

TEXAS ETHICS COMMISSION

IN THE MATTER OF
RAYMOND E. MORALES,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-270460 and SC-270565

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 11, 2007, to consider sworn complaints SC-270460 and SC-270565. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.063 and 254.064 of the Election Code, laws administered and enforced by the commission. To resolve and settle these complaints without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaints allege that the respondent failed to file a campaign treasurer appointment and accepted political contributions and made political expenditures at a time when a campaign treasurer appointment was not in effect. The complaints also allege that the respondent failed to file campaign finance reports. Additionally, the complaints allege that the respondent represented in campaign communications that the communications emanated from a source other than their true source.

III. Facts Supported by Credible Evidence

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

1. Sworn Complaints SC-270460 and SC-270565 were filed on April 30, 2007, and May 3, 2007, respectively.
2. Ethics Commission rules prohibit the commission from considering an allegation barred from criminal prosecution by operation of the applicable statute of limitations. Ethics Commission Rules § 12.5. Accepting political contributions or making political expenditures at a time when a campaign treasurer appointment is not in effect is a Class A misdemeanor. Failing to timely file or filing incomplete campaign finance reports is a Class C misdemeanor. The statute of limitations for misdemeanors is two years from the date of the commission of the offense. Code of Criminal Procedure, Article 12.02. Therefore, the

commission does not have jurisdiction to consider allegations of violations that occurred before April 30, 2005. Those allegations outside of the statute of limitations will not be considered.

3. The respondent was a successful candidate in the 2005 Horizon City election and an unsuccessful incumbent in the May 2007 Horizon City election.
4. The respondent, who ran opposed in both the 2005 and the 2007 elections, filed a campaign treasurer appointment for the 2005 election on or about February 18, 2005, and another campaign treasurer appointment on March 2, 2007, for the 2007 election. The respondent did not choose modified reporting in either election.
5. On May 10, 2007, two days before the 2007 election, the respondent filed a Schedule G, but did not file a complete campaign finance report. The Schedule G disclosed approximately \$100 in political expenditures made from personal funds.
6. The respondent filed a final report on July 20, 2007, disclosing no political contributions, political expenditures from personal funds of approximately \$500 for printing and signs, and a notice of direct expenditure by Americans for Energy Independence.
7. The final report covered the reporting periods for the 30-day and 8-day pre-election campaign finance reports for the May 2007 election, and the July 2007 semiannual campaign finance report.
8. Sworn complaint SC-270460 alleges that the respondent planned a Cinco de Mayo party but did not report political expenditures or political contributions related to a Cinco de Mayo party.
9. The evidence indicates that the respondent did not plan or hold a Cinco de Mayo party.
10. Sworn complaint SC-270460 alleges that the respondent did not report political expenditures or political contributions related to signs.
11. The complaints also allege that the respondent failed to report political contributions or political expenditures made by the "Americans for Energy Independence Political Action Committee," and that disclosing the committee as the source of the political advertising was improper because there was no record of this committee.
12. On September 4, 2007, the respondent filed a corrected report changing the previously disclosed direct expenditure to an in-kind contribution of approximately \$500 for signs from Americans for Energy Independence.

13. To date, the respondent has not filed the 8-day pre-election campaign finance report for the May 2005 election or the July 2005, January 2006, July 2006, and January 2007 semiannual campaign finance reports.
14. In addition, the complaints allege that the respondent had 50 plus signs around the city that said paid for by the "Re-elect Raymond Morales Committee."
15. The evidence indicates that the disclaimer on yard signs used by the respondent stated "Paid for by the Campaign to Elect Raymond Morales, Mayor, Mariko Gelines, Treasurer."
16. The complaints included copies of flyers that disclose that the political advertising was paid for by "Americans for Energy Independence, Political Action Committee" and by the "Americans for Energy Independent."
17. The evidence shows that Americans for Energy Independence filed a campaign treasurer appointment with the commission as a general-purpose committee, on April 19, 2007.

IV. Findings and Conclusions of Law

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

1. Each candidate shall appoint a campaign treasurer and may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. ELEC. CODE §§ 252.001 and 253.031.
2. The evidence indicates that the respondent filed a campaign treasurer appointment on or about February 18, 2005, and again on March 2, 2007.
3. The evidence indicates that the respondent filed a final report on July 20, 2007.
4. The respondent had a campaign treasurer appointment in effect from approximately February 18, 2005, through July 20, 2007, for both the 2005 and the 2007 elections. Therefore, there is credible evidence of no violation of sections 252.001 and 253.031 of the Election Code.
5. An individual who has a campaign treasurer appointment on file is a candidate and is required to file semiannual reports. ELEC. CODE §§ 254.001(1)(A) and 254.063.
6. A candidate shall file two reports for each year, the first report shall be filed not later than July 15, and cover 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 second report shall be filed not later than January 15, and cover the period beginning July 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 December 31. ELEC. CODE § 254.063.

7. In addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports. The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning 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 under this chapter, as applicable, and continuing through the 40th day before election day. The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. ELEC. CODE § 254.064.
8. An opposed candidate is not required to file 30-day and 8-day pre-election reports if the opposed candidate selects modified reporting on his campaign treasurer appointment and declares that he does not intend to accept political contributions or make political expenditures that in aggregate exceed \$500 in connection with the election. ELEC. CODE § 254.181.
9. The respondent was an opposed candidate in both the 2005 and 2007 elections.
10. The respondent filed a campaign treasurer appointment before each election but did not select modified reporting. Thus, the respondent was required to file 30-day and 8-day pre-election campaign finance reports for each election.
11. During the time in question, the respondent did not terminate the campaign treasurer appointment filed on February 18, 2005, therefore the respondent was also subject to the requirement to file July 2005, January 2006, July 2006, January 2007, and July 2007 semiannual reports.
12. On May 10, 2007, two days before the election, the respondent filed a Schedule G, but did not file a complete campaign finance report.
13. On July 20, 2007, the respondent filed a final report covering the periods for the 30-day and 8-day pre-election campaign finance reports for the May 2007 election and the July 2007 semiannual campaign finance report. However, the 2007 pre-election campaign finance

reports and the July 2007 semiannual campaign finance report were not timely filed. The respondent also did not file the 8-day pre-election campaign finance report for the May 2005 election and the July 2005, January 2006, July 2006 and January 2007 semiannual campaign finance reports. Therefore, there is credible evidence that the respondent violated sections 254.063 and 254.064 of the Election Code.

14. A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person knowingly represents in a campaign communication that the communication emanates from a source other than its true source. ELEC. CODE § 255.004.
15. The evidence indicates that the respondent's signs included a disclosure statement that the political advertising was "Paid for by the campaign to re-elect Raymond Morales, Mayor Mariko Galines, Treasurer."
16. The respondent's name appears on the disclosure, along with the name and designation of his campaign treasurer and there is no reference to a political committee. The evidence indicates that the respondent was the true source of the signs and that the disclosure did in fact provide that information.
17. The complainants also alleged that the respondent failed to disclose the true source of a communication on political advertising that disclosed the American's for Energy Independence Political Action Committee as the source of the advertising because there was no record of this committee.
18. The evidence shows that Americans for Energy Independence is a general-purpose political committee that filed a campaign treasurer appointment with the commission prior to the election, and that this committee made an in-kind contribution of signs to the respondent. Therefore, there is credible evidence that the respondent did not violate section 255.004 of the Election Code, by failing to disclose the true source of a communication.

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 these sworn complaints.
2. The respondent consents to this order and agreed resolution and waives any right to further proceedings in these matters.

3. A candidate shall file two reports for each year, the first report shall be filed not later than July 15, and cover 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 second report shall be filed not later than January 15, and cover the period beginning July 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 December 31. In addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports. The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning 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 under this chapter, as applicable, and continuing through the 40th day before election day. The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. 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 \$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-270460 and SC-270565.

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

Raymond E. Morales, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director