

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ARMANDO GONZALES
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2806242

FINAL ORDER

The Texas Ethics Commission, having heard this case and voting to find a violation of laws under its jurisdiction, makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. The respondent is Armando Gonzales, whose last known mailing address is 3912 E. 3rd Street, Lubbock, Texas 79403-4715. A sworn complaint was filed with the Texas Ethics Commission against the respondent on June 23, 2008. The Notice of Hearing was mailed to the respondent on November 4, 2009, both by certified mail, return receipt requested, restricted delivery, and delivery confirmation.
2. The preliminary review hearing was held on December 2, 2009, at 10:30 a.m., by the Texas Ethics Commission in Austin, Texas.
3. The respondent did not file a reply to the Notice of Hearing and did not appear at the hearing.
4. The respondent was an unsuccessful candidate for the Lubbock City Council in a June 2008 runoff election.
5. The complaint made multiple allegations that the respondent failed to disclose political contributions and political expenditures in violation of section 254.031 of the Election Code. The specific allegations are that the respondent failed to report:
 - Political contributions for the use of a campaign vehicle
 - Political contributions or expenditures for the use of a limousine
 - Political contributions from individuals who advertised on his radio show, on which he urged listeners to vote for him for city council
 - Political contributions from or expenditures to an individual
 - Political contributions from or expenditures to a “campaign advisor”
 - Political expenditures made to finance the production and serving of a formal complaint to the US Justice Department and the City of Lubbock
 - Political contributions or expenditures for designing, registering, and maintaining his campaign website

6. On April 10, 2008, the respondent filed a 30-day pre-election campaign finance report for the May 2008 election. The report disclosed \$5,840 in total political contributions and \$7,002.25 in total political expenditures. The report included a \$260 expenditure to IRP International for “campaign website construction advertising.” This expenditure appears to have been made for the purpose of designing the respondent’s campaign website and other website related costs.
7. On June 5, 2008, the respondent filed a correction to his 30-day pre-election report for the May 2008 election. The report disclosed \$6,340 in total political contributions and \$7,002.25 in total political expenditures. The correction added a \$500 contribution from an individual that was not previously disclosed.
8. On May 2, 2008, the respondent filed an 8-day pre-election campaign finance report for the May 2008 election. The report disclosed \$650 in total political contributions and \$1,604.06 in total political expenditures.
9. On June 5, 2008, the respondent filed a correction to his 8-day pre-election report for the May 2008 election. The report disclosed \$650 in total political contributions and \$5,238.14 in total political expenditures. The report added a \$600 in-kind contribution for a “passenger van,” that was not previously disclosed.
10. On May 30, 2008, the respondent filed a runoff report for a June 2008 runoff election. The report disclosed \$7,300 in total political contributions and \$10,278.74 in total political expenditures.
11. On June 5, 2008, the respondent filed a correction to his runoff report for the June 2008 runoff election. The report added a \$700 in-kind contribution for a “passenger van,” and two in-kind political contributions totaling approximately \$2,550 from an individual for “campaign related activities” that were not previously disclosed.
12. The respondent was aware of this complaint before he filed corrections to his reports.
13. United States Postal Service records show that the notice of this complaint was received by the respondent on August 7, 2008. The respondent has not submitted a response to this complaint.

Conclusions of Law

1. Disposition of this case is within the jurisdiction of the Texas Ethics Commission. GOV’T CODE § 571.061.
2. The respondent received legally sufficient notice of the hearing in this case. GOV’T CODE § 571.032 and 1 TAC § 12.21. The hearing was held in accordance with section 12.23, 1 Texas Administrative Code.

3. 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 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. The 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. ELEC. CODE § 254.031(a)(1) and (3).
4. The complaint alleged that the respondent failed to report political contributions for the use of a campaign van. The respondent corrected his 8-day pre-election report for the May 2008 election to disclose a \$600 in-kind contribution for the use of a van. The respondent also corrected his runoff report for the June 2008 runoff election to disclose a \$700 in-kind contribution for the use of a van. Thus, the respondent failed to timely report in-kind contributions for the use of a van. Therefore, as to the use of the van at issue, there is credible evidence of violations of section 254.031 of the Election Code.
5. There is insufficient evidence to show that the respondent accepted a political contribution or made a political expenditure for the use of a limousine. Therefore, as to the use of the limousine at issue, there is insufficient evidence of a violation of section 254.031 of the Election Code.
6. With respect to the radio show, there is insufficient evidence of a violation of section 254.031 of the Election Code.
7. The complaint alleged that the respondent failed to report political contributions from or expenditures to a particular individual who worked on the respondent's campaign. The corrections to the respondent's runoff report for the June 2008 runoff added two in-kind political contributions totaling approximately \$2,550 from that individual for "campaign related activities." The respondent failed to timely report the in-kind contributions. Therefore, with regard to that individual's in-kind contributions, there is credible evidence of violations of section 254.031 of the Election Code.
8. The respondent filed a correction to his 30-day pre-election report for the May 2008 election to add a \$500 contribution from an individual. The respondent failed to timely report that political contribution. Therefore, with regard to that political contribution, there is credible evidence of a violation of section 254.031 of the Election Code.
9. With respect to the allegations that the respondent failed to report political expenditures or political contributions related to a "campaign advisor," there is insufficient evidence of a violation of section 254.031 of the Election Code with regard to those allegations.
10. With respect to the allegation related to financing the production and serving of a formal complaint to the City of Lubbock and the US Justice Department, there is insufficient evidence of a violation of section 254.031 of the Election Code.

11. With respect to the allegation related to the website, there is insufficient evidence of a violation of section 254.031 of the Election Code.
12. A respondent must respond to the notice of a Category One violation not later than the 10th business day after the date the respondent receives the notice. Failure to respond to a notice of sworn complaint within the time required is a separate Category One violation. GOV'T CODE § 571.1242(a)(c).
13. The respondent failed to respond to the notice of a sworn complaint. Therefore, there is credible evidence of a violation of section 571.1242 of the Government Code.
14. The Texas Ethics Commission may impose a sanction against the respondent of not more than \$5,000 or triple the amount at issue, whichever amount is greater. GOV'T CODE § 571.173

Therefore, the Texas Ethics Commission orders that:

1. The respondent pay to the Texas Ethics Commission, within 30 days of the date of this order, a civil penalty in the amount of \$900.

Order Date: _____

FOR THE COMMISSION

David A. Reisman
Executive Director
Texas Ethics Commission