

TEXAS ETHICS COMMISSION

IN THE MATTER OF
PEDRO "PETE" ZAMORA,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2705103

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 21, 2007, to consider sworn complaint SC-2705103. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 252.001, 253.031, and 254.064 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 failed to timely appoint a campaign treasurer, made political expenditures at a time when a campaign treasurer appointment was not in effect, and failed to timely file, or filed incomplete, campaign finance reports due 30 days and 8 days before election day.

III. Facts Supported by Credible Evidence

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

1. The respondent was a successful candidate for trustee of the Somerset ISD Board of Trustees, in the May 12, 2007, election.
2. The respondent filed with the Somerset School District the following: a declaration of write-in candidacy, a code of fair campaign practices, and the first page of a candidate campaign finance report.
3. Each of these documents is dated March 19, 2007, and marked received on the same date.

4. The campaign finance report does not indicate the report type nor does it give the period covered. The report does not include page 2 or any schedules to disclose total political contributions and expenditures or to itemize political contributions and expenditures. The respondent's name is included in the "Campaign Treasurer Name" section of the campaign finance report.
5. The respondent states that the allegations are true and apologizes for his oversight of the Election Code requirements.
6. On May 31, 2007, in response to the sworn complaint, the respondent filed an appointment of campaign treasurer, choosing modified reporting, and a designation of final report Form C/OH-FR.
7. On July 17, 2007, the respondent faxed to commission staff a campaign finance report designated as a 30-day pre-election, 8-day pre-election and final report. The report covers the period from March 22, 2007, through June 25, 2007. The report discloses zero political contributions and one political expenditure of \$555.86 for signs on March 22, 2007.
8. As of August 15, 2007, the respondent had not filed this campaign finance report with the local filing authority, although notified of the requirement to do so.

IV. Findings and Conclusions of Law

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

1. A "candidate" means a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office. Examples given by the statute of affirmative actions include the filing of a declaration of write-in candidacy. ELEC. CODE § 251.001(1)(D).
2. Each candidate and each political committee shall appoint a campaign treasurer as provided by this chapter. ELEC. CODE § 252.001.
3. The respondent filed a declaration of write-in candidacy on March 19, 2007. Thus, the respondent was a candidate at that time.
4. The respondent indicated that he considered himself to be the campaign treasurer on page one of the campaign finance report filed on March 19, 2007. However, he did not actually file a campaign treasurer appointment until May 31, 2007.
5. Therefore, there is credible evidence of a technical or *de minimis* violation of section 252.001 of the Election Code.

6. A candidate 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 § 253.031.
7. The complainant alleges that the respondent made expenditures for signs at a time when the respondent did not have a campaign treasurer appointment in effect.
8. The respondent admits that he made a campaign expenditure of \$555.86, for signs, on March 22, 2007.
9. Although, the respondent did not file a campaign treasurer appointment until May 31, 2007, the evidence indicates that he attempted to file one on March 19, 2007.
10. Therefore, there is credible evidence of a technical or *de minimis* violation of section 253.031 of the Election Code.
11. In addition to other required reports, for each election in which a candidate has an opponent whose name is to appear on the ballot, the candidate shall file two reports. The first report shall be filed not later than the 30th day before election day and the second report shall be filed not later than the 8th day before election day. ELEC. CODE § 254.064 (b) and (c).
12. The 30-day pre-election report was due on April 12, 2007, and the 8-day pre-election report was due on May 4, 2007.
13. The respondent filed a campaign treasurer appointment on May 31, 2007, in which he elected modified reporting.
14. A candidate who chooses modified reporting is not required to file pre-election reports if he does not accept more than \$500 in political contributions or make more than \$500 in political expenditures.
15. However, a candidate must file the modified reporting declaration at least 30 days before the first election to which the declaration applies.
16. In this case, the respondent's declaration to choose modified reporting was made on May 31, 2007, after the May 12, 2007, election and, thus, is not valid.
17. The respondent filed a report on March 19, 2007. The report did not indicate what type of report it was, nor the dates it covered. The report did not disclose political contributions or expenditures and, thus, was incomplete. The report does not satisfy the requirement to file a 30-day pre-election report, nor does it satisfy the requirement to file an 8-day pre-election report.

18. The respondent does not deny the allegations.
19. The respondent submitted a copy of a final report on July 17, 2007. However, he has not filed the report with the proper filing authority.
20. Therefore, there is credible evidence of violations of section 254.064 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" means a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office. Examples given by the statute of affirmative actions include the filing of a declaration of write-in candidacy.
4. The respondent further acknowledges that each candidate and each political committee shall appoint a campaign treasurer as provided by this chapter.
5. The respondent acknowledges that a candidate 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.
6. The respondent acknowledges that in addition to other required reports, for each election in which a candidate has an opponent whose name is to appear on the ballot, the candidate shall file two reports. The first report shall be filed not later than the 30th day before election day and the second report shall be filed not later than the 8th day before election day.
7. 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-2705103.

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

Pedro "Pete" Zamora, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director