

TEXAS ETHICS COMMISSION

IN THE MATTER OF
CRIS MEDINA,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3130117

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 3, 2014, to consider sworn complaint SC-3130117. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 254.031 of the Election Code, a law 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 did not 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 councilman for San Antonio, Texas, and was a successful incumbent candidate in an election held on May 11, 2013.
2. The respondent was ordered to military education beginning in August 2014 for several months.
3. The complaint alleged that the respondent did not report political contributions and political expenditures related to an October 23, 2012, fundraiser and did not report a political expenditure in the form of a donation made to a neighborhood association.

Reporting of Contributions and Expenditures Related to a Fundraiser

4. The complaint included a copy of a page from www.facebook.com. The page included an announcement for a fundraiser for the respondent held on October 23, 2012. The page indicated that the respondent posted and edited the announcement. The complaint alleged that the respondent did not disclose in his January 2013 semiannual report political contributions or political expenditures related to the fundraiser.
5. The respondent filed a timely January 2013 semiannual report on January 15, 2013, which disclosed total political contributions of \$24,700, total political expenditures of \$0, and total political contributions maintained of \$24,853.97. The respondent filed four corrections to the report after the report was due, and most of the corrections disclosed additional contributions or expenditures. The first correction did not disclose any expenditures. The second correction was filed on January 18, 2013, and disclosed \$10,048.84 in political expenditures, none of which appeared to be related to the fundraiser. The third correction was filed on February 5, 2013, after the complaint was filed, and disclosed an additional \$13,418.35 in political expenditures, including approximately \$2,780 in expenditures related to the fundraiser. The fourth correction, also filed on February 5, 2013, changed a \$468.38 expenditure related to the fundraiser to a \$468.38 in-kind contribution related to the fundraiser. The fourth correction disclosed \$24,668.38 in total political contributions, \$22,998.81 in total political expenditures, \$822.99 in total political expenditures of \$50 or less, and \$1,823.54 in total political contributions maintained. Altogether, the corrections included approximately \$2,310 in political expenditures for event expenses and “FR Services” and a \$468.38 in-kind political contribution that appeared to be related to the fundraiser at issue.
6. The respondent provided a copy of bank records of activity in his political account from August 13, 2012, to October 9, 2012. The records indicated that on October 15, 2012, the respondent made a political expenditure of \$75 to a restaurant to reserve the restaurant for the fundraiser. The respondent also swore that another individual organized the event, that the respondent paid for the use of the restaurant, that 25 people attended the event, and that another individual paid for food and beverages and setup costs for the event, totaling \$468.38. The respondent also swore that \$11,900 in contributions were raised at the event.

Reporting a Donation Made to a Neighborhood Association

7. The complaint included a copy of a newsletter with the heading “The Jefferson Neighborhood Association News November 2012.” The newsletter stated, in pertinent part: “This year our gift cards were generously donated by [other individuals] and Councilman Cris Medina.”
8. The respondent’s January 2013 semiannual report does not disclose an expenditure to the Jefferson Neighborhood Association. However, the report disclosed a political expenditure of \$77.47 on December 14, 2013, to Walmart Supercenter for “Gift Cards to Jefferson NA on 11/12/12.”

IV. Findings and Conclusions of Law

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

1. Each 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, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).
2. Each report must include the amount of political expenditures that in the aggregate exceed \$100 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).
3. Each report must include the total amount or a specific listing of the political expenditures of \$100 or less made during the reporting period. ELEC. CODE § 254.031(a)(5).
4. “Contribution” means in pertinent part, a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. ELEC. CODE § 254.001(2).
5. “Political contribution” means a campaign contribution or an officeholder contribution. ELEC. CODE § 254.001(5).
6. “Campaign contribution” means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. ELEC. CODE § 254.001(3).
7. “Officeholder contribution” means a contribution to an officeholder or political committee that is offered or given with the intent that it be used to defray expenses that are incurred by the officeholder in performing a duty or engaging in an activity in connection with the office, and are not reimbursable with public money. ELEC. CODE § 254.001(4).
8. “Expenditure” means a payment of money or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a payment. ELEC. CODE § 254.001(6).
9. “Political expenditure” means a campaign expenditure or an officeholder expenditure. ELEC. CODE § 254.001(10).
10. “Campaign expenditure” means an expenditure made by any person in connection with a campaign for an elective office or on a measure. ELEC. CODE § 254.001(7).

11. “Officeholder expenditure” means an expenditure made by any person to defray expenses that are incurred by an officeholder in performing a duty or engaging in an activity in connection with the office, and are not reimbursable with public money. ELEC. CODE § 254.001(8).

Reporting of Contributions and Expenditures Related to a Fundraiser

12. The copy of the page from www.facebook.com included in the complaint indicated that the respondent was a decision maker in the planning of the fundraiser. At the time relevant to the complaint, the respondent was an officeholder and a candidate and was required to disclose on his January 2013 semiannual report political contributions accepted in connection with the fundraiser. The respondent was also required to disclose political expenditures made for the fundraiser on his January 2013 semiannual report (or according to when the amounts of the expenditures were readily determinable).
13. The evidence indicates that the respondent disclosed on his original January 2013 semiannual report all of the monetary political contributions, totaling approximately \$11,430, related to the fundraiser. Therefore, there is credible evidence of no violation of section 254.031(a)(1) of the Election Code related to those monetary contributions. As to the in-kind contribution worth approximately \$470 that was not timely reported, there is credible evidence of a violation of section 254.031(a)(1) of the Election Code.
14. The evidence also indicates that the respondent made a \$75 expenditure on October 15, 2012, that was related to the fundraiser. The expenditure was not required to be itemized in the report, but the respondent did not disclose any political expenditures of \$100 or less in his originally filed report. The respondent ultimately corrected the report to disclose approximately \$820 in total political expenditures of \$100 or less. Therefore, there is credible evidence of a violation of section 254.031(a)(5) of the Election Code as to the total amount of the correction, approximately \$820.
15. The expenditures related to the fundraiser totaled approximately \$2,310 (not including the \$75 reservation fee) and were disclosed after the complaint was filed. The evidence also indicates that the respondent failed to disclose an additional approximate \$21,880 in political expenditures in his originally filed January 2013 semiannual report. There is credible evidence of violations of section 254.031(a)(3) of the Election Code as to approximately \$24,190 in expenditures.

Donation Made to a Neighborhood Association

16. The evidence shows that the respondent purchased gift cards that were donated to the Jefferson Neighborhood Association. There is insufficient evidence to show that the donation was made as a political expenditure that would have been required to have been

disclosed on the respondent's campaign finance report. There is insufficient evidence of a violation of section 254.031(a)(3) 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: 1) each 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, the full name and address of the person making the contributions, and the dates of the contributions; 2) each report must include the amount of political expenditures that in the aggregate exceed \$100 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; and 3) each report must include the total amount or a specific listing of the political expenditures of \$100 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 nature, circumstances, and consequences of the violations described under Sections III and IV, and the sanction necessary to deter future violations, the commission imposes a \$1,000 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-3130117. The respondent agrees that the Texas Ethics Commission, P. O. Box 12070, Austin, Texas 78711, must receive from the respondent full payment of the \$1,000 civil penalty no later than December 29, 2014, and agrees to waive any right to a hearing related to this sworn complaint. The respondent agrees that if the full amount is not received by December 29, 2014, the matter of the collection of the civil penalty will be referred to the Office of the Attorney General of Texas.

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

Cris Medina, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Executive Director