

TEXAS ETHICS COMMISSION

IN THE MATTER OF
RENE NUNEZ,
RESPONDENT

BEFORE THE
TEXAS ETHICS COMMISSION
SC-290461

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 2, 2009, to consider sworn complaint SC-290461. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.031(a)(5),(6), and (8) of the Election Code, 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 disclose the total amount of political contributions maintained on his July 2007, January 2008, July 2008, and January 2009 semiannual campaign finance reports.

III. Facts Supported by Credible Evidence

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

1. The respondent is a member of the State Board of Education, District 1.
2. On July 7, 2007, the respondent filed a July 2007 semiannual report disclosing no political contributions or expenditures during the reporting period and no political contributions maintained.
3. On July 1, 2009, the respondent filed a corrected July 2007 semiannual report to change the amount of total political contributions maintained to \$1,000. The remainder of the report was identical to the originally filed report.
4. On January 8, 2008, the respondent filed a January 2008 semiannual report disclosing no political contributions or expenditures during the reporting period and \$970 in total political contributions maintained.

5. On July 1, 2009, the respondent filed a corrected January 2008 semiannual report. The report added \$30 in total political expenditures of \$50 or less, and \$30 in total political expenditures. The remainder of the report was identical to the originally filed report.
6. On July 1, 2008, the respondent filed a July 2008 semiannual report disclosing no political contributions accepted during the reporting period. The report also disclosed \$100 in total political expenditures of \$50 or less, \$200 in total political expenditures, and \$750 in total political contributions maintained.
7. On July 1, 2009 the respondent filed a corrected July 2008 semiannual report disclosing no political contributions accepted during the reporting period. The report disclosed \$120 in total political expenditures of \$50 or less, and \$220 in total political expenditures. The remainder of the report was identical to the originally filed report.
8. On January 3, 2009, the respondent filed a January 2009 semiannual report disclosing no political contributions accepted during the reporting period. The report also disclosed \$50 in total political expenditures of \$50 or less, \$150 in total political expenditures and \$685 in total political contributions maintained.
9. On July 1, 2009, the respondent filed a corrected January 2009 semiannual report. The report disclosed \$100 in total political contributions of \$50 or less, \$100 in total political contributions, \$65 in total political expenditures of \$50 or less, and \$165 in total political expenditures. The remainder of the report was identical to the originally filed report.
10. The respondent swore that total political contributions maintained as disclosed on his January 2008, July 2008, and January 2009 semiannual reports was correct.

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 total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. ELEC. CODE § 254.031(a)(5). The report must also include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. ELEC. CODE § 254.031(a)(6). The report must also include as of the last day of a reporting period for which the person is required to file a report, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period. ELEC. CODE § 254.031(a)(8).
2. The complaint alleged that the total for political contributions maintained disclosed on the respondent's July 2007 semiannual reports was incorrect. The respondent's corrected reports disclose a different amount than what was originally reported. Therefore, with regard

to the respondent's July 2007 semiannual report, there is credible evidence of a violation of section 254.031(a)(8) of the Election Code.

3. The complaint also alleged that the totals for political contributions maintained disclosed on the respondent's January 2008, July 2008, and January 2009 semiannual reports were incorrect. The amount of political contributions maintained cannot necessarily be calculated by looking at the face of a report and the evidence is insufficient to show that the totals were incorrect. Therefore, with regard to the respondent's January 2008, July 2008, and January 2009 semiannual reports, there is insufficient evidence of a violation of section 254.031(a)(8) of the Election Code.
4. On July 1, 2009, the respondent filed corrections to his previously filed reports as a result of this sworn complaint that show violations of sections 254.035(a)(5) and (6) of the Election Code. The respondent corrected his January 2008 semiannual report to add \$30 in total political expenditures of \$50 or less, and \$30 in total political expenditures. The respondent corrected his July 2008 semiannual report to change his totals to \$120 in total political expenditures of \$50 or less, and \$220 in total political expenditures. The respondent corrected his January 2009 semiannual report to change his totals to \$100 in total political contributions of \$50 or less, \$100 in total political contributions, \$65 in total political expenditures of \$50 or less, and \$165 in total political expenditures. Therefore, those reports did not correctly disclose contributions and expenditures when they were originally filed. Thus, there is credible evidence of violations of section 254.031(a)(5) and (6) of the Election Code with regard to those reports.

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 must include the total amount or a specific listing of the political contributions of \$50 or less accepted and the total amount or a specific listing of the political expenditures of \$50 or less made during the reporting period. The respondent also acknowledges that the report must also include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. The respondent also acknowledges that the report must also include as of the last day of a reporting period for which the person is required to file a report, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which

political contributions are deposited as of the last day of 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 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 \$200 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-290461.

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

Rene Nunez, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director