

TEXAS ETHICS COMMISSION

| | | |
|---------------------------|---|-------------------------|
| IN THE MATTER OF | § | BEFORE THE |
| | § | |
| SERGIO “CHICO” RODRIGUEZ, | § | TEXAS ETHICS COMMISSION |
| | § | |
| RESPONDENT | § | SC-3120123 |

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 21, 2014, to consider sworn complaint SC-3120123. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 571.1242 of the Government 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 accepted political contributions from a corporation or labor organization.

III. Facts Supported by Credible Evidence

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

1. The respondent is the Bexar County Commissioner for Precinct 1.
2. The complaint alleged that, based on disclosures in the respondent’s January 2011 and January 2012 semiannual reports, the respondent accepted political contributions from corporations.
3. The respondent’s January 2011 semiannual report disclosed one political contribution of \$500 from “Ford Engineering, Inc.” According to Texas Secretary of State (SOS) records, “Ford Engineering, Inc.” is a domestic for-profit corporation located in San Antonio, Texas.
4. The respondent’s January 2012 semiannual report disclosed one political contribution of \$1,000 from “Texas Auto Salvage.” According to SOS records, “Texas Auto Salvage, Inc.” is a domestic for-profit corporation located in San Antonio, Texas. The report also disclosed one political contribution of \$1,000 from “Madison’s Market Rohde Realty,” at the address of 11503 NW Military, Ste 330, San Antonio, TX 78231. According to SOS records,

“Madison’s Market, Ltd.” is a limited partnership located in San Antonio, Texas. The general partner of Madison’s Market is AWR West Side Development, L.L.C. Records on file with the SOS do not indicate whether AWR West Side Development, L.L.C., contains any corporate members. According to SOS records, “Rohde Realty, Inc.” is a domestic for-profit corporation. The address on file with the SOS for Rohde Realty, Inc., is 11503 NW Military HWY, Suite 330, San Antonio, TX 78231. SOS records show that each entity changed its registered office address to the same address in March of 2012.

5. According to United States Postal Service records, the respondent received the initial notice of this complaint on February 4, 2013.
6. The respondent provided evidence that he returned contributions in the contributed amounts to “Ford Engineering, Inc.,” “Texas Auto Salvage, Inc.,” and “Madison’s Market Rohde Realty as Agent.”

IV. Findings and Conclusions of Law

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

Political Contributions from Corporations or Labor Organizations

1. Each campaign finance 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 by the person or committee required to file a report, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1).
2. A person may not knowingly accept a political contribution that the person knows was made in violation of Chapter 253 of the Election Code. *Id.* § 253.003.
3. A corporation may not make a political contribution to a candidate or officeholder. *Id.* § 253.094.
4. The prohibition applies to corporations that are organized under the Texas Business Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation Act, the Texas Nonprofit Corporation Law, federal law, or law of another state or nation. ELEC. CODE § 253.091.
5. Regarding the contributions from “Ford Engineering, Inc.” and “Texas Auto Salvage, Inc.,” there is no evidence that the respondent knew that the contributions were prohibited by law. Additionally, there is insufficient evidence whether the political contribution from “Madison’s Market Rohde Realty” was from “Rohde Realty, Inc.” or “Madison’s Market, Ltd.” or that “Madison’s Market, Ltd.,” a limited partnership, contains a corporate partner or owner. Therefore, there is insufficient evidence of a violation of sections 253.003 or 253.094 of the Election Code.

Response to Sworn Complaint

6. If an alleged violation in a sworn complaint is a Category Two violation, the respondent must respond to the notice required by section 571.123(b) not later than the 25th business day after the date the respondent receives the notice. GOV'T CODE § 571.1242(b)(1). A respondent's failure to timely respond to a sworn complaint as required by subsection (a)(1) or (b)(1) is a Category One violation. *Id.* § 571.1242(c).
7. According to United States Postal Service Records, the notice of this complaint was delivered to the respondent on February 4, 2012. The sworn complaint allegations were processed as Category Two violations, and therefore a response was due not later than the 25th business day after the respondent received the notice. The respondent did not submit a response until November 12, 2013 (postmarked November 6, 2013). Therefore, there is credible evidence that the respondent violated section 571.1242(c) of the Government Code by failing to timely respond to the complaint.

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 section 571.1242(b) of the Government Code requires that, if the alleged violation in a sworn complaint is a Category Two violation, the respondent must respond to the notice of the complaint required by section 571.123(b) of the Government Code not later than the 25th business day after the date the respondent receives the notice.

The respondent also acknowledges that section 571.1242(c) of the Government Code indicates that a respondent's failure to timely respond to notice of a complaint is a separate Category One violation.

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 the sanction necessary to deter future violations, the commission imposes a \$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-3120123.

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

Sergio "Chico" Rodriguez, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director