

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
DAVID L. RAMOS,	§	
FORMER CAMPAIGN TREASURER,	§	TEXAS ETHICS COMMISSION
MCALLEN POLICE OFFICERS UNION -	§	
POLITICAL ACTION COMMITTEE,	§	
	§	
RESPONDENT	§	SC-31105140

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) held a preliminary review hearing on November 29, 2012, to consider sworn complaint SC-31105140. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 254.154 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, as campaign treasurer of a political committee, did not properly disclose political contributions and did not file pre-election campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. At the time relevant to the complaint, the respondent was campaign treasurer for the McAllen Police Officers Union Political Action Committee, a general-purpose committee.

Total Political Contributions Maintained

2. The complaint alleged that the respondent did not properly disclose total political contributions maintained on the July 2009 semiannual report. The report disclosed \$19,243.17 in total political contributions maintained. The complaint alleged that the report should have disclosed \$19,408.15 in total political contributions maintained.

Total Political Contributions

3. The complaint alleged that the respondent did not properly disclose total political contributions on the committee's July 2009 semiannual report. The report disclosed \$2,839 in total unitemized political contributions. The report disclosed \$0 in total political contributions. The complaint alleged that the respondent disclosed an incorrect amount of total political contributions. In response to the complaint, the respondent swore, "Reported Political Contributions was a \$200 error. The total amount should have been \$19,408.15. Since my resignation in October, 2009, I have not been able to access reports for corrections."

Filing of Pre-Election Reports

4. The complaint alleged that the respondent did not file 30-day and 8-day pre-election reports in connection with the November 2009 election.
5. At issue is the committee's January 2010 semiannual report. In the "Committee Activity" section of the report cover sheet that lists measures supported by the committee, the respondent disclosed "November 3, 2009 Binding Arbitration for Police." The report disclosed political expenditures totaling approximately \$18,036. The expenditures were made during the reporting periods for the 30-day and 8-day pre-election reports for the November 2009 election and appear to have been made in connection with that election. The purposes of the expenditures include "consultant for campaign for binding arbitration," "flyers and handouts for binding arbitration," "rent for campaign office for binding arbitration," and "rental of cell phones for calling voters concerning binding arbitration."
6. In response to the complaint, the respondent swore that he resigned from his position as campaign treasurer in October 2009 and thus, was no longer required to file reports. The respondent also swore that he no longer had access to the committee's account following his resignation. However, commission records show that the respondent was the treasurer on file for the committee during the period at issue. Additionally, on January 15, 2010, the respondent filed the January 2010 semiannual report, on which the activity in connection with the November 2009 election is disclosed.

IV. Findings and Conclusions of Law

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

Total Political Contributions Maintained

1. 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).
2. A *de minimis* error in calculating or reporting a cash balance under Subsection (a)(8) is not a violation of this section. ELEC. CODE § 254.031(a-1).
3. The difference between the amount originally disclosed and the correct amount does not exceed the lesser of 10% of the amount originally disclosed or \$2,500 and thus, is on its face *de minimis*. Therefore, there is credible evidence of no violation of section 254.031(a)(8) of the Election Code.

Total Political Contributions

4. Each campaign finance report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6).
5. The respondent disclosed the total amount of political contributions accepted by the committee during the reporting period in the space for total unitemized political contributions. The respondent did not disclose this information in the space for total political contributions. In addition, the respondent acknowledged that the amount was in error by \$200. In context, the error is *de minimis*. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(6) of the Election Code.

Filing of Pre-Election Reports

6. In addition to other required reports, for each election in which a general-purpose committee supports or opposes a candidate or measure, the committee's campaign treasurer shall file two reports. The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning the day the committee's campaign treasurer appointment is filed or the first day after the period covered by the committee's last required report, as applicable, and continuing through the 40th day before election day. ELEC. CODE § 254.154(b). The second report must be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. ELEC. CODE § 254.154(c).

7. Based on disclosures in the committee's January 2010 semiannual report, there is evidence that the committee had activity in connection with the November 2009 election and that the 30-day and 8-day pre-election reports were required. The 30-day and 8-day pre-election reports for the November 2009 election were due on October 5, 2009, and October 26, 2009, respectively. The reports were not filed. Therefore, there is credible evidence of violations of sections 254.154(b) and (c) 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: each campaign finance report must include the total amount of all political contributions accepted during the reporting period; in addition to other required reports, for each election in which a general-purpose committee supports or opposes a candidate or measure, the committee's campaign treasurer shall file two reports. The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning the day the committee's campaign treasurer appointment is filed or the first day after the period covered by the committee's last required report, as applicable, and continuing through the 40th day before election day. The second report must be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. 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 nature, circumstances, and consequences of the violations described under Sections III and IV, and the sanction necessary to deter future violations, the commission imposes a \$250 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-31105140.

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

David L. Ramos, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director