

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
EDMUNDO CASTELLANOS,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-2612246

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on August 21, 2007, to consider sworn complaint SC-2612246. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.063, 254.064, 255.001, and 255.007 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 file campaign finance reports and failed to disclose political expenditures. The complaint also alleges that the respondent failed to include the required disclosure statement and right-of-way notice on political advertising signs.

### III. Facts Supported by Credible Evidence

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

1. The respondent is an incumbent justice of the peace who was unopposed in the March 2006 primary election.
2. The respondent was opposed in the November 2006 general election, at which the respondent was re-elected.
3. The sworn complaint alleges that the respondent failed to file campaign finance reports for the period of January 2006 through November 2006. This period covers semiannual reports due on January 15, 2006, and July 15, 2006, and 30-day and 8-day pre election reports.

4. On December 19, 2006, in response to the sworn complaint, the respondent filed three campaign finance reports.
5. In supplements to the complaint submitted after the respondent filed the December 19, 2006, reports the complainant stated that the respondent still had not filed a July 2006 semiannual campaign finance report, nor an 8-day pre-election campaign finance report.
6. In supplements to the complaint, the complainant further alleged that neither expenses for signs nor income from a barbeque benefit were included in the reports filed by the respondent on December 19, 2006.
7. The respondent stated that although he filed all reports on December 19, 2006, he failed to report income from a barbeque and in-kind contributions for advertising.
8. On July 18, 2007, the respondent filed a corrected campaign finance report covering the period from January 3, 2006, through November 7, 2006. The cover sheet of the corrected report indicates the report type as the January 15, July 15, 30-day pre-election, 8-day pre-election, and final reports.
9. The respondent stated that all of his political contributions and expenditures have now been reported and are reported in the correct amounts.
10. The complaint also alleged that the respondent failed to include the required disclosure statements and right-of-way notice on political advertising signs.
11. The complainant provided a copy of a photograph of one of the signs in question.
12. The sign does not include a political advertising disclosure statement nor a highway right-of-way notice.
13. The complainant provided sworn statements that she and another witness observed the respondent put up a sign that did not have the political advertising disclosure statement and right-of-way notice.
14. The respondent's attorney states that the respondent's new signs complied with the Elections Code, but that old signs might not have been in compliance.
15. The respondent stated that he did not knowingly cause any campaign materials to be published, distributed or broadcast without the required disclosures on political advertising as required by law, and that as soon as he was made aware of signs that did not contain the

required disclosures he removed some and instructed all supporters to modify the homemade signs to meet the legal requirements.

#### **IV. Findings and Conclusions of Law**

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

1. A candidate shall file two reports for each year, the first report shall be filed not later than July 15, and cover the period beginning January 1, 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, as applicable, and continuing through June 30. The second report shall be filed not later than January 15, and cover the period beginning July 1, 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, as applicable, and continuing through December 31. ELEC. CODE § 254.063.
2. 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 shall be filed not later than the 30th day before election day, and cover 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 this chapter, as applicable, and continuing through the 40th day before election day. The second report shall be filed not later than the eighth day before election day, and cover the period beginning the 39th day before the election and continuing through the 10th day before election day. ELEC. CODE § 254.064.
3. The complaint alleges that the respondent failed to file campaign finance reports for the period of January 2006 through November 2006. This period covers semiannual reports due on January 15, 2006, and July 15, 2006, and the 30-day and 8-day pre-election reports for the November 2006 general election (the respondent was unopposed in the primary and, thus, was not required to file pre-election reports for the primary).
4. After receipt of the sworn complaint, the respondent attempted to file the reports on December 19, 2006.
5. In response to additional allegations that the respondent failed to include political expenditures and political contributions in the campaign finance reports filed on December 19, 2006, the respondent admits that he failed to report several political contributions and expenditures on the December 19, 2006, reports.

6. On July 18, 2007, the respondent filed corrected reports to include all political contributions and expenditures during his campaign.
7. The evidence shows that the respondent failed to file the reports at issue in a timely manner.
8. Therefore, there is credible evidence that the respondent violated sections 254.063 and 254.064 of the Election Code, by failing to file required campaign finance reports.
9. 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).
10. Political advertising that is authorized by a candidate, an agent of a candidate, or a political committee filing reports under this title shall be deemed to contain express advocacy. ELEC. CODE § 255.001(b).
11. A person may not knowingly use, cause or permit to be used, or continue to use any published, distributed, or broadcast political advertising containing express advocacy that the person knows does not include the required disclosure statement. A person is presumed to know that the use of political advertising is prohibited by this subsection if the commission notifies the person in writing that the use is prohibited. A person who learns that political advertising signs that have been distributed do not include the required disclosure statement does not commit a continuing violation of this subsection if the person makes a good faith attempt to remove or correct those signs. ELEC. CODE § 255.001(c).
12. 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.
13. The complaint alleged that the respondent failed to include the required disclosure statements and a right-of-way notice on political advertising signs.
14. The evidence indicates that the respondent put up a sign that did not have the required disclosure statement and right-of-way notice.

15. The respondent does not dispute that some of his signs did not include the required disclosure statement and right-of-way notice.
16. Therefore, there is credible evidence that the respondent violated sections 255.001 and 255.007 of the Election Code, for failure to include the required disclosures and right-of-way notices on political advertising.

### **V. Representations and Agreement by Respondent**

By signing this order and agreed resolution and returning it to the commission:

1. The respondent acknowledges that a candidate shall file two reports for each year, the first report shall be filed not later than July 15, and cover the period beginning January 1, 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, as applicable, and continuing through June 30. The respondent acknowledges that a second report shall be filed not later than January 15, and cover the period beginning July 1, 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, as applicable, and continuing through December 31.
2. The respondent also 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 shall be filed not later than the 30th day before election day, and cover 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 this chapter, as applicable, and continuing through the 40th day before election day. The respondent acknowledges that a second report shall be filed not later than the eighth day before election day, and cover the period beginning the 39th day before the election and continuing through the 10th day before election day.
3. The respondent acknowledges that 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.
4. The respondent further acknowledges that political advertising that is authorized by a candidate, an agent of a candidate, or a political committee filing reports under this title shall be deemed to contain express advocacy.

5. The respondent acknowledges that a person may not knowingly use, cause or permit to be used, or continue to use any published, distributed, or broadcast political advertising containing express advocacy that the person knows does not include the required disclosure statement. The respondent acknowledges that a person is presumed to know that the use of political advertising is prohibited by this subsection if the commission notifies the person in writing that the use is prohibited and that a person who learns that political advertising signs that have been distributed do not include the required disclosure statement does not commit a continuing violation of this subsection if the person makes a good faith attempt to remove or correct those signs. ELEC. CODE § 255.001(c).
6. In addition, the respondent acknowledges that 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.” The respondent acknowledges that 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.

## **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 \$1,000 civil penalty.

The respondent agrees that the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, must receive from the respondent full payment of the \$1,000 civil penalty no later than November 18, 2007, and agrees to waive any right to a hearing related to this sworn complaint. The respondent agrees that if the full amount is not received by November 18, 2007, the matter of the collection of the civil penalty will be referred to the Office of the Attorney General of Texas.

**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-2612246.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Edmundo Castellanos, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
David A. Reisman, Executive Director