

TEXAS ETHICS COMMISSION

IN THE MATTER OF
MICHAEL VILLARREAL,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2807291

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 9, 2009, to consider sworn complaint SC-2807291. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 253.035 and 254.031 of the Election Code, and sections 20.62 and 20.63 of the Ethics Commission Rules, 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 failed to properly report, and improperly reimbursed, political expenditures made from personal funds. The complaint also alleged that the respondent improperly reported political expenditures as reimbursements to staff.

III. Facts Supported by Credible Evidence

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

1. The respondent is a state representative from District 123.
2. The allegations were based on the respondent's July 2007 and January 2008 semiannual campaign finance reports.
3. The respondent's July 2007 and January 2008 semiannual reports disclosed three political expenditures as reimbursements to the respondent, totaling approximately \$5,880.
4. The respondent did not previously disclose the political expenditures as having been made from the respondent's personal funds with the intent to seek reimbursement.

5. The respondent's July 2007 and January 2008 semiannual reports disclosed eighteen political expenditures as reimbursements to staff, totaling approximately \$13,640.
6. The respondent disclosed his own name or the name of his staff members as the payee, and disclosed reimbursement of various expenses as the purpose for approximately \$19,520 in political expenditures during the periods at issue.
7. The respondent filed corrections to the reports at issue, disclosing approximately \$16,110 in additional expenditures not previously reported.

IV. Findings and Conclusions of Law

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

1. Each campaign finance report must 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)(3).
2. A candidate is required to report a campaign expenditure from personal funds. A candidate or officeholder who makes political expenditures from the candidate's or officeholder's personal funds may reimburse those personal funds from political contributions in the amount of those expenditures only if the expenditures from personal funds were fully reported as political expenditures, including the payees, dates, purposes, and amounts of the expenditures, in the report covering the period during which the expenditures from personal funds were made, and the report on which the expenditures from personal funds are disclosed clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement. ELEC. CODE § 254.035(h); Ethics Commission Rules § 20.63.
3. When a political expenditure is made on behalf of a candidate or officeholder by a staff member or campaign worker, the name of the actual payee must be disclosed, not the name of the staff member or campaign worker. Ethics Commission Rules § 20.62.
4. The respondent's July 2007 and January 2008 semiannual reports disclosed three reimbursements to the respondent for a total of approximately \$5,880.
5. The evidence indicates that the respondent did not previously disclose the political expenditures as having been made from personal funds with the intent to seek reimbursement. Thus, reimbursement for those expenditures was not permitted. Therefore, there is credible evidence of violations of section 253.035(h) of the Election Code.

6. Each campaign finance report is required to include the full name and address of the payees, and the dates and purposes of political expenditures that in the aggregate exceed \$50 to a single payee in the reporting period. ELEC. CODE § 254.031(a)(3).
7. At the time relevant to this sworn complaint, the rule governing staff reimbursement provided that political expenditures made out of personal funds by a staff member with the intent to seek reimbursement from the officeholder or candidate that do not exceed \$500 during the reporting period may be reported as follows: (1) if the reimbursement occurs during the same reporting period that the initial expenditure was made, 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; or (2) the amount of the expenditure made by the staff member is reported as a loan to the officeholder or candidate, the expenditure made by the staff member is reported as a political expenditure by the officeholder or candidate, and the reimbursement to the staff member to repay the loan is reported as a political expenditure by the officeholder or candidate. Ethics Commission Rules § 20.62.
8. The respondent's July 2007 semiannual report disclosed multiple reimbursements to himself and staff members, totaling approximately \$19,520. Neither of the proper reporting methods was used, and the name of the individual or entity that was actually paid by the staff member was not disclosed. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.62 of the Ethics Commission Rules.
9. The respondent's corrected July 2007 and January 2008 semiannual reports disclosed approximately \$16, 110 in expenditures not previously reported. Therefore, there is credible evidence of violations of section 254.031(a)(3) of the Election Code and section 20.63 of the Ethics Commission Rules

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 each campaign finance report filed by a candidate or officeholder is required to include the full name and address of the payees, and the dates and purposes of political expenditures that in the aggregate exceed \$50 to a single payee in the reporting period. The respondent also acknowledges that a candidate who makes political expenditures from the candidate's personal funds may reimburse those personal funds from political contributions only if the expenditures from personal funds were fully reported as political expenditures, including the payees, dates, purposes, and amounts of the expenditures, and the report clearly designates those expenditures as having been made from the person's personal funds and that the expenditures are subject to reimbursement. In the alternative, a candidate who makes political expenditures from the candidate's personal funds may report the amount expended as a loan and may reimburse those personal funds from political contributions in the amount of the reported loan. The respondent further acknowledges that the proper way to report reimbursements to staff is in accordance with section 20.62 of the Ethics Commission Rules. 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 \$4,100 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-2807291.

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

Michael Villarreal, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director