

# TEXAS ETHICS COMMISSION

IN THE MATTER OF

JOSE ROBERTO FLORES,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31207211

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on October 29, 2014, to consider sworn complaint SC-31207211. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031, 253.035, 254.0611, 254.061, and 253.1611 of the Election Code, and sections 20.61 and 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 disclose political contributions and political expenditures; 2) did not disclose the principal occupation and job title, and full name of the employer of each individual from whom he accepted political contributions that in the aggregate exceeded \$50 during the reporting period; 3) made prohibited political contributions to a political committee in excess of the amounts permitted; 4) did not properly report political expenditures for which he made reimbursements to himself; and 5) did not disclose on a campaign finance report the office sought.

### III. Facts Supported by Credible Evidence

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

1. The respondent is the district judge for the 139th Judicial District, Edinburg, Texas.
2. At issue are the respondent's July 2010, January and July 2011, and January 2012 semiannual reports. The respondent did not correct any of the reports at issue in response to the complaint.

**Actual Vendor Payee**

3. The complaint alleged that the respondent did not disclose the actual vendor payee for 26 political expenditures totaling approximately \$19,670 on the respondent's July 2010, July 2011, and January 2012 semiannual reports. Thirteen of the expenditures at issue, totaling approximately \$9,060, named payees other than the respondent.
4. The respondent disclosed the expenditures at issue on Schedule F (used to report political expenditures) of the January 2012 semiannual report as follows:
  - August 5, 2011, \$650 to an individual under the category of "Solicitation/Fundraising Expense" with a description of "Golf Campaign"
    - In response to the complaint, the respondent swore that the expenditure was for contract labor for a golf tournament
  - August 24, 2011, \$3,998.53 to an individual under the category of "Solicitation/Fundraising Expense" with a description of "Golf Tournament Golf Prices"
    - In response to the complaint, the respondent swore that the expenditure was for solicitation and fundraising expenses for fundraising activities
  - August 26, 2011, \$125 to an individual under the category of "Food/Beverage Expense" with a description of "Bartending Expense"
    - In response to the complaint, the respondent swore that the expenditure was for contract labor for bartending at a barbecue fundraiser
  - August 26, 2011, \$125 to an individual under the category of "Food/Beverage Expense" with a description of "Thanksgiving Lunch Golf Committee"
    - In response to the complaint, the respondent swore that the expenditure was for contract labor for a golf tournament
  - August 26, 2011, \$650 to an individual under the category of "Event Expense" with a description of "Golf Tournament Coordinator"
    - In response to the complaint, the respondent swore that the expenditure was for contract labor related to a golf tournament

- August 26, 2011, \$700 to an individual under the category of “Solicitation/Fundraising Expense” with a description of “Mariachi Aguililas”
  - In response to the complaint, the respondent swore that the expenditure was for Mariachi music for a barbecue event
- September 1, 2011, \$298.58 to an individual under the category of “Solicitation/Fundraising Expense” with a description of “Golf Tournament”
  - In response to the complaint, the respondent swore that the expenditure was for reimbursement for the purchase of items related to invitations for a golf tournament fundraiser
- September 7, 2011, \$43.14 to an individual under the category of “Food/Beverage Expense” with a description of “Golf Tournament Staff Meeting”
  - In response to the complaint, the respondent swore that the expenditure was for food and beverage expenses for a meeting to discuss campaign issues
- September 23, 2011, \$847.10 to an individual under the category of “Event Expense” and with a description of “Golf Tournament Door Prizes”
  - In response to the complaint, the respondent swore that the expenditure was for a solicitation or fundraising expense
- October 25, 2011, \$100 to an individual under the category of “Contributions/Donations Made By Candidate/Officeholder/Political Committee” with a description of “Benefit Barbeque”
  - In response to the complaint, the respondent swore that the expenditure was for a donation made by the candidates
- November 14, 2011, \$750 to an individual under the category of “Contributions/Donations Made By Candidate/Officeholder/Political Committee” with a description of “Donation – Fall Festival”
  - In response to the complaint, the respondent swore that the expenditure was for a donation for the Corina Elementary fall festival

- December 19, 2011, \$424.03 to an individual under the category of “Contributions/Donations Made By Candidate/Officeholder/Political Committee” with a description of “Donation for Luncheon”
  - In response to the complaint, the respondent swore that the expenditure was for food and beverage expenses for the DWI Court
- December 29, 2011, \$350 to an individual under the category of “Event Expense” with a description of “Photos Golf Tournament”
  - In response to the complaint, the respondent swore that the expenditure was for a photographer for a golf tournament fundraising expense

### **Reimbursement of Political Expenditures**

5. The complaint alleged that the respondent did not disclose the actual vendor payee for 26 political expenditures totaling approximately \$19,670 on the respondent’s July 2010, July 2011, and January 2012 semiannual reports. Thirteen of the expenditures at issue, totaling approximately \$10,600, named the respondent as payee.
6. Regarding 10 of the expenditures at issue totaling approximately \$9,450, the reports at issue disclosed the expenditures as reimbursements to the respondent for purposes such as “golf tournament,” “Mulligans,” “DWI training,” “purchase of postal box,” “fundraiser gift cards,” “expenses on seminar,” “campaign shirts,” and “door prizes.”
7. Regarding the remaining three expenditures at issue totaling approximately \$1,150, the reports at issue disclosed purposes of “food and beverage expense,” “gas expense,” and “printing expense” in connection with a golf tournament. The respondent swore that the three expenditures at issue were for reimbursements to himself.
8. There is no Schedule G (used for political expenditures from personal funds) on the reports at issue or any prior reports.

### **Purpose of Political Expenditures**

9. The complaint alleged that the respondent did not fully disclose the purposes of political expenditures in four campaign finance reports.

### **July 2010 Semiannual Report**

10. The complaint alleged that the respondent did not fully disclose the purposes of five political expenditures totaling approximately \$1,050. The political expenditures at issue were disclosed as follows:

- One expenditure to Post Master for \$100 with a description of “Donation”
  - In response to the complaint, the respondent swore that the expenditure was for a post office box and was an Office Overhead/Rental Expense.
- Four expenditures to Sprint totaling approximately \$950 with descriptions of “Cell Phone” or “Cell Phone – Payment”
  - The respondent swore that one of the expenditures was a duplicate entry. Regarding the remaining three expenditures, the respondent swore they were Office Overhead/Rental Expenses for a Sprint cell phone.

#### January 2011 Semiannual Report

11. The complaint alleged that the respondent did not fully disclose the purposes of seven political expenditures totaling approximately \$2,130. Regarding these expenditures, the respondent disclosed the payee as “Sprint” under the category of “OTHER – Cell phone expense” and a description of “Cell phone.”
12. In response to the complaint, the respondent swore that all the expenditures at issue were Office Overhead/Rental Expenses for a Sprint cell phone.

#### July 2011 Semiannual Report

13. The complaint alleged that the respondent did not fully disclose the purposes of six political expenditures totaling approximately \$1,370. The political expenditures at issue were disclosed as follows:
  - Three expenditures to Sprint totaling approximately \$700 under the category of “Loan Repayment/Reimbursement” and with descriptions of either “cell phone” or “cell phone expense”
  - One expenditure to Sprint totaling approximately \$240 under the category of “Contributions/Donations Made By Candidate/Officeholder/Political Committee” and with a description of “cell phone”
  - Two expenditures to Sprint totaling approximately \$430 under the category of “Fees” and with a description of either “Cell Phone” or “Sprint Cell Phone”
14. In response to the complaint, the respondent swore that all the expenditures at issue were Office Overhead/Rental Expenses for a Sprint cell phone.

January 2012 Semiannual Report

15. The complaint alleged that the respondent did not fully disclose the purposes of six political expenditures totaling approximately \$1,420. The political expenditures at issue were disclosed as follows:
- Two expenditures to Sprint PCS totaling approximately \$480 under the category of “Loan Repayment/Reimbursement” and with a description of “Cell Phone expense”
  - Four expenditures to Sprint PCS totaling approximately \$930 under the category of either “OTHER – Cell phone expense,” “OTHER – Sprint Cell Phone,” or “OTHER – Cell Phone” and with descriptions of either “Cell Phone” or “Sprint Cell Phone”
16. In response to the complaint, the respondent swore that all the expenditures at issue were Office Overhead/Rental Expenses for a Sprint cell phone.

**Name of Person Receiving Political Expenditures**

17. The complaint alleged that the respondent did not disclose the full names of persons receiving political expenditures on the respondent’s July 2010, January 2011, and January 2012 semiannual reports.
18. The identities of the persons receiving political expenditures were disclosed as follows:
- March 5, 2010, \$1,000 to VAMOS
    - The respondent swore the expenditure was a donation to VAMOS Scholarship Fund. VAMOS is an acronym for the Valley Alliance of Mentors for Opportunities and Scholarships.
  - June 23, 2010, \$100 to RGV Yankees
    - The respondent swore the expenditure was a donation to RGV Little League Baseball. RGV Yankees is an acronym for the Rio Grande Valley Yankees little league baseball team.
  - September 28, 2010, \$250 to PSJA – Quarterback
    - The respondent swore the expenditure was for advertising with the Pharr-San Juan-Alamo Quarterback Club as a sponsor for high school activities. PSJA ISD is an acronym used for the Pharr-San Juan-Alamo Independent School District.

- October 21, 2010, \$125 to UTPA Alumni Association
  - The respondent swore the expenditure was a donation to the University of Texas Pan American Alumni Association for university scholarships. UTPA is an acronym for the University of Texas Pan-American college campus.
- December 29, 2011, \$100 to Food Bank RGV
  - The respondent swore the expenditure was a contribution to a nonprofit. The Food Bank of the Rio Grande Valley is located at the same address disclosed by the respondent.
- September 29, 2011, \$250 to JRG Foundation
  - The respondent swore the expenditure was a donation by the respondent for advertising at a golf tournament. The JRG Foundation is a memorial foundation providing scholarships to Rio Grande Valley high school students.

#### **Total Political Contributions Maintained**

19. The complaint alleged that the respondent did not properly disclose total political contributions maintained on the respondent's January 2012 semiannual report.
20. The totals page of the respondent's July 2011 semiannual report disclosed \$0 in total political contributions maintained. The totals page of the respondent's January 2012 semiannual report disclosed \$152,950 in total political contributions and \$44,627.78 in total political expenditures. The totals page of the respondent's July 2012 semiannual report disclosed \$750 in total political contributions and \$17,697.12 in total political expenditures. The respondent did not address this allegation in his response to the complaint.

#### **Principal Occupation and Employer Information**

21. The complaint alleged that the respondent did not properly disclose the principal occupations, job titles, and/or names of employers for 91 contributions, totaling approximately \$86,500, disclosed on the respondent's January 2012 semiannual report.
22. Regarding 88 of the contributions at issue, the respondent left the principal occupation, job title, and employer fields blank. Regarding the remaining three contributions at issue, the respondent disclosed the following on Schedule A (used to report political contributions other than pledges or loans):

- \$500 from an individual, Principal Occupation: “Business Women” [sic], Job Title: “Business Women” [sic], Employer: “Self Employed”
  - \$500 from an individual, Principal Occupation: “Business Woman,” Job Title: “Business woman,” Employer: “Self Employed” [sic]
  - \$1,500 from an individual, Principal Occupation: “Businessman,” Job Title: “Businessman,” Employer: “Self Employed”
23. In response to the complaint, the respondent included additional occupation, job title, and employer information for a majority of the contributions at issue.

### **Office Sought**

24. The complaint alleged that the respondent did not disclose an office sought on his January 2012 semiannual report. The field on the cover sheet for “office sought” was left blank.
25. In response to the complaint, the respondent swore: “I am the Judge of the 139<sup>th</sup> District court. I am seeking reelection to the 139<sup>th</sup> District Court.”

### **Contributions to Political Committee When Not on Ballot**

26. The complaint alleged that the respondent made a prohibited political contribution to a political committee in connection with the May 2012 Democratic Party primary election. The respondent was a judicial officeholder during 2011 when the expenditure disclosed on the respondent’s January 2012 semiannual report was made.
27. The political contribution at issue was disclosed on Schedule F (used to report political expenditures) of the respondent’s January 2012 semiannual report as follows:
- November 29, 2011, \$500 to Hidalgo County Democratic Party (HCDP) with a category of “Advertising Expense” and a description of “Shirts, Cards”
28. Commission records show that the HCDP is a county executive committee that files campaign finance reports semiannually with the commission. The expenditure at issue was disclosed as a political contribution in HCDP’s January 2012 semiannual report. The respondent did not address this allegation in his response to the complaint.

#### IV. Findings and Conclusions of Law

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

##### Actual Vendor Payee

1. A campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 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).
2. Ethics Commission Rules § 20.62 states that political expenditures made out of personal funds by a staff member of an officeholder or candidate, with the intent to seek reimbursement from the officeholder or candidate, 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 \$100 (\$50 prior to September 28, 2011) 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 \$100 (\$50 prior to September 28, 2011) or less made during the reporting period.

Ethics Commission Rules § 20.62.

3. Regarding the \$298.58 expenditure to an individual, the respondent swore that the payment was made as a reimbursement for the purchase of items related to invitations for a golf tournament fundraiser. The expenditure at issue only shows the name of the individual who was reimbursed, and not the ultimate payee to whom the political expenditure was made. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.
4. Regarding two expenditures to an individual totaling approximately \$470 for food and beverage expenses, there is insufficient evidence that the respondent did not disclose the actual vendor payee. Therefore, there is insufficient evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with respect to those two expenditures.
5. Regarding four expenditures totaling approximately \$1,550, there is credible evidence that the respondent disclosed the actual vendor payees for those expenditures. Therefore, there is

credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with respect to those four expenditures.

6. Regarding three expenditures totaling approximately \$1,800, there is credible evidence that the respondent disclosed the actual vendor payees for those expenditures. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with respect to those three expenditures.
7. Regarding the remaining three expenditures totaling approximately \$4,950, there is no evidence that the respondent did not disclose the correct vendor payees for those expenditures. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules with respect to those three expenditures.

### **Reimbursement of Political Expenditures**

8. A campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 (\$50 prior to September 28, 2011) 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).
9. A candidate who makes political expenditures from the candidate's personal funds may reimburse those personal funds from political contributions in the amount of those expenditures only if the expenditures from personal funds were fully reported as political expenditures, including the payees, dates, purposes, and amounts of the expenditures, in the report required to be filed under this title that covers the period in which the expenditures from personal funds were made, and the report on which the expenditures from personal funds are disclosed clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement. *Id.* § 253.035(h).
10. The 13 expenditures at issue totaling approximately \$10,600 exceeded the threshold amounts and thus were required to be itemized. The respondent was also required to itemize these expenditures under section 253.035(h) of the Election Code if he intended to seek reimbursement for the expenditures.
11. The respondent reimbursed himself for these expenditures without itemizing them. Therefore, there is credible evidence of a violation of sections 253.035(h) and 254.031(a)(3) of the Election Code with respect to the 13 expenditures at issue.

### **Purpose of Political Expenditures**

12. A campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 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).

13. Prior to July 1, 2010, Ethics Commission Rules § 20.61 required that the report of a political expenditure for goods or services must describe the categories of goods or services received in exchange for the expenditure. Ethics Commission Rules § 20.61.
14. On December 2, 2009, the commission adopted changes to Ethics Commission Rules § 20.61 to require additional information concerning the purpose of expenditures. This rule affected expenditures made after July 1, 2010. Ethics Commission Rules § 20.61 currently states that the purpose of an expenditure means a description of goods, services, or other thing of value **and** must include a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. The brief statement or description must include the item or service purchased and must be sufficiently specific, when considered within the context of the description of the category, to make the reason for the expenditure clear. Merely disclosing the category of goods, services, or other thing of value for which the expenditure is made does not adequately describe the purpose of an expenditure. Ethics Commission Rules § 20.61.

#### July 2010 Semiannual Report

15. The five expenditures at issue were made prior to July 1, 2010. Regarding the expenditure to Post Master, the respondent swore that the expenditure was for a post office box. Accordingly, the purpose description provided by the respondent was not sufficient. Therefore, there is credible evidence of a violation of section 254.031(a)(3) and section 20.61 of the Ethics Commission Rules with respect to that expenditure.
16. Regarding the remaining four expenditures at issue, the purpose descriptions provided by the respondent were sufficient. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules.

#### January 2011 Semiannual Report

17. For the seven political expenditures totaling approximately \$2,130, the purpose description merely repeated the category of the expenditure. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules with respect to those expenditures.

#### July 2011 Semiannual Report

18. For five expenditures to Sprint totaling approximately \$1,130, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules.

19. For one expenditure to Sprint totaling approximately \$240, the respondent provided an incorrect category. In context, the error did not substantially affect disclosure. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules.

#### January 2012 Semiannual Report

20. For two expenditures to Sprint totaling approximately \$480, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules.
21. For the remaining four expenditures to Sprint totaling approximately \$930, the purpose description merely repeated the category of the expenditure. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.61 of the Ethics Commission Rules with respect to those expenditures.

#### **Name of Person Receiving Political Expenditures**

22. A campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 (\$50 until September 28, 2011) 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).
23. All but one of the expenditures at issue were made prior to September 28, 2011. Regarding four of the expenditures at issue, the respondent disclosed an acronym that is commonly used as the name of the payee. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code with regard to these expenditures.
24. Regarding the expenditure to JRG Foundation, there is credible evidence that the respondent disclosed the full name of the entity at issue. Therefore, there is credible evidence of no violation of section 254.031(a)(3) of the Election Code with regard to this expenditure.
25. Regarding the expenditure to PSJA – Quarterback, the payee name was incomplete as originally reported. However, the error did not substantially affect disclosure. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.031(a)(3) of the Election Code with regard to this expenditure.

#### **Total Political Contributions Maintained**

26. 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).

27. The total amount of political contributions maintained in one or more accounts includes balance on deposit in banks, savings and loan institutions and other depository institutions, and the present value of any investments that can be readily converted to cash, such as certificates of deposit, money market accounts, stocks, bonds, treasury bills, etc. Ethics Commission Rules § 20.50(a).
28. There is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code.

### **Principal Occupation and Employer Information**

29. Each report by a candidate for a judicial office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate exceed \$50 and that are accepted during the reporting period:
  - (A) the principal occupation and job title of the individual and the full name of the employer of the individual or of the law firm of which the individual or the individual's spouse is a member, if any; or
  - (B) if the individual is a child, the full name of the law firm of which either of the individual's parents is a member, if any.

ELEC. CODE § 254.0611.

30. Regarding 88 of the political contributions at issue totaling approximately \$84,000, the respondent left the principal occupation, job title, and employer fields blank. Therefore, there is credible evidence of violations of section 254.0611 of the Election Code with respect to those contributions.
31. Three of the political contributions at issue were given by individuals whose name is included in the name of the company that employs them. The commission has previously found that it is not a violation of the law if "self-employed" is disclosed for the employer of a contributor when their name is included in the name of the company that employs them. Thus, the respondent's disclosure of "self-employed" for the employer of the three contributors at issue was correct. Therefore, there is credible evidence of no violation of section 254.0611 of the Election Code with respect to the employer regarding those three contributions.
32. The respondent did not disclose the correct principal occupation and job title for three of the contributions at issue totaling approximately \$2,500. Therefore, there is credible evidence of violations of section 254.0611 of the Election Code with respect to the principal occupation and job titles regarding those three contributions.

**Office Sought**

33. Each report by a candidate must include the candidate's full name and address, the office sought, and the identity and date of the election for which the report is filed. ELEC. CODE § 254.061(1).
34. The respondent did not disclose an office sought on the cover page of his July 2012 semiannual report. In context, the error was not misleading and did not substantially affect disclosure. Therefore, there is credible evidence of a technical or *de minimis* violation of section 254.061 of the Election Code.

**Contributions to Political Committee When Not on Ballot**

35. A judicial officeholder may not, in any calendar year in which the office held is not on the ballot, use a political contribution to knowingly make a political contribution to a political committee that, when aggregated with each other political contribution to a political committee in that calendar year, exceeds \$250. ELEC. CODE § 253.1611(d).
36. This section does not apply to a political contribution made to the principal political committee of the state executive committee or a county executive committee of a political party that is (1) made in return for goods or services, including political advertising or a campaign communication, the value of which substantially equals or exceeds the amount of the contribution, or (2) in an amount that is not more than the candidate's or officeholder's pro rata share of the committee's normal overhead and administrative or operating costs. *Id.* § 253.1611(e)(1), (2).
37. "Contribution" means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. *Id.* § 251.001(2).
38. "Campaign contribution" means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. Whether a contribution is made before, during, or after an election does not affect its status as a campaign contribution. *Id.* § 251.001(3).
39. "Officeholder contribution" means a contribution to an officeholder or political committee that is offered or given with the intent that it be used to defray expenses that are incurred by the officeholder in performing a duty or engaging in an activity in connection with the office and are not reimbursable with public money. *Id.* § 251.001(4).
40. "Political contribution" means a campaign contribution or an officeholder contribution. *Id.* § 251.001(5).

41. “Political committee” means a group of persons that has as a principal purpose accepting political contributions or making political expenditures. *Id.* § 251.001(12).
42. District judges in the state of Texas serve four-year terms. TEX. CONST. ART. V, § 7.
43. Since the respondent was reelected as district judge in November 2008, he was not up for reelection until 2012. Therefore, the respondent’s office of district judge was not on the ballot in 2011, the calendar year when the political contribution at issue was made. Thus, the respondent could not use political contributions to make political contributions to a political committee that exceeded \$250 in 2011, unless the exception in section 253.1611(e) of the Election Code applied.
44. There is credible evidence that the \$500 contribution to the HCDP was made in return for goods or services. However, there is no evidence to establish that the value of the goods or services received exceeded the amount of the respondent’s contributions to the committee. Therefore, there is credible evidence of a violation of section 253.1611(d) of the Election Code with respect to those expenditures.

#### **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 campaign finance report must include the amount of political expenditures that in the aggregate exceed \$100 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 acknowledges that political expenditures made out of personal funds by a staff member of an officeholder or candidate, with the intent to seek reimbursement from the officeholder or candidate, 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 \$100 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 \$100 or less made during the reporting period.

The respondent acknowledges that a candidate or officeholder who makes political expenditures from the candidate's or officeholder's personal funds may reimburse those personal funds from political contributions in the amount of those expenditures only if the expenditures from personal funds were fully reported as political expenditures, including the payees, dates, purposes, and amounts of the expenditures, in the report required to be filed under this title that covers the period in which the expenditures from personal funds were made, and the report on which the expenditures from personal funds are disclosed clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement.

The respondent acknowledges that the purpose of an expenditure means a description of goods, services, or other thing of value and must include a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. The brief statement or description must include the item or service purchased and must be sufficiently specific, when considered within the context of the description of the category, to make the reason for the expenditure clear. Merely disclosing the category of goods, services, or other thing of value for which the expenditure is made does not adequately describe the purpose of an expenditure.

The respondent acknowledges that each report by a candidate for a judicial office must include, for each individual from whom the person filing the report has accepted political contributions that in the aggregate exceed \$50 and that are accepted during the reporting period: (A) the principal occupation and job title of the individual and the full name of the employer of the individual or of the law firm of which the individual or the individual's spouse is a member, if any; or (B) if the individual is a child, the full name of the law firm of which either of the individual's parents is a member, if any.

The respondent acknowledges that each report by a candidate must include the candidate's full name and address, the office sought, and the identity and date of the election for which the report is filed.

The respondent acknowledges that a judicial officeholder may not, in any calendar year in which the office held is not on the ballot, use a political contribution to knowingly make a political contribution to a political committee that, when aggregated with each other political contribution to a political committee in that calendar year, exceeds \$250.

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 after considering the sanction necessary to deter future violations, the commission imposes a \$1,000 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-31207211.

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

\_\_\_\_\_  
Jose Roberto Flores, Respondent

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

Texas Ethics Commission

By: \_\_\_\_\_  
Natalia Luna Ashley,  
Executive Director