

TEXAS ETHICS COMMISSION

IN THE MATTER OF

ARTHUR C. REYNA, JR.,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31011404, SC-31011406, AND
SC-31011407

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 23, 2011, to consider sworn complaints SC-31011404, SC-31011406, and SC-31011407. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 254.031 of the Election Code, a law administered and enforced by the commission. To resolve and settle these complaints without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaints alleged that the respondent failed to disclose political contributions and political expenditures on campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. The respondent is Leon Valley City Council Member, District 2.
2. The complaints alleged that in March 2010, the respondent conducted a telephone poll of voters in Leon Valley to explore a possible race for mayor, and that in April 2010, the respondent mailed an endorsement letter on behalf of a Leon Valley city council candidate in the May 2010 election. The complaints further alleged that the respondent's activity was not disclosed on his campaign finance reports.

3. The evidence did not show that the respondent conducted a telephone poll of voters in Leon Valley.
4. The respondent acknowledged that he mailed a letter on behalf of another candidate for city council. The letter was mailed on or about April 29, 2010, after the April 28, 2010, ending date for the 8-day pre-election report for the May 2010 election. The respondent swore that a consultant provided "all services related to the mailing of the letter." The respondent further swore that, "Because the consultant did not give me an estimate of costs prior to mailing the letter, I did not have actual knowledge of the amount of the invoice – and expenditure in question – until I received it in the reporting period ending on December 31, 2010." The respondent submitted a copy of the invoice dated July 1, 2010. The respondent reported the \$732.73 political expenditure on Schedule G (political expenditures from personal funds) on his January 2011 semiannual report that was filed with the Leon Valley City Secretary on January 3, 2011.

IV. Findings and Conclusions of Law

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

1. Each campaign finance 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. 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).
3. A political expenditure is not considered to have been made until the amount is readily determinable by the person making the expenditure. ELEC. CODE § 254.035(a); Ethics Commission Rules § 20.57(a).
4. If under normal business practices, the amount of an expenditure is not known or readily ascertainable until receipt of a periodic bill, the date of the expenditure is the date the bill is received. Ethics Commission Rules § 20.57(b).
5. The evidence was inconclusive to show that the respondent conducted the telephone poll as alleged in the complaints. Therefore, there is insufficient evidence of violations of sections 254.031(a)(1) and 254.031(a)(3) of the Election Code.
6. Regarding the endorsement letter, although the respondent acknowledged that he did make a political expenditure to produce the endorsement letter, he stated that he did not have knowledge of the amount of the expenditure until he received the billing invoice on

July 1, 2010. Although the ending date for the May 2010 8-day pre-election report was April 28, 2010, and the letter was mailed on or about April 29, 2010, presumably the letter was prepared and the arrangements to distribute it were made during the 8-day reporting period. The respondent swore that the consultant did not provide an estimate of the cost. However, the amount of the expenditure appears to have been readily determinable because the respondent could have simply asked the consultant to provide the amount. (Unlike a periodic bill such as an electric bill or telephone bill where the amount may not be readily determined.) Therefore, there is credible evidence of violations 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 these sworn complaints.
2. The respondent consents to this order and agreed resolution and waives any right to further proceedings in these matters.
3. The respondent acknowledges that 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. The respondent agrees to comply with this requirement of the law.

VI. Confidentiality

This order and agreed resolution describes a violation that the commission has determined is 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 violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, and after considering the sanction necessary to deter future violations, the commission imposes an \$100 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-31011404, SC-31011406, and SC-31011407.

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

Arthur C. Reyna, Jr., Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director