

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ELOY R. GARCIA,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2512251

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on July 14, 2006, to consider sworn complaint SC-2512251. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 252.001 and 253.031(a) of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaint alleges that the respondent was a candidate for elective public office and had not filed a campaign treasurer appointment. The complaint also alleges that the respondent made political expenditures for signs before he filed a campaign treasurer appointment.

III. Facts Supported by Credible Evidence

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

1. The respondent announced his candidacy for district clerk on November 24 and 30, 2005, in local newspapers.
2. The respondent filed his campaign treasurer appointment on December 28, 2005.
3. The evidence indicates that the local newspapers publish the announcement free of charge to everyone who was running for any office.
4. The respondent posted his political signs before he filed his campaign treasurer appointment.

IV. Findings and Conclusions of Law

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

1. "Candidate" means a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. An example of affirmative action is the making of a public announcement of a definite intent to run for public office in a particular election. ELEC. CODE § 251.001(1).
2. Each candidate shall appoint a campaign treasurer. ELEC. CODE § 252.001.
3. The evidence indicates that the respondent made a public announcement of a definite intent to run for district clerk, and was therefore a candidate. The evidence indicates that the respondent had not filed a campaign treasurer appointment when he made his announcement to run for district clerk. Therefore, there is credible evidence of a violation of section 252.001 of the Election Code.
4. A candidate may not knowingly make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. ELEC. CODE § 253.031(a).
5. "Campaign expenditure" means an expenditure made by any person in connection with a campaign for an elective office or on a measure. ELEC. CODE § 251.001(7).
6. The evidence indicates that the respondent purchased political advertising signs before he filed his campaign treasurer appointment. The expenditure for the signs was made in connection with a campaign for elective office. Thus, the expenditure constitutes a campaign expenditure. Therefore, there is credible evidence of a violation of section 253.031(a) 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 a candidate is required to appoint a campaign treasurer.

The respondent also acknowledges that a candidate may not knowingly make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. 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 for the violations described under Sections III and IV.

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-2512251.

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

Eloy R. Garcia, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director