

# TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
D.V. FLORES,	§	
CAMPAIGN TREASURER,	§	TEXAS ETHICS COMMISSION
HOUSTON HISPANIC CHAMBER	§	
OF COMMERCE PAC,	§	
	§	
RESPONDENT	§	SC-31108178

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on December 14, 2011, to consider sworn complaint SC-31108178. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031 and 254.151 of the Election Code and section 20.62 of the Ethics Commission Rules, 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 on multiple campaign finance reports political expenditures, political contributions, and loans; and 2) did not include the residential or business street address of the campaign treasurer on multiple 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 campaign treasurer for the Houston Hispanic Chamber of Commerce PAC (HHCC), a general-purpose committee.

#### Total Political Contributions Maintained

2. The complaint alleged that the respondent failed to properly disclose total political contributions maintained in six campaign finance reports. The respondent corrected the reports as follows:

8-day pre-election report - \$1,009.50 in original report, corrected to \$2,009.50;  
January 2010 semiannual report - \$0 in original report, corrected to \$745.94;  
July 2010 semiannual report - \$0 in original report, corrected to \$745.94;  
30-day pre-election report - \$1,000 in original report, corrected to \$1,745.94;  
January 2011 semiannual report - \$0 in original report, corrected to \$1,745.94;  
July 2011 semiannual report - \$0 in original report, corrected to \$1,745.94.

### **Disclosure of Political Contributions**

3. The complaint alleged that the respondent did not itemize a political contribution of \$1,000 on the 30-day pre-election report filed in connection with the November 2, 2010, election.
4. The respondent disclosed \$1,000 in total political contributions on the original 30-day pre-election report filed in connection with the November 2, 2010, election. The respondent did not include Schedule A (used to itemize political contributions) with the original report. According to the corrected report, the HHCC received a \$1,000 political contribution from the "Andrews Kurth PAC" on September 29, 2010. In response to the complaint, the respondent swore that he inadvertently left Schedule A out of the original report.

### **Actual Payees of Political Expenditures for Reimbursement**

5. The complaint alleged that the respondent failed to disclose the actual vendor payees, addresses, dates, and amounts "pertaining to the stated purpose" of political expenditures in the 8-day pre-election report and the January 2010 semiannual report.
6. In the 8-day pre-election report, the respondent disclosed a political expenditure of \$1,840.80 made by a staff member for "reception expenses to support a candidate." The staff member bought supplies for a fundraising event using her own personal funds and was subsequently reimbursed by the HHCC. The respondent added all the expenditures made by the staff member and reported the transaction as a lump-sum amount.
7. In the January 2010 semiannual report, the respondent disclosed a non-political expenditure of \$1,000 made to a staff member for "reception expenses." The expenditure was for the repayment of a loan made by the staff member. Instead of reporting the loan repayment/staff reimbursement as a political expenditure on Schedule F (used for political expenditures), the respondent reported the reimbursement as a non-political expenditure on Schedule I (non-political expenditures).

### **Disclosure of Loan**

8. The complaint alleged that the respondent did not timely report the receipt of a loan on the January 2010 semiannual report.

9. The respondent originally disclosed a \$1,090.80 loan received on September 30, 2009, in the 8-day pre-election report that covered from September 25, 2009, through October 24, 2009. In response to the complaint, the respondent submitted a corrected 8-day pre-election report that changed the amount of the loan to \$1,840.80. The respondent made a \$1,000 payment towards the loan balance on December 14, 2009, leaving a remaining balance of \$840.80. In the January 2010 semiannual report at issue, the respondent improperly reported the remaining balance as a loan on Schedule E (used for loans), thus giving the appearance that a new loan was received on September 30, 2009. The evidence shows that a new loan was not received during that reporting period, although the report erroneously disclosed an \$840.80 loan.

### **Total Outstanding Loans**

10. The complaint alleged that the respondent failed to disclose the total principal amount of all outstanding loans as of the last day of the reporting period in the January 2010 and July 2010 semiannual reports, 30-day pre-election report, and the January 2011 and July 2011 semiannual reports.
11. The respondent reported an incorrect amount of total outstanding loans in the original 8-day pre-election report for the November 2009 election. The respondent originally reported the amount as \$1,090.80 and then subsequently changed the amount to \$1,840.80 in the corrected report. In addition, the respondent improperly reported the remaining loan balance from the 8-day pre-election period as a loan on Schedule E in all of the reports at issue, thus giving the appearance that a new loan was received during each reporting period. In response to the complaint, the respondent swore that the total principal amounts of all outstanding loans were correct in the reports at issue.

### **Address of Campaign Treasurer**

12. The complaint alleged that the respondent did not disclose the campaign treasurer's street address in the 8-day pre-election report, January 2010 and July 2010 semiannual reports, 30-day pre-election report, January 2011 and July 2011 semiannual reports.
13. The respondent listed a P.O. Box address for the campaign treasurer on the cover sheet of all reports at issue. The reports at issue did not include a residential or business street address for the campaign treasurer.

## **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. The respondent corrected all reports at issue. However, the original reports did not correctly disclose total political contributions maintained. Therefore, there is credible evidence of violations of section 254.031(a)(8) of the Election Code.

### **Disclosure of Political Contributions**

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. ELEC. CODE § 254.031(a)(1).
4. Since the political contribution at issue was \$1,000, the respondent was required to itemize the contribution on Schedule A. The respondent did not itemize the political contribution in the original report. Therefore, there is credible evidence of a violation of section 254.031(a)(1) of the Election Code.

### **Actual Payees of Political Expenditures for Reimbursement**

5. Each campaign finance 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. ELEC. CODE § 254.031(a)(3).

A political expenditure 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: (1) 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 (2) 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 by subsection (a) of this section, a political expenditure 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 must be reported as follows: (1) 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; (2) the expenditure made by the staff member is reported as a political expenditure by the officeholder, candidate, or political committee; and (3) 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.

6. Regarding the 8-day pre-election report, the respondent was required to itemize each expenditure made by the staff member to show to whom the expenditures were ultimately

made. Instead, the respondent added all the expenditures made by the staff member and reported the transaction as a lump-sum amount. Accordingly, the information was not correct when the respondent originally filed the report. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with respect to that report.

7. Regarding the January 2010 semiannual report, the evidence shows that the \$1,000 expenditure was made to a staff member for the repayment of a loan made in the previous reporting period. Although the respondent properly listed the staff member as the payee, the description of "reception expenses" coupled with the fact that the reimbursement was reported on the wrong schedule did not provide proper disclosure. The expenditure should have been disclosed as a loan repayment on Schedule F of the January 2010 semiannual report. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code with respect to that report.

### **Disclosure of Loan**

8. Each report must include the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person or committee required to file the report and that in the aggregate exceed \$50, the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amounts of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period. ELEC. CODE § 254.031(a)(2).
9. The respondent disclosed an incorrect loan amount on Schedule E of the original 8-day pre-election report and the original January 2010 semiannual report. There is credible evidence of violations of section 254.031(a)(2) of the Election Code.

### **Total Outstanding Loans**

10. Each report must include the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person or committee required to file the report and that in the aggregate exceed \$50, the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amounts of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period. ELEC. CODE § 254.031(a)(2).
11. According to the reports, the respondent received a \$1,840.80 loan from a staff member on September 30, 2009. The respondent subsequently made a \$1,000 payment towards the loan as a staff reimbursement on December 14, 2009, which left an outstanding loan balance of \$840.80. This is the amount that was disclosed in all reports at issue.

Therefore, there is credible evidence of no violations of section 254.031(a)(2) of the Election Code with respect to the reports at issue.

### **Address of Campaign Treasurer**

12. Each report by a campaign treasurer of a general-purpose committee must include the full name, residence or business street address, and telephone number of the committee's campaign treasurer. ELEC. CODE § 254.151(2).
13. As the campaign treasurer for the HHCC, the respondent was required to list his residential or business street address in all reports at issue. Rather than listing a street address, the respondent listed a P.O. Box address for the campaign treasurer in all reports at issue. Therefore, there is credible evidence of violations of section 254.151(2) 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 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. The respondent also acknowledges that 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. The respondent further acknowledges that each campaign finance 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 that expenditures made to reimburse a staff member must be disclosed in accordance with section 20.62 of the Ethics Commission Rules. The respondent further acknowledges that each report must include the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person or committee required to file the report and that in the aggregate exceed \$50, the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amounts of the loans guaranteed by each guarantor, and the aggregate principal amount

of all outstanding loans as of the last day of the reporting period. The respondent also acknowledges that each report by a campaign treasurer of a general-purpose committee must include the full name, residence or business street address, and telephone number of the committee's campaign treasurer.

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 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 \$300 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-31108178.

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

\_\_\_\_\_  
D.V. Flores, Respondent

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

Texas Ethics Commission

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