

TEXAS ETHICS COMMISSION

IN THE MATTER OF

CARLOS A. ELIZONDO,
FORMER CAMPAIGN TREASURER,
BROWNSVILLE FIREFIGHTERS
FOR RESPONSIBLE GOVERNMENT,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31708130

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on March 21, 2019, to consider sworn complaint SC-31708130. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 253.031(b), 253.003, and 253.005 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 the former campaign treasurer of the Brownsville Firefighters for Responsible Government political committee (“the PAC”): 1) accepted political contributions and/or made or authorized political expenditures on behalf of the PAC at a time when a campaign treasurer appointment was not in effect for the committee; 2) knowingly made a political contribution in violation of chapter 253 of the Election Code and/or knowingly accepted a political contribution the respondent knew was made in violation of chapter 253 of the Election Code, by continuing to accept political contributions on behalf of the PAC at a time when a campaign treasurer appointment was not in effect; and 3) made or authorized political expenditures from contributions the respondent knew were accepted in violation of chapter 253 of the Election Code because they were accepted by the PAC at a time when a campaign treasurer appointment was not in effect.

III. Facts Supported by Credible Evidence

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

1. The respondent is the former fire chief for the Brownsville Fire Department.
2. In addition to being chief, the respondent is the former campaign treasurer for the PAC, which is affiliated with the local firefighter union. He was appointed campaign treasurer on June 12, 2008.
3. On April 21, 2010, the Commission voted to terminate the respondent's campaign treasurer appointment after he failed to file campaign finance reports on behalf of the PAC. The termination was effected on May 21, 2010.
4. The respondent filed the January 2009 semiannual report late, and then failed to file the subsequent two semiannual reports. The respondent paid a civil penalty for failing to file the semiannual reports. The failure to file the two semiannual reports also prompted the Commission to terminate his campaign treasurer appointment.
5. The campaign treasurer termination took place at a public meeting for which the respondent was provided notice. The Commission also notified the respondent of its decision to terminate the treasurer appointment and notified the respondent that termination would be effective 30 days after the meeting.
6. The respondent claims not to have received the notices, but they were sent to his address where previous notices of late reports were sent and responded to by him.
7. Despite having its campaign treasurer appointment terminated, the PAC continued to accept political contributions through payroll deductions from union members for the next seven years. The PAC also made political expenditures.
8. The respondent had access to the PAC bank account and books until he was replaced as union treasurer at the beginning of March 2017.
9. In early 2017, the union changed leadership. The new leadership gained control of the books and conducted an internal audit of PAC activity.
10. The complaint filed with the Commission alleged that after the Commission terminated the PAC's treasurer appointment, the respondent continued to knowingly accept political contributions and make political expenditures on behalf of the PAC.
11. At issue in this complaint is conduct from September 19, 2015 (two years before the complaint was filed), to February 28, 2017 (when the PAC appointed a new treasurer).

12. During the time period at issue in the complaint, the PAC had limited activity detailed below.

Date	Description	Incoming	Outgoing
9/25/2015	Membership Dues	\$323.00	
10/9/2015	Membership Dues	\$323.00	
10/15/2015	Service Charges		\$15.00
10/19/2015	Creasvs Bowling		\$56.99
10/26/2015	Membership Dues	\$323.00	
11/6/2015	Membership Dues	\$320.00	
11/16/2015	Service Charges		\$15.00
11/20/2015	Membership Dues	\$320.00	
12/4/2015	Membership Dues	\$320.00	
12/15/2015	Service Charges		\$15.00
12/18/2015	Membership Dues	\$317.00	
12/31/2015	Membership Dues	\$349.00	
9/9/2016	Membership Fees	\$297.00	
9/14/2016	Business Checks		\$51.70
9/23/2016	Membership Fees	\$294.00	
10/7/2016	Membership Fees	\$294.00	
10/21/2016	Membership Fees	\$294.00	
11/4/2016	Membership Fees	\$294.00	
11/18/2016	Membership Fees	\$294.00	
12/2/2016	Membership Fees	\$294.00	
12/16/2016	Membership Fees	\$286.00	
12/30/2016	Membership Fees	\$283.00	
1/13/2017	Membership Fees	\$283.00	
1/27/2017	Membership Fees	\$283.00	
2/10/2017	Membership Fees	\$285.50	
2/24/2017	Membership Fees	\$285.50	
Total		\$6,362.00	\$153.69

13. In response to the complaint, the respondent claimed that he was not responsible for the PAC spending, or at least not solely responsible. He claimed that the PAC Chair directed his activities over the disposition of PAC funds. In support of the claim that he did not exercise control over the PAC funds, he submitted contemporaneous emails, text messages, and union meeting minutes that showed at times he was directed by the PAC chairman, and at other times the union made formal or informal PAC decisions collectively.
14. The new leadership of the PAC alleged that the respondent had control over the PAC books and bank account, and that they did not know the respondent was not filing reports with the Commission and had his campaign treasurer appointment terminated.

IV. Findings and Conclusions of Law

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

1. It is a violation of chapter 253 of the Election Code for a political committee to knowingly accept political contributions totaling more than \$500 or make or authorize political expenditures totaling more than \$500 at a time when a treasurer appointment for the committee is not in effect. ELEC. CODE. § 253.031(b).
2. A person may not knowingly make a political contribution in violation of chapter 253 of the Election Code. *Id.* § 253.003(a). A person may not knowingly accept a political contribution the person knows to have been made in violation of chapter 253 of the Election Code. *Id.* § 253.003(b).
3. A person may not knowingly make or authorize a political expenditure in violation of chapter 253 of the Election Code. *Id.* § 253.004(a).
4. In addition, a person may not knowingly make or authorize a political expenditure wholly or partly from a political contribution the person knows to have been made in violation of chapter 253 of the Election Code. *Id.* § 253.005.
5. The Commission may by vote terminate a campaign treasurer appointment if it deems the campaign treasurer inactive. *Id.* § 252.0131. Once a campaign treasurer appointment has been terminated, a political committee may not accept political contributions or make political expenditures before filing a new campaign treasurer appointment. *See id.* § 253.031(b).
6. The Commission met on April 21, 2010 and voted to terminate the campaign treasurer of the PAC. The Commission sent notice to the respondent before and after the vote to terminate his campaign treasurer appointment for the PAC (although the respondent disputes that he received such notice).
7. After the termination of the campaign treasurer appointment, the respondent continued to accept political contributions on behalf of the PAC through the union's payroll deduction. He also appears to have made political expenditures. Based on a review of the PAC bank records for the time period at issue, the political contributions totaled \$6,362. The expenditures totaled \$153.69.
8. There is no evidence the respondent made any attempt to continue to file reports despite having been twice fined for failure to file reports before the termination of his campaign treasurer appointment. That the respondent twice paid civil penalties for failing to file campaign finance reports indicates his knowledge that accepting political contributions and making political expenditures on behalf of a political committee triggers reporting requirements, including maintaining a campaign treasurer appointment. Despite having his campaign treasurer appointment terminated for failing to file campaign finance reports,

credible evidence indicates the respondent continued to knowingly operate the PAC in violation of chapter 253 of the Election Code.

9. Therefore, there is credible evidence that the respondent, on behalf of the PAC at a time when it did not have a campaign treasurer appointment on file, accepted political contributions and made political expenditures from political contributions accepted in violation of Chapter 253 of the Election Code. This constitutes a violation of sections 253.031(b), 253.003, and 253.005 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: 1) a person may not knowingly make or authorize a political expenditure in violation of chapter 253 of the Election Code; 2) a person may not knowingly accept a political contribution the person knows to have been made in violation of chapter 253 of the Election Code; 3) a person may not knowingly make or authorize a political expenditure wholly or partly from a political contribution the person knows to have been made in violation of chapter 253 of the Election Code; and 4) a political committee may not knowingly accept political contributions totaling more than \$500 or make or authorize political expenditures totaling more than \$500 at a time when a treasurer appointment for the committee is not in effect. 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-31708130.

AGREED to by the respondent on this _____ day of _____, 2019.

Carlos A. Elizondo, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Executive Director