

TEXAS ETHICS COMMISSION

IN THE MATTER OF

RAUL P. FLORES,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31010356

FINAL ORDER

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

Findings of Fact

1. The respondent is Raul P. Flores, whose last known mailing address is 305 W. Hidalgo Avenue, Raymondville, Texas, 78580-3527. A sworn complaint was filed with the Texas Ethics Commission against the respondent on October 25, 2010. The Notice of Hearing was mailed to the respondent on May 9, 2012, by certified mail, return receipt requested, restricted delivery and delivery confirmation. United States Postal Service records indicate that the respondent received the Notice of Hearing on May 17, 2012.
2. The Texas Ethics Commission held a preliminary review hearing on June 6, 2012, in Austin, Texas.
3. The respondent did not file a reply to the Notice of Hearing and did not appear at the hearing.
4. During the time in question, the respondent was a candidate for Willacy County Navigation District Commissioner At-Large.
5. The complaint alleged that the respondent did not appoint a campaign treasurer, accepted political contributions and made political expenditures without a campaign treasurer appointment in effect, did not file a pre-election campaign finance report, and did not include a disclosure statement or highway right-of-way notice on political advertising.
6. On August 20, 2010, the respondent filed an application to place his name on the ballot for the office of Willacy County Navigation District Commissioner, At-Large. The election date was November 2, 2010. The respondent did not file a campaign treasurer appointment. The only campaign finance document that the respondent filed with the Willacy County Navigation District was a final report that was not date-stamped, but was notarized and signed by the respondent on November 10, 2010. The report disclosed

\$500 in total political contributions, \$1,540.39 in total political expenditures, and \$1,840.39 in total outstanding loans.

7. The respondent was an opposed candidate in the November 2010 election. The respondent did not file a campaign treasurer appointment and thus, did not select modified reporting. The respondent did not file a 30-day or 8-day pre-election report. In response to the complaint, the respondent stated that he had no activity during the reporting period for the 30-day pre-election report.
8. The complaint included photographs of four of the respondent's campaign signs. The photographs show only one side of the signs. Two of the signs do not appear to include a disclosure statement. On another sign, there appears to be a line of the text at the bottom. The text is illegible on the photograph of the sign. Regarding the last sign, the photograph was taken at a distance and it is unclear whether the disclosure statement was included on the sign. In response to the complaint, the respondent stated that he believed that the disclosure statement was whited out on some of the signs. The respondent did not address the allegations regarding the highway right-of-way notice.

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.

Appointment of Campaign Treasurer and Accepting Campaign Contributions and Making Expenditures

3. "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. Examples of affirmative action include: (1) the filing of an application for a place on the ballot, and (2) the soliciting or accepting of a campaign contribution or the making of a campaign expenditure. ELEC. CODE § 251.001(1).
4. Each candidate shall appoint a campaign treasurer as provided by chapter 252 of the Election Code. ELEC. CODE § 252.001.
5. 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(a).
6. The respondent filed an application to place his name on the ballot on August 20, 2010. The respondent also accepted campaign contributions and made campaign expenditures

in October 2010, which were disclosed on his final campaign finance report. These are affirmative acts to gain nomination or election to public office. Therefore, the respondent was a candidate for public office and was required to file a campaign treasurer appointment. The respondent failed to do so. Therefore, there is credible evidence that the respondent violated section 252.001 of the Election Code with respect to failing to file a campaign treasurer appointment, and section 253.031(a) of the Election Code with respect to accepting campaign contributions or making or authorizing campaign expenditures at a time when no campaign treasurer appointment was in effect.

Filing of Pre-election Campaign Finance Report

7. 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. ELEC. CODE § 254.064(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. *Id.* § 254.064(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. *Id.* § 254.064(c).
8. As an opposed candidate who did not select modified reporting, the respondent was required to file a 30-day pre-election report even if he had no activity during the reporting period. The respondent failed to do so. Therefore, there is credible evidence of violations of section 254.064(a) of the Election Code.

Disclosure Statement/Highway Right-of-Way Notice on Political Advertising

9. “Political advertising” is defined, in relevant part, as a communication supporting or opposing a candidate for nomination or election to a public office that in return for consideration, is published in a newspaper, magazine, or other periodical. ELEC. CODE § 251.001(16). The definition of political advertising also includes a communication supporting a candidate for election to a public office that appears on a sign. *Id.*
10. A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising that it is political advertising and the full name of the person who paid for the political advertising, the political committee authorizing the advertising, or the candidate or specific-purpose committee supporting the candidate, if the advertising is authorized by the candidate. ELEC. CODE § 255.001(a). The disclosure statement must appear on one line of text or on successive lines of text on the face of the political advertising. Ethics Commission Rules § 26.1(a).
11. The following notice must be written on each political advertising sign: “NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE), TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY.” A person commits an offense if the person knowingly enters into a contract to print or make a political advertising sign that does not contain the required

notice or instructs another person to place a political advertising sign that does not contain the required notice. ELEC. CODE § 255.007.

12. With respect to the two signs that do not include a disclosure statement on the face of the advertising, there is credible evidence of violations of section 255.001(a) of the Election Code. With respect to the two signs on which it is unclear whether the disclosure statement was included, there is insufficient evidence of violations of section 255.001(a) of the Election Code. With respect to the allegations regarding the highway right-of-way notice, the photographs submitted with the sworn complaint show only one side of the signs that do not include the highway right-of-way notice. The statute does not specify where the notice must appear. There is insufficient evidence of violations of section 255.007 of the Election Code.

Penalty

13. The Texas Ethics Commission may impose a sanction against the respondent of not more than \$5,000 or triple the amount at issue, whichever amount is greater. GOV'T CODE § 571.173.

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 \$500.

Order Date: _____

FOR THE COMMISSION

David A. Reisman
Executive Director
Texas Ethics Commission