

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JESSE H. MARTINEZ,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2611229

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 13, 2007, to consider sworn complaint SC-2611229. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 253.031 of the Election Code, a law 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 accepted campaign contributions and made campaign expenditures at a time when he did not have a campaign treasurer appointment on file.

III. Facts Supported by Credible Evidence

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

1. The respondent was a successful candidate for justice of the peace in a March 2006 election.
2. The respondent filed a campaign treasurer appointment on December 15, 2005.
3. The respondent's January 2006 semiannual campaign finance report disclosed a total of four campaign contributions accepted on December 5, 2005, totaling \$400. The report also disclosed six different campaign expenditures totaling \$273.04 that were made prior to December 15, 2005.
4. The respondent signed the report, swearing that it was true and correct.

5. The respondent filed a sworn response in which he asserts that the campaign contributions were actually accepted on January 6, 2006, although they were received on December 5, 2005.
6. The respondent swears that he disclosed the contribution date of December 5, 2005, because that is the date the checks were written.
7. Regarding the campaign expenditures, the respondent does not deny that he made the expenditures prior to the filing of his campaign treasurer appointment. The respondent swears that these expenditures were made from personal funds and he was unaware of the prohibition on making campaign expenditures without having a campaign treasurer appointment on file.
8. The respondent's sworn response included a newspaper article dated November 4, 2006, that reports that the respondent acknowledged accepting the contributions without having a campaign treasurer appointment on file because he was not aware it was a violation of law to do so.

IV. Findings and Conclusions of Law

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

1. A candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. ELEC. CODE § 253.031.
2. Regarding the campaign contributions at issue, the respondent's original January 2006 semiannual report was sworn to by the respondent indicating it was true and correct. That report disclosed that the contributions were accepted before the treasurer appointment was filed.
3. The respondent's sworn response included a newspaper article that indicates that the respondent accepted the contributions because he did not know that he could not do so without an active campaign treasurer appointment on file. The statement is consistent with the statement in his sworn response that he did not know political expenditures were not allowed without an active campaign treasurer appointment.
4. There is credible evidence that the respondent accepted the political contributions at issue before filing a campaign treasurer appointment. Regarding the campaign expenditures, the respondent admits that he made the expenditures prior to filing his campaign treasurer

appointment. Therefore, there is credible evidence of a violation of section 253.031 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 a candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. The respondent agrees to comply with this requirement of the law.

VI. Confidentiality

This order and agreed resolution describes a violation that the commission has determined is 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 \$200 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-2611229.

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

Jesse H. Martinez, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director