

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ROBERT ZAMORA,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2612267

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) held a preliminary review hearing on April 3, 2008, to consider sworn complaint SC-2612267. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 255.003 of the Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegation

The complaint alleges that the respondent spent or authorized the spending of public funds for political advertising.

III. Facts Supported by Credible Evidence

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

1. The South San Antonio Independent School District (SSAISD) held a bond election on November 7, 2006.
2. The respondent is an associate school superintendent employed by SSAISD.
3. The evidence indicates that the respondent presented a PowerPoint presentation at a school sponsored bond information meeting for parents and community members. The PowerPoint presentation was created using school district resources.
4. The evidence indicates that the presentation included a slide depicting an editorial from a local newspaper asking voters to approve the bonds.

5. The evidence indicates that school staff hours and school district equipment were used in making the presentation.
6. The respondent filed an affidavit indicating that the editorial was intended only to show information regarding the bond proposal, and that he did not intend to advocate for the bond. His affidavit states that after the presentation the slide showing the editorial was removed from the public presentations.

IV. Findings and Conclusions of Law

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

1. An officer or employee of a political subdivision may not spend or authorize the spending of public funds for political advertising. ELEC. CODE § 255.003(a).
2. A school district is a political subdivision. ELEC. CODE § 1.005(13).
3. The prohibition does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure. ELEC. CODE § 255.003(b).
4. Political advertising is defined, in relevant part, as a communication supporting or opposing a measure that appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication, or on an Internet website. ELEC. CODE § 251.001(16).
5. The prohibition on the spending or authorizing the spending of public funds for political advertising extends to the use of political subdivision personnel or equipment for the distribution of political advertising. Ethics Advisory Opinion No. 45 (1992).
6. The complaint alleges that the respondent spent or authorized the spending of public funds for political advertising by showing the slide of a newspaper editorial that supported the bond measure as part of a PowerPoint presentation using school equipment at a meeting called by the school district at a district school.
7. The respondent is an officer or employee of a political subdivision.
8. The inclusion of the slide of the editorial in the PowerPoint presentation created the equivalent of a sign supporting the bond measure. Therefore, that portion of the PowerPoint presentation was political advertising.

9. The respondent was acting in his capacity as associate superintendent at the time he presented the PowerPoint presentation. The Power Point presentation was created using school district resources. The meeting at which the PowerPoint presentation was made was a meeting called by the school district at a district school. School equipment was also used in making the presentation. Therefore, there is credible evidence that the respondent spent or authorized the spending of public funds for political advertising in violation of section 255.003 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 an officer or employee of a political subdivision may not spend or authorize the spending of public funds for political advertising. 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 seriousness of the violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, 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-2612267.

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

Robert Zamora, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director