

TEXAS ETHICS COMMISSION

IN THE MATTER OF
DANIEL CHAVEZ,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2411209, SC-2411210

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission met on July 14, 2005, to consider sworn complaints SC-2411209 and SC-2411210. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of sections 254.061(2) and 254.031(a)(8) of the Election Code and a technical or *de minimis* violation of sections 254.031(a)(5) and 254.036(a) of the Election Code, laws administered and enforced by the commission. To resolve this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaints allege the following violations:

1. That the respondent failed to include information about his campaign treasurer on a January 2004 semiannual report.
2. That the respondent failed to include the total political contributions maintained (cash on hand) at the end of the reporting period for five campaign finance reports.
3. That the respondent failed to include the total amount of political contributions of \$50 or less on the report due 30 days before the primary election.
4. That the respondent failed to include the names and addresses of contributors on three reports.
5. That the respondent failed to disclose the names and addresses of payees to whom political expenditures exceeding \$50 were made.
6. That the respondent failed to fully disclose political contributions, based on the report due 8 days before the general election that discloses \$180.63 in total political contributions but discloses \$7,761.21 in total political expenditures.

III. Facts Supported by Credible Evidence

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

1. The respondent was an unsuccessful candidate in a November 2004 election for state representative.
2. The respondent was unopposed in the March 2004 primary election.
3. The respondent's January 2004 semiannual report did not disclose the name, address, or telephone number of his campaign treasurer.
4. The respondent's reports did not include the total political contributions maintained as of the last day of the reporting period.
5. The respondent's 30-day pre-election report for the 2004 primary election disclosed \$3,150 in political contributions on Schedule A and on a memo of the report instead of the cover page of the report. The full name of the contributor was "Fundraiser 01-06-04" and the memo stated that the contribution consisted of multiple contributions of \$50 or less.
6. The respondent's 30-day pre-election report for the 2004 general election disclosed \$75 in political contributions on Schedule A of the report instead of the cover page of the report. The full name of the contributor was "u/\$50 Total Donations."
7. A copy of the respondent's July 2004 semiannual report that was submitted by the complainant did not include the street addresses for two persons who made political contributions to the respondent.
8. Commission records show that the July 2004 semiannual report included the full addresses of both contributors when it was originally filed electronically with the commission.
9. The respondent's July 2004 semiannual report included an expenditure of \$185.40 to "Workers Campaign."
10. The report due 30 days before the general election included three expenditures to "Workers Campaign," totaling \$1,050.
11. The report due eight days before the general election included two expenditures to "Campaign Workers," totaling \$725.
12. The respondent swears that "all political expenditures over \$50 would need the name and address" and that "[t]he information is correct and was filed timely."

13. The respondent's 8-day pre-election report for the general election discloses \$180.63 in total political contributions but discloses \$7,761.21 in total political expenditures. The respondent itemized numerous political expenditures totaling \$7,761.21 on the report's Schedule G, which designates the expenditures as being made from personal funds, not from political contributions.
14. At the time the 8-day pre-election report for the general election was filed, all of the reports at issue disclosed a combined total of \$3,685.63 in political contributions. The reports also disclosed \$12,744.75 in political expenditures, of which \$11,147.47 were from the respondent's personal funds.

IV. Findings and Conclusions of Law

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

Campaign Treasurer Information

1. A candidate must include in each campaign finance report the campaign treasurer's name, residence or business street address, and telephone number. ELEC. CODE § 254.061(2).
2. The respondent's January 2004 report does not include the name, address, or telephone number of his campaign treasurer. Therefore, there is credible evidence that the respondent violated section 254.061(2) of the Election Code.

Total Political Contributions Maintained

3. Each report must include the total amount of political contributions maintained as of the last day of the reporting period. ELEC. CODE § 254.031(a)(8).
4. None of the reports included the total political contributions maintained as of the last day of the reporting period. Therefore, there is credible evidence that the respondent violated section 254.031(a)(8) of the Election Code.

Total Amount of Political Contributions of \$50 or Less

5. Each report must include the total amount or a specific listing of the political contributions of \$50 or less accepted during the reporting period. ELEC. CODE § 254.031(a)(5).
6. The total amount of contributions of \$50 or less that are not itemized are required to be reported on the totals page of each report.
7. The respondent's 30-day pre-election report for the 2004 primary included a \$3,150 contribution from "Fundraiser 01-06-04" and an attachment that explained the contribution. The report did not disclose any political contributions of \$50 or less on its totals page.

8. Although the report was not due because the respondent was unopposed in the primary election, a report must include the information required by section 254.031 of the Election Code and must be on a form prescribed by the commission, even if the report is not required. ELEC. CODE § 254.036(a).
9. The required information was included in the incorrect location on the report. Therefore, there is credible evidence that the respondent committed technical or *de minimis* violations of sections 254.031(a)(5) and 254.036(a) of the Election Code.

Names and Addresses of Contributors

10. Each report must include the full name and address of a person who made political contributions that in the aggregate exceed \$50 and are accepted during the reporting period, in addition to the amount and date of each contribution. ELEC. CODE § 254.031(a)(1).
11. The respondent's 30-day pre-election report for the 2004 primary election incorrectly disclosed \$3,150 in contributions on the contribution schedule of the appropriate section on the cover page that is used to disclose "political contributions of \$50 or less."
12. The respondent's 30-day pre-election report for the 2004 general election incorrectly disclosed \$75 in contributions on the contribution schedule of the appropriate section on the cover page that is used to disclose "political contributions of \$50 or less."
13. The evidence shows that these contributions were made by multiple persons who gave \$50 or less in the reporting period. Therefore, there is credible evidence that the respondent did not violate section 254.031(a)(1) of the Election Code in connection with these reports.
14. Although the copy of the respondent's July 2004 semiannual report submitted by the complainant does not show the full addresses of contributors, commission records show that the full names and addresses were included with the report when it was filed, and the addresses were not included with the copy because it was obtained from the commission's website. The commission is required to remove that information when a report is posted on its website. Therefore, there is credible evidence that the respondent did not violate section 254.031(a)(1) of the Election Code by failing to fully disclose contributions.

Names and Addresses of Payees

15. Each report must include the full name and address of the persons to whom expenditures exceeding \$50 (in the aggregate) were made, in addition to the dates and purposes of those expenditures. ELEC. CODE § 254.031(a)(3).
16. There is insufficient evidence that the respondent violated section 254.031(a)(3) of the Election Code by failing to include the full names and addresses of payees in connection with political expenditures to "Campaign Workers" or "Workers Campaign."

Failure to Disclose All Political Contributions

17. Each report must include the total amount of all political contributions accepted during the reporting period. ELEC. CODE § 254.031(a)(6).
18. The six reports at issue in this complaint show that the respondent accepted a total of \$3,685.63 in political contributions and used \$1,597.28 of these contributions for political expenditures. All other disclosed expenditures were made from personal funds. Therefore, there is credible evidence that the respondent did not violate section 254.031(a)(6) 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 these matters.
3. The respondent acknowledges that a candidate must include in each campaign finance report the campaign treasurer's name, residence or business street address, and telephone number. The respondent also acknowledges that each report must be on a form prescribed by the commission and must include: (1) the total amount of political contributions maintained as of the last day of the reporting period and (2) the total amount or a specific listing of the political contributions of \$50 or less accepted during the reporting period. The respondent agrees to comply with these requirements of the law.

VI. Confidentiality

This order and agreed resolution describes one or more 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 seriousness of 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 \$500 civil penalty for the violations described under Sections III and IV.

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-2411209 and SC-2411210.

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

Daniel Chavez, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director