

TEXAS ETHICS COMMISSION

IN THE MATTER OF
DELA CASTILLO,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31807264

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on December 13, 2018, to consider sworn complaint SC-31807264. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 255.007 and 254.064, of the Election Code, laws administered and enforced by the Commission. The Commission determined that there is credible evidence of no violation of sections 252.001 and 255.006 of the Election Code. To resolve and settle the complaint without further proceedings, the Commission adopted this resolution.

II. Allegations

The complaint alleged that the respondent: 1) did not include on political advertising a disclosure statement; 2) did not include the highway right-of-way notice on political advertising; 3) failed to timely file 30-day and 8-day pre-election reports for the May 5, 2018, election; and 4) represented that she held a public office that she did not hold at the time the representations were made by not including the word "for" before the office sought on campaign communications.

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 the Coastal Bend College Board of Trustees, Place 1, in the May 5, 2018, election.

Political Signage Requirements

2. Before the May 5, 2018 election, the political signs that the respondent used for advertising her candidacy:
 - a) did have statements disclosing who paid for the signs;
 - b) were meant to be seen from the road, yet failed to include highway right-of-way language; and

- c) did include the word "for" before the title of the office sought.
3. Commission staff learned through its investigation that the signs that listed three candidates (including the respondent) and failed to include a disclosure statement or the word "for" on them were purchased by an anonymous outside organization, and the respondent was likely not involved. The signs purchased by the respondent that only featured her name did include a disclosure statement and had the word "for" listed before the office being sought.

Pre-election Campaign Finance Reports

4. The complaint alleged that the respondent did not file required 30-day and 8-day pre-election campaign finance reports for the May 2018 election, in which the respondent was on the ballot and had an opponent whose name also appeared on the ballot.
5. Records on file with the Coastal Bend College confirm the respondent filed a campaign treasurer appointment (Form CTA) on or about January 22, 2018. The respondent signed page 2 of Form CTA, which signified her election to file campaign finance reports on the modified reporting schedule.
6. Ms. Castillo had approximately 100 campaign signs posted around the county and ran advertising in the local newspaper, which, combined, would have caused the respondent to have exceeded the \$500 threshold and require reporting.
7. Regarding the 30-day pre-election report for the May 2018 election, the respondent was required to file the report with Coastal Bend College by April 5, 2018. The respondent filed the report on November 12, 2018. The report showed \$885.25 for political expenditures.
8. Regarding the 8-day pre-election report for the May 2018 election, the respondent was required to file the report with Coastal Bend College by April 27, 2018. The respondent filed the report on November 12, 2018. The report showed \$589.12 for political expenditures and \$450.00 for political contributions.

IV. Findings and Conclusions of Law

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

Political Signage Requirements

1. A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising: (1) that it is political advertising; and (2) the full name of: (a) the person who paid for the political advertising; (b) the political committee authorizing the political advertising; or (c) the candidate or specific purpose committee supporting the candidate, if the political advertising is authorized by the candidate. ELEC. CODE § 255.001.

2. The following notice must be written on each political advertising sign designed to be seen from the road: "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. *Id.* § 255.007(a).
3. 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. *Id.* § 255.007(b).
4. "Political advertising" means, in pertinent part, a communication supporting or opposing a candidate for election to a public office that appears in a pamphlet, circular, flier, billboard or other sign. *See Id.* § 255.001(16).
5. A person commits an offense if the person knowingly represents in a campaign communication that a candidate holds a public office that the candidate does not hold at the time the representation is made. *Id.* § 255.006(b). For purposes of this section, a person represents that a candidate holds a public office that the candidate does not hold if the candidate does not hold the office that the candidate seeks and the political advertising or campaign communication states the public office sought but does not include the word "for" in a type size that is at least one-half the type size used for the name of the office to clarify that the candidate does not hold that office. *Id.* § 255.006(c).
6. "Campaign communication" means, in pertinent part, a written communication relating to a campaign for election to public office or office. *See Id.* § 251.001(17).
7. Credible evidence indicates that the respondent did include a disclosure statement on her signs; did include the word "for" before the office being sought on her campaign signs, did not timely file 30-day and 8-day pre-election reports, and failed to include the required highway right-of-way notice. Therefore, there is credible evidence of violations of sections 255.007 and 254.064 of the Election Code, and credible evidence of no violation of sections 252.001 and 255.006 of the Election Code.

Pre-election Campaign Finance Reports

8. 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. 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. 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 chapter 254, as applicable, and continuing through the 40th 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. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. *Id.* § 254.064(c).

9. Credible evidence indicates that the respondent did not timely file the 30-day and 8-day pre-election reports for the May 2018 election. Therefore, there is credible evidence of a violation of sections 254.064(b) and 254.064(c) 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 political advertising signs and materials require certain language that addresses: who paid for the signs; highway right-of-way language (if meant to be seen from the road); and the word "for" before the title of the office sought (if the candidate is not an incumbent).
4. The respondent acknowledges that 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 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 respondent agrees to comply with these requirements of 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.

VII. Sanction

After considering the nature, circumstances, and consequences of the violations described under Sections III and IV, and after considering the sanction necessary to deter future violations, the Commission assesses a civil penalty of \$250.

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-31807264.

AGREED to by the respondent on this _____ day of _____, 2018.

Dela Castillo, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
Seana Willing, Executive Director