

TEXAS ETHICS COMMISSION

IN THE MATTER OF
RAUL TORRES,
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-31009297

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 23, 2011, to consider sworn complaint SC-31009297. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 572.023 of the Government Code, a law 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 failed to disclose a beneficial interest in real property and a financial liability in connection with real property in a personal financial statement.

III. Facts Supported by Credible Evidence

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

1. The respondent is the state representative for District 149 and was a candidate for that office in the November 2, 2010, general election.
2. The complaint alleged that the respondent failed to disclose in his personal financial statement (PFS) covering calendar year 2009 that he or his spouse held a beneficial interest in real property and the financial institution to whom he had a total financial liability of more than \$1,000.
3. The respondent's PFS covering 2009 was filed on February 22, 2010. It disclosed sources of occupational income for the respondent and the respondent's spouse and a beneficial interest

in a corporation at a value of \$25,000 or more. The personal financial statement indicated that Parts 6 and 7A of the form, used to disclose financial liability and a beneficial interest in real property, respectively, did not apply.

4. On October 1, 2010, the respondent filed a correction to his PFS covering 2009 that disclosed that he and his spouse held a beneficial interest in a residential property and that they both retained an interest in the property. The correction also disclosed that the respondent received occupational income as an employee and president of a corporation, was self-employed as "Income tax services," and that he held a beneficial interest in the corporation. The affidavit filed with the correction stated:

My oversight. My interpretation was that this Form (Part 7A) was asking for investment properties held by me and my wife, and not asking for my personal homestead. This form is now corrected.

5. The respondent also submitted a separate affidavit on October 12, 2010, in which he swore:

I have reviewed my Personal Financial Statement and have already provided the Texas Ethics Commission with a signed copy of an amended Personal Financial Statement. I mailed it last week. I have included my personal residence information in the copy of the amended Personal Financial Statement.

6. The respondent filed a second correction to the PFS on January 7, 2011, that disclosed that the respondent and his spouse held a total financial liability of more than \$1,000 during calendar year 2009 in the form of personal notes or lease agreements held by Wells Fargo Home Mortgage and valued at \$25,000 or more and by Bank of America Home Loans Servicing, LP, and valued at \$10,000 to \$24,999. The correction also disclosed that the respondent held a total financial liability of more than \$1,000 during 2009 in the form of personal notes or lease agreements held by First Community Bank NA and valued at \$10,000 to \$24,999 and by IBC Bank and valued at \$25,000 or more. In the correction affidavit filed with the correction, the respondent swore:

On January 5, 2011, I discovered an error in my previous filing of the personal financial report that needs to be corrected. The error is that I erroneously omitted information related to Personal Notes that were currently owed by me and or my spouse at the time of the report date. I mistakenly interpreted the category of Personal Notes/Lease Agreements to refer to be a request for Assets held by me and or my spouse in these categories rather [than] a request for outstanding liability information.

7. In each correction affidavit, the respondent indicated that he filed the corrected report not later than the 14th business day after the date he learned that the report as originally filed was inaccurate or incomplete and that any error or omission in the report as originally filed was made in good faith.
8. The respondent's original PFS was due on February 16, 2010, and was filed on February 22, 2010. The respondent paid the \$500 penalty on May 7, 2010.

IV. Findings and Conclusions of Law

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

1. A financial statement must include an account of the financial activity of the individual required by this subchapter to file a financial statement and an account of the financial activity of the individual's spouse and dependent children if the individual had actual control over that activity for the preceding calendar year. GOV'T CODE § 572.023(a).
2. The account of financial activity consists of identification of each guarantor of a loan and identification of each person or financial institution to whom a personal note or notes or lease agreement for a total financial liability in excess of \$1,000 existed at any time during the year, and the category of the amount of the liability. *Id.* § 572.023(b)(5).
3. The individual filing the statement shall report a description of real property by reporting the street address, if available, or the number of lots or number of acres, as applicable, in each county, and the name of the county, if the street address is not available; and the names of all persons retaining an interest in the property, excluding an interest that is a severed mineral interest. *Id.* § 572.022(c).
4. The account of financial activity also consists of identification by description of all beneficial interests in real property and business entities held or acquired, and if sold, the category of the amount of the net gain or loss realized from the sale. *Id.* § 572.023(b)(6).
5. The evidence indicates that, during 2009, the respondent or his spouse held a beneficial interest in a residential property and total financial liabilities in excess of \$70,000 in the form of four personal notes or lease agreements. None of the interests or liabilities were disclosed in the PFS when it was originally filed and were disclosed in corrections filed after the report was due. Therefore, there is credible evidence that the respondent violated sections 572.023(b)(5) and (b)(6) of the Government 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 financial statement must include an account of the financial activity of the individual required to file a financial statement and an account of the financial activity of the individual's spouse and dependent children if the individual had actual control over that activity for the preceding calendar year. The respondent also acknowledges that the account of financial activity consists of identification of each guarantor of a loan and identification of each person or financial institution to whom a personal note or notes or lease agreement for a total financial liability in excess of \$1,000 existed at any time during the year, and the category of the amount of the liability. The respondent also acknowledges that the account of financial activity also consists of identification by description of all beneficial interests in real property and business entities held or acquired, and if sold, the category of the amount of the net gain or loss realized from the sale. 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.

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-31009297.

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

Raul Torres, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director