

TEXAS ETHICS COMMISSION

IN THE MATTER OF
LEONEL ALEJANDRO,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-220322

PRELIMINARY REVIEW HEARING ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 12, 2002, and voted to accept jurisdiction of Sworn Complaint SC-220322 filed against Leonel Alejandro. A quorum of the commission was present at the meeting. The commission held a preliminary review hearing on April 11, 2003. A quorum of the commission was present at the hearing. The respondent attended the preliminary review hearing. The commission determined that there was credible evidence of violations of sections 254.0611(a) and 253.155 of the Election Code. To resolve and settle this complaint without further proceedings, the commission proposes this agreed resolution to the respondent.

II. Allegations

The complainant alleges that the respondent, a candidate for district judge, violated section 253.155 of the Election Code. It is further alleged that the respondent failed to disclose the principal occupation and job title of contributors who contributed more than \$50 during the reporting period covered by his January 2002 semiannual report.

III. Facts Supported by Credible Evidence

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

1. The respondent was an opposed candidate for district judge in a judicial district with a population between 250,000 and one million. The respondent currently holds the office of district judge.
2. The respondent's January 2002 semiannual report shows that the respondent did not report the principal occupation and job title of contributors who contributed more than \$50 during the reporting period.

3. The Texas Ethics Commission notified the candidate of this omission on July 19, 2002, and the candidate filed an amended report adding the required job title and principal occupation on August 23, 2002. The January 2002 report and a subsequent correction show that the respondent accepted contributions of more than \$2,500 from five different law firms.
4. A candidate for district judge in a judicial district with a population between 250,000 and one million may not accept political contributions from a person that in the aggregate exceed \$2,500 in connection with each election.
5. There is also a limit on the total contributions a candidate for district judge may accept from persons affiliated with a single law firm. The actual dollar limit varies not only according to the size of the judicial district but also according to the total number of persons affiliated with a law firm. In the respondent's case the total limit on contributions from persons affiliated with a law firm would have been at least \$15,000 and, in some cases, somewhat more.
6. The respondent's campaign treasurer submitted an affidavit in which she explained that she had interpreted the law to mean that the contribution limit for an individual law firm was \$15,000. She also states that upon learning that the Ethics Commission interpreted the law differently, she returned the excess amounts to the contributors.
7. The campaign treasurer also states that the amount of money returned to the law firms was then contributed to the respondent by individual members of the law firms.

IV. Findings and Conclusions of Law

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

1. Each report by a candidate for judicial office must include the principal occupation and job title of the individual contributors who contributed more than \$50 during the reporting period. Elec. Code § 254.0611(a). On his January 2002 semiannual report the respondent did not report the principal occupation or job title for the individual contributors who contributed more than \$50 during the reporting period. The subsequent amendment to the report disclosing that information was not filed in time to eliminate this violation. There is therefore credible evidence that the respondent violated section 254.0611(a) of the Election Code.
2. A judicial candidate for a district with a population between 250,000 and one million may not knowingly accept political contributions from a person that in the aggregate exceed \$2,500 in connection with each election in which the person is involved. Elec. Code § 253.155. A law firm is a "person" for purposes of the Judicial Campaign Fairness Act. Ethics Advisory Opinion No. 342 (1996). In a judicial district with a population between

250,000 and one million, a law firm may not contribute more than \$2,500 in the aggregate per election to a candidate for district judge. *Id.* Five law firms made contributions to the respondent that exceeded the contribution limit of \$2,500 for a single person. Therefore, the respondent violated section 253.155 in connection with those contributions. There is no evidence that the respondent exceeded the applicable \$15,000 limits on total contributions from persons affiliated with a law firm. Although the commission finds that this violation is technical and *de minimis*, Judge Alejandro has agreed that this finding can be made public.

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 and 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 and settling this sworn complaint.
2. The respondent consents to the entry of this Order before any adversarial evidentiary hearings or argument before the commission, and before any formal adjudication of law or fact by the commission. The respondent waives any right to a hearing before the commission or an administrative law judge, and further waives any right to a post-hearing procedure established or provided by law.
3. The respondent acknowledges that a judicial candidate for a district with a population between 250,000 and one million may not knowingly accept political contributions from a person, including a law firm, that in the aggregate exceed \$2,500 in connection with each election in which the person is involved and that the only presently existing legal authorities include a law firm as a person for Election Code purposes.
4. The respondent further acknowledges that a candidate for judicial office must include the principal occupation and job title of the individual contributors who contributed more than \$50 during the reporting period. The respondent agrees to fully and strictly comply with these requirements of the law.
5. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, the respondent understands and agrees that the commission will consider the respondent to have committed the violations described under Section IV, Paragraphs 1 and 2, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

VI. Confidentiality

The commission finds that this ORDER and AGREED RESOLUTION regarding failure to disclose

the principal occupation or job title of the individual contributors who contributed more than \$50 during the reporting period constitutes a violation that the commission has determined are neither technical nor *de minimis*. The commission has determined that the violation regarding the contribution of more than \$2,500 is technical and *de minimis*. However, the commission further finds that Judge Alejandro has agreed that portions of this ORDER and AGREED RESOLUTION can be made public by members and staff of the commission. Accordingly, this ORDER and AGREED RESOLUTION are 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 above regarding failure to disclose the principal occupation and job title of contributors, including the nature, circumstances, consequences, extent, and gravity of the violations, after considering the fact that no previous violations by this respondent are known to the commission, and after considering the sanction necessary to deter future violations, the commission imposes a civil penalty of \$2,500 for the violations. The commission imposes no further penalty for the receipt of contributions from a law firm in excess of \$2,500.

VIII. Order

The commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to the respondent;
2. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-220322;
3. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original and the \$2,500 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than September 10, 2003; and
4. that the executive director shall promptly refer SC-220322 to either the commission or to an administrative law judge to conduct hearings on the commission's behalf and to propose findings of fact and conclusions of law to the commission in accordance with law if the respondent does not agree to the resolution of SC-220322 as proposed in this ORDER and AGREED RESOLUTION.

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

Leonel Alejandro, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Karen Lundquist, Executive Director