

TEXAS ETHICS COMMISSION

IN THE MATTER OF

DAVID LUEVANO, CAMPAIGN
TREASURER, AMERICANS FOR
ENERGY INDEPENDENCE

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-2905139

FINAL ORDER

The Texas Ethics Commission, having heard this case and voting to find a violation of a law under its jurisdiction, makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. The respondent is David Luevano, whose last known mailing address is 12628 Tierra India Way, El Paso, Texas 79938-4755. A sworn complaint was filed with the Texas Ethics Commission against the respondent on May 26, 2009. The Notice of Hearing was mailed to the respondent on May 19, 2010, by certified mail, return receipt requested, restricted delivery, and by delivery confirmation.
2. The preliminary review hearing was held on June 11, 2010, by the Texas Ethics Commission in Austin, Texas.
3. The respondent did not file a reply to the Notice of Hearing and did not appear at the hearing.
4. The respondent is campaign treasurer for the general-purpose political committee, Americans for Energy Independence (AEI).
5. The complaint alleged that the respondent, as campaign treasurer for AEI, failed to timely file the committee's 30-day pre-election report for the May 9, 2009, election, disclosing political expenditures made as contributions to four candidates for Horizon City offices and four candidates for El Paso city offices, and failed to include required information relating to certain political expenditures on the report.
6. On May 1, 2009, the respondent filed with the commission a report for AEI marked as both a 30-day and 8-day pre-election report for the May 9, 2009, election, which covered the period from January 16, 2009, through May 1, 2009. The report disclosed that AEI made political expenditures totaling approximately \$1,380 to support candidates during the period that would have been covered by a 30-day pre-election report. Reports of the candidates supported confirm the activity by AEI.

Conclusions of Law

1. Disposition of this case is within the jurisdiction of the Texas Ethics Commission. GOV'T CODE § 571.061.
2. The respondent received legally sufficient notice of the hearing in this case. GOV'T CODE § 571.032 and 1 TAC § 12.21. The hearing was held in accordance with section 12.23, 1 Texas Administrative Code.
3. In addition to other required reports, for each election in which a general-purpose committee is involved, the committee's campaign treasurer shall file two reports. ELEC. CODE § 254.154(a). 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 and covers the period beginning the day the committee's campaign treasurer appointment is filed or the first day after the period covered by the committee's last required report, as applicable, and continuing through the 40th day before election day. *Id.* § 254.154(b). 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 and covers the period beginning the 39th day before election day and continuing through the 10th day before election day. *Id.* § 254.154(c).
4. Each report must include the amount of political expenditures that in the aggregate exceed \$50 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures. *Id.* § 254.031(a)(3).
5. Each report by a campaign treasurer of a general-purpose committee must also include, in pertinent part, the name of each identified candidate or classification by party of candidates supported or opposed by the committee, indicating whether the committee supports or opposes each listed candidate or classification by party of candidates. *Id.* § 254.151(4).
6. The respondent filed a report for AEI marked as a 30-day and 8-day pre-election report on May 1, 2009, which covered the period from January 16, 2009, through May 1, 2009. The 30-day and 8-day pre-election reports for the May 9, 2009, election were due on April 9, 2009, and May 1, 2009, respectively. During the reporting period for the 30-day pre-election report, the respondent disclosed that AEI made political expenditures totaling approximately \$1,380 to support candidates in the May 9, 2009, election. Thus, the respondent was required to file the 30-day pre-election report by April 9, 2009, and include the information required by sections 254.031(a)(3) and 254.151(4) of the Election Code. The respondent failed to timely file AEI's 30-day pre-election report for the May 9, 2009, election. Additionally, the report was required to cover a reporting period beginning on January 1, 2009, the first day after the period covered by the committee's last required report. The report at issue covered a period beginning on January 16, 2009.

Therefore, there is credible evidence of a violation of section 254.154(b) of the Election Code.

Therefore, the Texas Ethics Commission orders that:

1. The respondent pay to the Texas Ethics Commission, within 30 days of the date of this order, a civil penalty in the amount of \$1,000.

Order Date: _____

FOR THE COMMISSION

David A. Reisman
Executive Director
Texas Ethics Commission