

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
ABRAHAM SAENZ, JR.  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-2606162

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) held a preliminary review hearing on October 25, 2007, to consider sworn complaint SC-2606162. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.064, 254.183, and 254.031 of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

### II. Allegations

The complaint alleges that the respondent failed to file 30-day and 8-day pre-election reports and failed to report political contributions and political expenditures.

### III. Facts Supported by Credible Evidence

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

1. The respondent is a city council member for the City of Pleasanton.

#### Failure to File Pre-Election Reports:

2. The respondent was an opposed candidate for city council in an election held on May 13, 2006.
3. The respondent filed a campaign treasurer appointment dated January 25, 2006, in which he indicated that he would file on the modified reporting schedule.
4. The respondent did not file pre-election reports.
5. The respondent filed a campaign finance report, marked "exceeded \$500," on May 15, 2006.

6. The report disclosed \$703 in political contributions and \$1,291 in political expenditures, and covered a period beginning February 11, 2006, through May 13, 2006. The report disclosed that on March 13, 2006, the respondent accepted a \$513.59 contribution from a contributor and that on April 6, 2006, he accepted a \$189.21 contribution from the same contributor. Political expenditures from personal funds totaled \$588.48. The total political expenditures disclosed appears to be the total of in-kind contributions and political expenditures made from personal funds.
7. The evidence indicates that the contributions disclosed on Schedule A (contribution schedule) of the "exceeded \$500" report were "in-kind" contributions paid for by the contributor referenced above.

Failure to Report Contributions and Expenditures:

8. The complaint alleges that the respondent had a campaign rally at a church on April 31, 2006, with 75 constituents in attendance. The function included a BBQ dinner and DJ entertainment.
9. The respondent's report filed May 15, 2006, (covering 2/11/06-5/13/06) did not disclose any campaign contributions or expenditures for the April 31, 2006, function.
10. The evidence indicates that the respondent received in-kind contributions at the church hall activity on April 31, 2006.
11. As of the date of the preliminary review hearing, the respondent has not filed any corrections or additional reports.

**IV. Findings and Conclusions of Law**

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

Failure to File Pre-Election Reports:

1. In addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports. The first report shall be filed not later than the 30th day before election day. The report covers the period beginning the day the candidate's campaign treasurer appointment is filed or the first day after the period covered by the last report required to be filed, as applicable, and continuing through the 40th day before election day. The second report shall be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. ELEC. CODE § 254.064.

2. An opposed candidate may elect modified reporting, and not be required to file 30-day and 8-day pre-election reports if the candidate does not intend to accept political contributions that in the aggregate exceed \$500 or to make political expenditures that in the aggregate exceed \$500 in connection with the election. ELEC. CODE § 254.181.
3. To be entitled to modified reporting, an opposed candidate must file with the campaign treasurer appointment a written declaration of intent not to exceed \$500 in political contributions or political expenditures in the election. ELEC. CODE § 254.182.
4. If an opposed candidate who selected modified reporting exceeds \$500 in political contributions or political expenditures during the reporting period for the 30-day pre-election reports, the candidate must file 30-day and 8-day pre-election reports. ELEC. CODE § 254.183.
5. The respondent elected modified reporting on his campaign treasurer appointment, but received a \$513.19 in-kind contribution on March 13, 2006, two months prior to the election and during the reporting period for the 30-day pre-election report. Therefore, the respondent was required to file reports 30 days and 8 days before the election. The respondent did not file a report until May 15, 2006, which was after the election. That report covered the period required to be covered by the 30-day and 8-day pre-election reports. Therefore, there is credible evidence of violations of sections 254.064 and 254.183 of the Election Code.

Failure to Report Contributions and Expenditures:

6. Each 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 required to file a report, the full name and address of the person making the contributions, and the dates of the contributions. Each campaign finance report must also 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. Each campaign finance report must also include the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. ELEC. CODE § 254.031.
7. The evidence shows that the respondent accepted in-kind political contributions during the period covered on his report filed May 15, 2006, and that he failed to disclose the political contributions on the report. Therefore, there is credible evidence of a violation of section 254.031 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 in addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports. The first report shall be filed not later than the 30th day before election day. The report covers the period beginning the day the candidate's campaign treasurer appointment is filed or the first day after the period covered by the last report required to be filed, as applicable, and continuing through the 40th day before election day. The second report shall be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. The respondent also acknowledges that if an opposed candidate who selected modified reporting exceeds \$500 in political contributions or political expenditures during the reporting period for the 30-day pre-election reports, the candidate must file 30-day and 8-day pre-election reports. The respondent also acknowledges that each 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 required to file a report, the full name and address of the person making the contributions, and the dates of the contributions. Each campaign finance report must also 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. Each campaign finance report must also include the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. 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 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 \$1,000 civil penalty. If the respondent corrects and files the campaign finance reports at issue with the local filing authority and provides file stamped copies of the filed reports to the Texas Ethics Commission by December 3, 2007, the penalty is reduced to \$100.

**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-2606162.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Abraham Saenz, Jr., Respondent

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

Texas Ethics Commission

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