holder of a statewide office in the executive branch or a legislative office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate equal or exceed \$500 during the reporting period, the individual's principal occupation or job title and the full name of the individual's employer, 3) a campaign finance report must include,

for all 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 political expenditures are made and the dates and purposes of the expenditures, 4) the proper method to disclose political expenditures made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee in accordance with section 20.62 of the Ethics Commission Rules. 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 \$2,500 civil penalty.

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-2910227.

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

Roberto R. Alonzo, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director