

TEXAS ETHICS COMMISSION

IN THE MATTER OF

JOE G. RIVERA,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31410218

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on September 27, 2017, to consider sworn complaint SC-31410218. A quorum of the Commission was present. The Commission determined that there is credible evidence of a violation of section 254.063 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: 1) did not timely file the July 2013 semiannual campaign finance report; 2) authorized a political committee to accept political contributions totaling more than \$500 or make political expenditures totaling more than \$500 when a campaign treasurer appointment for the committee was not in effect; and 3) converted political contributions to personal use.

III. Facts Supported by Credible Evidence

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

1. The respondent served as Cameron County Clerk from 1974-1982, and from 1986-2014. The respondent was a candidate for Cameron County Judge in the November 2014 general election. The respondent no longer holds public office.

July 2013 Semiannual Report

2. The complaint alleged that the respondent did not timely file his July 2013 semiannual campaign finance report as required by section 254.063 of the Election Code.

3. The July 2013 semiannual report was due by July 15, 2013. The file stamp from the Cameron County Department of Elections & Voter Registration indicates the respondent filed the July 2013 semiannual report on July 19, 2013, which was four days late.
4. The respondent disclosed accepting \$6,061.53 in political contributions and making \$4,253.29 in political expenditures in the July 2013 semiannual report.
5. The respondent admitted that he filed the report late and requested a waiver of any fine because he claimed it was his first late-filed report.

Authorizing a Political Committee to Accept or Spend More Than \$500 Without a Campaign Treasurer Appointment on File for the Putative Committee

6. The complaint alleged the respondent authorized a political committee to accept political contributions totaling more than \$500 or make political expenditures totaling more than \$500 when a campaign treasurer appointment for the committee was not in effect, which is prohibited by section 253.031(b) of the Election Code.
7. At issue in the complaint are the following candidate/officeholder (C/OH) reports: the July 2013 semiannual campaign finance report, the January 2014 semiannual campaign finance report, a 30-day pre-election report for the March 4, 2014, primary election, an 8-day pre-election report for the March 4, 2014, primary election, a primary runoff report for the May 27, 2014, primary runoff election, and the July 2014 semiannual campaign finance report. The reports cover the reporting period from January 1, 2013, to July 1, 2014.
8. The allegation was based on the respondent reporting on his own campaign finance reports that he received notice from the political committees "Friends of Joe G. Rivera" or "Vote to Elect Joe G. Rivera County Judge" that the political committees accepted political contributions or made political expenditures on his behalf. The respondent listed himself as the treasurer of one of the political committees in some of the reports at issue. The respondent also advertised under the name "Friends of Joe G. Rivera."
9. No campaign treasurer appointment or other documents were filed with the county or the Commission reflecting the existence of the putative political committee.
10. Filers are to complete the "Notice from Political Committee(s)" section if they have received notice from a political committee that the committee accepted political contributions or made political expenditures on the candidate's or officeholder's behalf. The candidate or officeholder is required to disclose the receipt of such a notice in the report covering the period in which they receive the notice.

11. The political committee is required to include in the notice the full name and address of the committee, the full name and address of the committee's campaign treasurer, and a statement indicating whether the committee is a GPAC or SPAC.
12. On the July 2013 semiannual campaign finance report, the respondent listed himself as his own campaign treasurer, and then also listed himself as campaign treasurer for the political committee "Friends of Joe G. Rivera," and indicated that he had received notice that the political committee accepted contributions or made political expenditures on his behalf.
13. On December 11, 2013, the respondent submitted a campaign treasurer appointment (CTA) for his Cameron County Judge campaign, appointing an individual as his campaign treasurer. On the remaining C/OH reports, the respondent reported the individual as the campaign treasurer of the political committees that purportedly gave notice to the respondent.
14. For example, this is how page two of the cover sheet for the respondent's January 2013 semiannual report appears:

Texas Ethics Commission P.O. Box 12070 Austin, Texas 78711-2070 (512) 463-5800 (TDD 1-800-735-2989)

CANDIDATE / OFFICEHOLDER REPORT: SUPPORT & TOTALS		FORM C/OH COVER SHEET PG 2
14 C/OH NAME <u>JOE G. RIVERA</u>		15 ACCOUNT # (Ethics Commission Filers)
16 NOTICE FROM POLITICAL COMMITTEE(S) <input type="checkbox"/> additional pages	THIS BOX IS FOR NOTICE OF POLITICAL CONTRIBUTIONS ACCEPTED OR POLITICAL EXPENDITURES MADE BY POLITICAL COMMITTEES TO SUPPORT THE CANDIDATE / OFFICEHOLDER. THESE EXPENDITURES MAY HAVE BEEN MADE WITHOUT THE CANDIDATE'S OR OFFICEHOLDER'S KNOWLEDGE OR CONSENT. CANDIDATES AND OFFICEHOLDERS ARE REQUIRED TO REPORT THIS INFORMATION ONLY IF THEY RECEIVE NOTICE OF SUCH EXPENDITURES.	
	COMMITTEE TYPE <input type="checkbox"/> GENERAL <input type="checkbox"/> SPECIFIC	COMMITTEE NAME <u>FRIENDS OF JOE G. RIVERA</u>
		COMMITTEE ADDRESS <u>P.O. BOX 5868 BROWNSVILLE, TX 78523</u>
		COMMITTEE CAMPAIGN TREASURER NAME <u>OTIS POWERS</u>
	COMMITTEE CAMPAIGN TREASURER ADDRESS <u>11642 PRICE ROAD BROWNSVILLE, TX 78521</u>	

15. The respondent reported on Schedule K (used to report interest earned, other credits/gains/refunds) of his January 2014 semiannual campaign finance report a gain of \$2,547.50 in interest from an account he disclosed as "MFS Investments/Friends of Joe G. Rivera Savings Account." The respondent also reported on Schedule A (used to report

political contributions) of his 8-day pre-election report for the March 4, 2014, primary election receiving two political contributions totaling \$12,266.20 from "MFS Savings Acct." on January 22, 2014.

16. The complainant also included 10 different political advertisements used by the respondent in his campaign for Cameron County Judge on which the political advertising disclosure stated it was a "Political Advertisement Paid for by The Friends of Joe G. Rivera." Additionally, the complainant provided a screenshot of the page on the respondent's website that solicited contributions for the respondent's campaign. The contributions solicited donations for "Friends of Joe G. Rivera for County Judge."
17. The respondent denied the existence of political committees working for or with his campaign in his sworn response. He swore that his campaign went by various "synonyms" including "Committee to Elect Joe Rivera" and "Friends of Joe Rivera." But, the respondent asserted, "[t]hese names are merely a different way of referring to my campaign, and do not indicate that a separate committee was established apart from my candidate/officeholder account."
18. The respondent maintained a campaign account and a separate investment account that consisted of investments that were purchased with political contributions.
19. The only activity for the investment account during the time at issue came in the form of transfers to the campaign account. The respondent reported the transfers as either a credit on Schedule K or a contribution on Schedule A. There is no indication that the respondent had any other accounts or activity on behalf of his candidacy that were not reported in his own campaign finance reports.
20. During a telephone interview, the respondent's former campaign treasurer denied that there was a political committee assisting the respondent and said that to the best of his knowledge there was not a separate campaign bank account for the putative political committees.
21. After the complaint was filed, the respondent corrected the reports at issue to remove the indication that he received notice from a political committee, and included the balance of his investment account in the amount of total political contributions maintained at the end of each reporting period.

Conversion to Personal Use

22. The complaint also alleged that the respondent converted political contributions to personal use by making multiple expenditures from political contributions without an apparent political purpose. The respondent was the Cameron County Clerk and a

candidate for Cameron County Judge at all times relevant to the allegations of converting political contributions to personal use.

23. All of the expenditures at issue were reported in the respondent's July 2013 semiannual campaign finance report, the January 2014 semiannual campaign finance report, a 30-day pre-election report, an 8-day pre-election report, a primary runoff report, and the July 2014 semiannual campaign finance report. None of the expenditures the respondent disclosed on the campaign finance reports at issue contained a description. Providing a description of each expenditure that exceeds \$100 is required, and without a description many expenditures lacked a political purpose on their face.
24. The expenditures at issue can roughly be divided into three categories: 1) memberships/subscriptions, 2) meals, and 3) gifts/donations.

Memberships/Subscriptions

25. The respondent reported the following seven expenditures from political contributions for memberships or subscriptions. The respondent provided a category for each expenditure, but did not include a description of the expenditure.

Date	Payee Name/Address	Amount	Category Provided
5/12/2013	Brownsville Herald	\$140.40	"Newspaper Subscription"
10/22/2013	LCA "Members Only" Club, Brownsville, TX	\$100.00	"Membership Dues"
10/23/2013	KMBH	\$60.00	"Membership Dues"
11/29/2013	AT&T, San Antonio, TX	\$150.00	"Telephone upgrade"
1/14/2014	AT&T Mobility	\$100.00	"Cell Phone Expense"
2/20/2014	AT+T	\$126.48	"Phone Xpense"
6/17/2014	AT+T	\$135.07	"Phone/cell"

26. In response to written questions about the payment to the *Brownsville Herald*, the respondent stated that the purpose of the expenditure was so that he could be informed about articles and advertisements being published in the newspaper as he prepared for his upcoming campaign.

27. In regard to the payments to AT&T, the respondent stated that "the purpose of [these] expenditure[s] was to pay the portion of my telephone usage attributable to my campaign. The telephone was used for both political and personal purposes, and the cost was allocated."
28. The respondent stated that the LCA Club is a group that "meets to discuss current events and charitable endeavors. I participated in this club to gain goodwill and exposure for my candidacy, and to solicit the members for their support for my candidacy."
29. The respondent said his payment to KMBH was a sponsorship to the PBS and NPR affiliate for Cameron County. He stated that by sponsoring the station his name was broadcast, which provided goodwill and exposure for his candidacy.
30. KMBH is a recognized 501(c)(3) non-profit corporation that is "committed to further all levels of education, to promote the arts, spiritual values and cultural development by means of electronic media, specifically for the communities of the Rio Grande Valley in Texas," according to federal tax forms filed by the station.

Gifts/Donations

31. The complaint alleged that the respondent's campaign finance reports contained multiple expenditures that had a dubious connection to his campaign or officeholder activities. Commission staff identified 31 expenditures that the respondent categorized as donations or gift totaling \$6,291.36 for which the respondent did not provide a description of the expenditures on his campaign finance reports. The respondent provided an explanation for the reason behind the expenditures in response to written questions. The gifts generally fall into two categories: 1) direct gifts to constituents, such as flowers; and 2) donations to organizations.
32. The direct gifts to constituents included purchasing marriage licenses, flowers for funerals, and donations for memorials and benefits. The respondent provided an explanation for each of the expenditures that generally stated the purpose of each expenditure was to "generate goodwill" for his upcoming campaign.
33. As county clerk, the respondent was responsible for issuing marriage licenses in Cameron County. During the reporting period at issue, the respondent used political contributions to purchase marriage licenses for four couples. He disclosed the expenditures for marriage licenses on his campaign finance report as a single expenditure of \$216 paid to himself with the category "Gift/Marriage Lic." with no description.
34. In response to written questions, the respondent stated that he would use campaign funds to purchase licenses for people who were employees, supporters, or people he felt could not afford to pay for the license. But the respondent denied making voting for him a

condition of receiving the free marriage license. He stated that "My purpose in purchasing the license was to generate goodwill from the married couple, their family and friends, in a similar manner to the use of sponsorship of sports team to generate goodwill among spectators and supporters of the team." But the respondent also stated that "I usually did not tell them I was paying. I just told them that the license had been taken care of, and wished them well in their marriage, and asked them to give my regards to the persons attending their wedding."

35. The respondent also made expenditures from political contributions that he categorized as gifts or donations to individuals or florists to provide flowers for funerals, donate to fundraising benefits for ill constituents, sponsor athletes or sports teams, and to help pay for funeral expenses. In response to written questions, the respondent generally said that the expenditures were to gain exposure and goodwill for his upcoming campaign.
36. The respondent also made numerous expenditures from political contributions to charitable organizations or for events. Again, the respondent generally provided the explanation that each expenditure was made to gain exposure and goodwill for his campaign by being listed as a sponsor of an organization or event.

Meals

37. Between January 1, 2013, and July 1, 2014, the respondent disclosed making 51 expenditures for food and beverages totaling approximately \$6,650. The respondent did not include a description of the expenditures on the respondent's campaign finance reports.
38. The respondent provided a detailed response to written questions that identified the people present at each meal, and the political purpose for each meal. The meals were generally described as either meeting with campaign supporters, campaign staff, or staff from the county clerk's office.

IV. Findings and Conclusions of Law

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

July 2013 Semiannual Report

1. A candidate is required to file two campaign finance reports each year as provided by this section. ELEC. CODE § 254.063(a). The first report must be filed not later than July 15. The report covers the period beginning January 1, 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 June 30. *Id.* § 254.063(b).

2. The respondent was required to file the July 2013 semiannual report by July 15, 2013. The date stamp on the respondent's July 2013 semiannual report shows that it was filed four days late on July 19, 2013.
3. The respondent admitted that he did not timely file the report. There is credible evidence of a violation of section 254.063 of the Election Code with respect to the July 2013 semiannual report.

Authorizing a Political Committee to Accept or Spend More than \$500 Without Campaign Treasurer Appointment on File for the Putative Committee

4. "Political committee" means a group of persons that has as a principal purpose accepting political contributions or making political expenditures. ELEC. CODE § 251.001(12).
5. "Specific-purpose committee" means a political committee that does not have among its principal purposes those of a general-purpose committee but does have among its principal purposes: (A) supporting or opposing one or more: (i) candidates, all of whom are identified and are seeking offices that are known; or (ii) measures, all of which are identified; (B) assisting one or more officeholders, all of whom are identified; or (C) supporting or opposing only one candidate who is unidentified or who is seeking an office that is unknown. *Id.* § 251.001(13).
6. "General-purpose committee" means a political committee that has among its principal purposes: (A) supporting or opposing: (i) two or more candidates who are unidentified or are seeking offices that are unknown; or (ii) one or more measures that are unidentified; or (B) assisting two or more officeholders who are unidentified. *Id.* § 251.001(14).
7. Each candidate and each political committee is required to appoint a campaign treasurer as provided by chapter 252 of the Election Code. *Id.* § 252.001.
8. A specific-purpose committee for supporting or opposing a candidate or assisting an officeholder must file its campaign treasurer appointment with the same authority as the appointment for candidacy for the office. *Id.* § 252.006.
9. An individual must file a campaign treasurer appointment for the individual's own candidacy with the county clerk, if the appointment is made for candidacy for a county office. *Id.* § 252.005(2).
10. A political committee may not knowingly accept political contributions totaling more than \$500 or make or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer appointment for the committee is not in effect. *Id.* § 253.031(b).

11. A specific-purpose committee generally has a separate identity from that of the candidate. *See Ethics Advisory Opinion No. 271 (1995)*. A specific-purpose committee created by a candidate to support his own candidacy confers no advantage on a candidate in terms of the reporting requirements and restrictions in the campaign finance law. *See id.* The Commission further opined:

The candidate and the [specific-purpose political committee supporting a candidate] are both required to file reports of contributions and expenditures. If the candidate transfers money to the committee, the committee must report a contribution from the candidate. Similarly, if the candidate transfers personal equipment to the committee for use in the campaign, the committee must report the use of the equipment as an in-kind contribution from the candidate.

As a practical matter, the distinction between a candidate and a specific-purpose committee supporting the candidate may be maintained for little more than bookkeeping purposes.

Id. (footnotes omitted).

12. Candidates may decide to form a separate political committee that the candidate controls, but forming a political committee separate from the candidate's campaign is not required of the candidate. Should a candidate decide to form a specific-purpose committee, transfers of money between the committee and the campaign need to be reported, but if direct contributions to and expenditures by the committee are properly disclosed by the committee, they need not be reported by the candidate. Requiring such double reporting for "alter-ego" committees would be redundant and burdensome on the candidate or officeholder and therefore unnecessary.
13. In this case, although the respondent gave the appearance that he formed specific-purpose committees through his campaign finance reports and political advertisements, the bank records and witness interviews indicate that the respondent formed no such political committees. The campaign account was the only active account used by the respondent for depositing political contributions and making political expenditures. Some political contributions were used to purchase investments before the time at issue in the complaint. That money was occasionally transferred from the investment account to the campaign account and then spent from the campaign account. The respondent swore that he had no other accounts used to deposit political contributions. There is no indication that the respondent failed to disclose political expenditures or political contributions.

14. Considering that: 1) the Commission has never required a candidate to form a political committee simply by virtue of working with others on his own campaign; 2) the Commission has stated in an advisory opinion that "as a practical matter, the distinction between a candidate and a specific-purpose committee supporting the candidate may be maintained for little more than bookkeeping purposes;" and 3) all political activity relating to the respondent's campaign appears to be reported by the respondent, there is credible evidence of no violation of section 253.031(b) of the Election Code.¹

Conversion to Personal Use

15. A candidate may not convert political contributions to the personal use of a candidate, officeholder, or former candidate or officeholder. ELEC. CODE § 253.035(a). "Personal use" means "a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public office." *Id.* § 253.035(d). "Personal use" does not include "payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a public officeholder." *Id.* § 253.035(d)(1).

Memberships/Subscriptions

16. It is generally permissible for an officeholder to use political contributions to pay for membership in a private organization if the benefits of membership are primarily connected with duties and activities of the officeholder's office. *See* Ethics Advisory Opinion No. 423 (1999) ("A legislator may use political contributions to pay the costs of membership in an organization that helps its members acquire leadership skills if the legislator's primary purpose in joining the organization is to facilitate legislative work."); *see generally* Ethics Advisory Opinion Nos. 247 (1995), 157 (1993) (officeholders may use political contributions to pay for educational courses if courses are primarily intended to help officeholders with official duties or activities). A candidate may also use political contributions to purchase tickets to entertainment events when the primary purpose for the candidate's attendance is to build relationships with donors or potential donors or is in connection with a specific campaign event. Ethics Advisory Opinion No. 521 (2014).
17. However, even if a candidate reaps a campaign benefit by engaging in certain activities the candidate would have otherwise engaged in if he was not running for office, those activities cannot be characterized as duties or activities "as a candidate." *Cf.* Ethics

¹ By using the name of "Friends of Joe Rivera" in political advertisements and indicating that the political committee had contributed to him, or made political expenditures on his behalf, the respondent may have misrepresented the true source of political advertising and improperly completed campaign finance reports. *See* ELEC. CODE § 255.004; *Id.* § 254.031. However, since those allegations were not part of the complaint, they are not properly before the Commission and the Commission makes no finding with respect to whether the respondent violated those sections of law.

Advisory Opinion No. 405 (1998) (a candidate or officeholder cannot use political contributions to pay for family recreation or entertainment, even if such entertainment would give the appearance that the candidate has strong family values) (citing Ethics Advisory Opinion Nos. 241 (1995) (legislator may not use political contributions for meal expenses he would have been required to pay regardless of whether he was in Austin); 104 (1992) (legislator may not use political contributions to pay for clothing that can be adapted for general use)).

18. The memberships/subscriptions at issue in this complaint are to a local newspaper, a social club, and the local public broadcasting affiliate.
19. The respondent swore that he purchased the subscription to the newspaper to monitor news stories and advertisements in the lead-up to, and during, his campaign. While a newspaper is capable of being adapted to general use, the respondent stated he used political funds to purchase the newspaper subscription while he was campaigning, and there is no indication that he used political funds to purchase a newspaper subscription at a time when he was not campaigning. That the respondent only used political contributions to purchase the newspaper subscription during his campaign indicated that the expenditure was primarily to benefit his campaign. Therefore, there is credible evidence of no violation of section 253.035 of the Election Code with respect to the newspaper subscription.
20. The respondent swore that his reason for joining the LCA Club was to gain goodwill and exposure to his candidacy, and to solicit the members for their support for his candidacy.
21. The LCA "Members Only Club" advertises itself on its website as a club "for friends that like to get together once in a while to unwind, relax and have some good food, good drink and good conversation. The 'Members Only' Club gets together four times a year for a first class party The whole inspiration of the club is to get as many professional individuals from the community to get together four times a year to brainstorm and simply network in their respective vocation."
22. The relevant question is whether the club membership *primarily* furthered individual or family purposes not connected with the performance of duties or activities as a candidate or officeholder. Under EAO 521, if the respondent primarily joined the club to build relationships with donors or potential donors, using political contributions to pay for the membership is not a conversion to personal use. The respondent indicated he joined the club with the campaign purpose of soliciting the support of other members of the club. The LCA Club indicates two purposes for its existence: 1) to throw "first class parties" and 2) to give its members an opportunity to network. The respondent indicated tapping into the network to cultivate donors is the reason why he joined the club. However, it is unclear to what extent the club membership was actually used to generate goodwill and solicit support for his campaign and to what extent he derived personal benefit from the

club membership, if any. Therefore, there is insufficient evidence of a violation of section 253.035 of the Election Code with respect to the club membership.

23. The respondent also used political contributions to purchase a "membership" with his local public broadcast affiliate. KMBH is a recognized 501(c)(3) tax-exempt charitable organization. The Commission stated in Ethics Advisory Opinion No. 47 that an expenditure for one of the purposes set out in section 254.204 of the Election Code (relating to the disposition of unexpended political contributions for former candidates and officeholders) would not be a personal use, even if the expenditure was not political in nature. One of the permissible dispositions of unexpended campaign contributions is an expenditure to a 501(c)(3) tax-exempt organization formed for educational, religious, or scientific purposes. ELEC. CODE § 254.204(a)(5). Expenditures to KMBH, as a recognized tax-exempt 501(c)(3) charity formed for educational purposes, meet the safe harbor provision laid out in EAO 47. Therefore, there is credible evidence of no violation of section 253.035 of the Election Code with respect to the expenditure to KMBH.
24. The respondent also reported several expenditures to AT&T for phone service. A candidate or officeholder may use political contributions to purchase a mobile phone to use for candidate or officeholder activities. *See* Ethics Advisory Opinion No. 241 (1995). If the officeholder or candidate uses the mobile phone for personal or business calls unrelated to candidate or officeholder activities, he must reimburse his political funds for the reasonable value of the personal use. *Id.* (*citing* Ethics Advisory Opinion No. 116 (1993)).
25. The respondent swore that the mobile phone was used for personal, campaign, and officeholder purposes and the expenditures reflected in the campaign finance reports were for the portion attributable to his campaign. Based on the available evidence, there is insufficient evidence of a violation of section 253.035 of the Election Code with respect to the expenditures to AT&T.

Gifts/Donations

26. At issue in this complaint are approximately 31 expenditures categorized as gifts, donations, or "sponsorships to constituents" (e.g., sponsoring a sports team or event) that total approximately \$6,300. The Commission stated in Ethics Advisory Opinion No. 241 (1995) that a legislator may use political contributions to purchase small gifts such as flags or souvenirs for volunteers or constituents made in connection with campaign or officeholder activities. As noted above, an expenditure to a 501(c)(3) tax-exempt organization formed for educational, religious, or scientific purposes is generally not a conversion to personal use. *See* ELEC. CODE § 254.204(a)(5); EAO 47.

27. However, the Commission has found that not all gifts to constituents purchased with political contributions are permissible and that even the intangible personal benefit of seeing a sick person receive needed care is a sufficient personal benefit for a conversion of political contributions to personal use to occur. *See* Ethics Advisory Opinion No. 483 (2009). In EAO 483, the Commission found that an expenditure from political funds by an officeholder to a trust fund set up to benefit a former campaign worker who was permanently disabled by a stroke would be impermissible due to the fact that the officeholder would receive an intangible personal benefit of seeing a specific person in need get help. In EAO 483, the requestor did not provide any facts to indicate that a contribution to the trust fund would be made for political purposes.
28. In this case, the respondent identified goodwill and exposure for his campaign, similar to political advertising, as the political purpose for each of the gifts or donations he made using political contributions. There is no apparent tangible personal benefit from any of the expenditures. Some expenditures, such as the purchase of flowers for funerals, could result in an *intangible* personal benefit by the respondent directing the recipient of the funds, as was the case in EAO 483. However, unlike in EAO 483, where no political purpose was identified by the requestor, the respondent identified gaining goodwill and exposure for his campaign as the reason for each expenditure.
29. There is an attenuated campaign purpose to each gift or donation made by the respondent. However, there is also no clear, tangible personal benefit for each expenditure. Therefore, there is insufficient evidence of a violation of section 253.035 of the Election Code with respect to the gifts and donations to constituents.²

Meals

30. At issue in this complaint are approximately 50 expenditures from political funds for food and beverages that total about \$6,700.
31. In EAO 241, the Commission found that using political contributions for "meals for state business not reimbursed by the state" is permissible. As with all allegations of conversion of political contributions to personal use, the critical issue is the primary purpose for which such use occurs. EAO 483. The respondent identified a political purpose for each meal, and identified the office staff, campaign staff, or volunteers who were present at each meal. The evidence available to the Commission indicates that the expenditures for meals did not primarily further individual or family purposes.

² Although the Commission finds insufficient evidence that the respondent converted political contributions to personal use by using political contributions to purchase marriage licenses for constituents, the practice is of concern to the Commission because it injects political activities into a core function of the respondent's office. The Commission's enforcement jurisdiction is limited, (*see* section 571.061 of the Government Code), and therefore the Commission makes no finding as to whether the practice violates any other law or county policy outside of the Commission's enforcement jurisdiction.

Therefore, there is credible evidence of no violation of section 253.035 of the Election Code with respect to the meals at issue.

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 is required to file two campaign finance reports each year as provided by section 254.063 of the Election Code. The first report must be filed not later than July 15. The report covers the period beginning January 1, 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 June 30. 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 nature, circumstances, and consequences of the violation described under Sections III and IV, and after considering the sanction necessary to deter future violations, the Commission imposes a \$500 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-31410218.

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

Joe G. Rivera, Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Seana Willing, Executive Director