

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ROQUE VELA, JR.,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31610196, SC-31610197,
SC-31610198, AND SC-31610199

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) held a preliminary review hearing on July 11, 2017, to consider sworn complaints SC-31610196, SC-31610197, SC-31610198, and SC-31610199. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 254.031 and 254.036 of the Election Code and section 20.61 of the Ethics Commission Rules, laws 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: 1) did not file campaign finance reports on forms prescribed by the Commission; 2) filed campaign finance reports that were not accompanied by completed sworn affidavits; 3) did not properly disclose political contributions and political expenditures; and 4) accepted a political contribution from a corporation.

III. Facts Supported by Credible Evidence

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

1. The respondent was the Laredo City Council Member for District 5 and was up for re-election at all times relevant to the complaint.
2. The reports at issue are the January and July 2015 and January and July 2016 semiannual reports.

Reporting Political Contributions and Expenditures on Forms Prescribed by the Commission and Including Notarized Report Affidavits

3. The respondent attached sheets of paper disclosing 61 political contributions totaling approximately \$51,400 behind each Form Schedule A or A1 (Schedules used to disclose

political contributions). The respondent also attached sheets of paper disclosing 40 political expenditures totaling \$20,571.84 behind each Form Schedule F or F1 (Schedules used to disclose political expenditures).

4. The respondent did not include a notary stamp with each report at issue. In response to the complaint the respondent filed corrected reports.

Disclosure of Political Contributions and Expenditures

5. The respondent did not disclose the complete addresses of the contributors of 76 political contributions that exceeded \$50 each, totaling \$63,400, and the payees of 54 political expenditures that exceeded \$100 each, totaling \$24,778.53. In response to the complaint, the respondent corrected some of the errors.
6. The respondent also did not disclose descriptions of 51 political expenditures that exceeded \$100 each, totaling \$23,028.53.

Political Contribution from a Corporation

7. The respondent disclosed accepting a \$500 political contribution on November 12, 2015, from an entity that is listed as a for-profit corporation with the Texas Secretary of State, in his January 2016 semiannual report.
8. The respondent claimed that he did not know that the contributor was a corporation when he accepted the contribution. He also stated that at the time he accepted the contribution, he did not know that political contributions from corporations were prohibited.

IV. Findings and Conclusions of Law

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

Reporting Political Contributions and Expenditures on Forms Prescribed by the Commission and Including Notarized Report Affidavits

1. Each report filed under this chapter with an authority other than the commission must be in a format prescribed by the commission. ELEC. CODE § 254.036(a).
2. Each report filed under this chapter that is not filed by electronic transfer must be accompanied by an affidavit executed by the person required to file the report. The affidavit must contain the statement: "I swear, or affirm, under penalty of perjury, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code." *Id.* § 254.036(h).

3. Credible evidence shows, in each report at issue, the respondent disclosed political contributions and expenditures on blank sheets of paper, which is a format not prescribed by the Commission. Credible evidence shows the respondent did not properly notarize the reports at issue. Therefore, there is credible evidence of violations of section 254.036(a) and (h) of the Election Code.

Disclosure of Political Contributions and Expenditures

4. A 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).
5. 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 the expenditures are made, and the dates and purposes of the expenditures. *Id.* § 254.031(a)(3).
6. For reporting required under section 254.031 of the Election Code, the purpose of an expenditure means: (1) A description of the category of goods, services, or other thing of value for which an expenditure is made. (2) 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(a).
7. Credible evidence shows that the respondent did not disclose the addresses of the contributors of 76 political contributions that exceeded \$50 each, totaling \$63,400, and the addresses of the payees of 54 political expenditures that exceeded \$100 each, totaling \$24,778.53. Credible evidence also shows that the respondent did not disclose descriptions of 51 political expenditures that exceeded \$100 totaling \$23,028.53. Therefore, there is credible evidence of violations of sections 254.031(a)(1) and 254.031(a)(3) of the Election Code and section 20.61(a) of the Ethics Commission Rules.

Political Contribution from a Corporation

8. A person may not knowingly accept a political contribution that the person knows was made in violation of Chapter 253 of the Election Code. ELEC. CODE § 253.003.

9. A corporation or labor organization may not make a political contribution or political expenditure that is not authorized by Subchapter D, Chapter 253, Election Code. *Id.* § 253.094.
10. The prohibition applies to corporations that are organized under the Texas Business Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation Act, the Texas Nonprofit Corporation Law, federal law, or law of another state or nation. *Id.* § 253.091.
11. Credible evidence shows that the contributor of the contribution at issue was a corporation. The respondent claimed that he did not know that the contributor was a corporation when he accepted the contribution, and that he was unaware of the prohibition on corporate contributions. There is insufficient evidence of a violation of sections 253.003 and 253.094 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 this matter.
3. The respondent acknowledges that: 1) campaign finance reports filed with an authority other than the commission must be in a format prescribed by the commission; 2) campaign finance reports that are not filed electronically must contain a properly completed affidavit; 3) campaign finance reports 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; 4) campaign finance reports 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 the expenditures are made, and the dates and purposes of the expenditures; and 5) the purpose of an expenditure means: (1) a description of the category of goods, services, or other thing of value for which an expenditure is made, and (2) a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. 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 \$1,700 civil penalty if the respondent returns the corporate contribution within 30 days of receipt of the order; a \$2,500 civil penalty if the respondent returns the corporate contribution within 30-60 days of receipt of the order; and a \$4,000 civil penalty if the respondent does not return the corporate contribution within 60 days of receipt of the order. To the extent the contribution is returned, the respondent shall furnish proof to the Commission of the returned contribution.

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-31610196, SC-31610197, SC-31610198, and SC-31610199.

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

Roque Vela, Jr., Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Seana Willing, Executive Director