

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
DIANA MALDONADO,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-31010330

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on October 6, 2011, to consider sworn complaint SC-31010330. 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, 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 maintain a record of all reportable activity and failed to disclose political contributions and political expenditures.

### III. Facts Supported by Credible Evidence

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

1. During the period at issue, the respondent held the office of State Representative, District 52 and had a campaign treasurer appointment in effect.
2. On July 15, 2010, the respondent filed the July 2010 semiannual campaign finance report that disclosed the following:
  - \$72,986.86 Total Political Contributions
  - \$ 6,338.32 Total Political Expenditures
3. On July 16, 2010, the respondent filed a corrected July 2010 semiannual report that disclosed the following:
  - \$132,764.76 Total Political Contributions
  - \$ 58,355.19 Total Political Expenditures

The corrected report added \$59,777.90 of contributions and \$52,016.81 of expenditures.

The explanation of correction stated in part: “Immediately after filing the July 15<sup>th</sup> semi-annual report we found that we inadvertently omitted some contributions and expenditures.”

4. On October 15, 2010, the respondent filed another corrected July 2010 semiannual report. The report changed the payee to an individual for five expenditures totaling \$12,685.85. The purpose of each of the expenditures was “Salaries/Wages/Contract Labor / Staff Payroll.” The report also changed the payee to Department of Treasury for five other expenditures totaling \$3,760.65. The purpose of each of the expenditures was “Salaries/Wages/Contract Labor / Payroll Taxes.”

The explanation of correction stated in part: “The additional information that is disclosed includes itemized payroll information.”

5. The complaint alleged that the respondent failed to maintain a record of all reportable activity, but the evidence indicated that she maintained the required records.

#### **IV. Findings and Conclusions of Law**

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

1. Each candidate and each officeholder shall maintain a record of all reportable activity. ELEC. CODE § 254.001(a). The record must contain the information that is necessary for filing the reports required by this chapter. *Id.* § 254.001(c).
2. The respondent swore that she keeps records as required by law. The respondent disclosed the additional political contributions and political expenditures that are at issue within 24 hours of filing the original report. There is no evidence that the respondent did not keep records of the information necessary for filing her report. Therefore, there is credible evidence of no violation of section 254.001 of the Election Code. *Id.* § 254.001.
3. 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. *Id.* § 254.031(a)(1).
4. Each 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. *Id.* § 254.031(a)(3).

5. Each report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. *Id.* § 254.031(a)(6).
6. A candidate shall file two reports for each year. The first report shall be filed not later than July 15. The second report shall be filed not later than January 15. *Id.* § 254.063.
7. The respondent filed her initial July 2010 semiannual report timely. The respondent corrected the report on July 16, 2010. The corrected report added approximately \$59,780 of contributions and approximately \$52,020 of expenditures. The respondent corrected the report again on October 15, 2010. The report changed the payee for 10 expenditures totaling approximately \$16,450.
8. The respondent corrected her July 2010 semiannual report to add contributions and expenditures totaling approximately \$111,800 and to change the payee for expenditures totaling approximately \$16,450. Therefore, there is credible evidence that the respondent violated sections 254.031(a)(1), 254.031(a)(3), and 254.031(a)(6) 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 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; and 3) that each report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. 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-31010330.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Diana Maldonado, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
David A. Reisman, Executive Director