



**BEFORE THE  
STATE COMMISSION ON JUDICIAL CONDUCT**

---

**CJC Nos. 05-0406-DI, 05-0475-DI, 06-0471-DI,  
06-0520-DI, 07-0614-DI, & 07-0701-DI**

---

**PUBLIC REPRIMAND**

**HONORABLE AMADO J. ABASCAL, III  
JUDGE, 365<sup>TH</sup> JUDICIAL DISTRICT COURT\*  
EAGLE PASS, MAVERICK COUNTY, TEXAS**

**Background Information**

On December 20, 2001, Judge Amado J. Abascal, III (“Abascal”) filed as a candidate in the March 2002 Democratic Primary election (the “Primary”) for re-election to a fourth term as judge of the 365<sup>th</sup> Judicial District Court. On January 2, 2002, the last day for filing as a candidate in the Primary, a local attorney, Charles Johnson (“Johnson”), filed to run against Abascal. Abascal defeated Johnson on March 12, 2002, and went on to win re-election in November 2002, having no opponent in the General election.

A large number of potential voters in Abascal’s district included members of the Kickapoo Indian Tribe, whose financial and political interests are thought to be dependent upon the on-going success of the Kickapoo Lucky Eagle Casino (the “Casino”) located on tribal lands just south of Eagle Pass.

In 2002, Isidro Garza, Jr. (“Isidro”) was the Tribal Administrator of the Casino. He had a long history of assisting the once-poor Kickapoo Tribe gain political and financial success, both locally and on a national level. After an unsuccessful attempt in 2000 to defeat the incumbent, Henry Bonilla, for a seat in the U.S. Congress, Isidro worked toward building a political career for his son, Timoteo Garza (“Timo”), who ran for Texas State Representative in 2002. In an effort to assist his son, Isidro reportedly spent hundreds of thousands of dollars on the campaign, most of which came from the Casino’s operating funds.

---

\* The 365<sup>th</sup> Judicial District covers Maverick, Dimmit, and Zavala Counties.

Shortly before Timo was elected state representative in November 2002, funded largely through “loans” from Isidro and the Casino, the Kickapoo Tribe elected new leaders, who, in turn, accused the ousted leaders of mismanagement and corruption. On December 7, 2004, a federal grand jury handed up indictments against several individuals involved in the Casino’s old regime. Among those indicted were Isidro, his wife, Martha (“Martha”), their son, Timo, and Lee Martin (“Martin”), the former general manager of the Casino.

According to the indictments, political contributions from the Kickapoo Tribal leaders, and Isidro in particular, often took the form of cash payments, usually after checks written on the Lucky Eagle Casino account were cashed at the Casino. Since state law prohibits candidates from accepting more than \$100 cash from a single individual in an election period<sup>1</sup>, there were allegations that many of the cash payments had been pocketed by candidates without being reported, or were reported falsely in their campaign finance reports.

According to the indictments, in the weeks prior to the Primary, Isidro arranged for four payments, totaling \$30,000, to be paid to one or more unnamed state judges, paying half the sum in cash and the other half in checks cashed directly at the Casino. Once the story of the indictments became publicly known, it was reported that Abascal had disclosed in his March 2002 campaign finance report that he had received 15 separate campaign contributions of \$1,000 each. All but two of the 15 donors were employees of the Casino. All of the contributions were made in cash.

On October 27, 2005, as a direct result of having received and reported the \$15,000 in campaign donations mentioned above, Abascal was indicted by a Travis County Grand Jury for Tampering with a Governmental Record with intent to defraud or harm another (§37.10(a)(1) and (5), Texas Penal Code), a state jail felony. Shortly thereafter, Abascal was suspended from the bench, with pay, by the Commission.

In October 2006, Isidro, Martha, Timo and Martin entered into plea agreements with federal prosecutors, who agreed to drop remaining charges against them if they pleaded guilty to lesser charges. Isidro entered a plea to one count each of tax evasion and theft.

On March 30, 2007, Abascal was indicted a second time by another Travis County Grand Jury on two counts of Aggravated Perjury, a Third Degree Felony, for allegedly lying to the October 2005 Grand Jury. On April 5, 2007, the Commission amended its Order of Suspension to include the new indictment. Abascal remained suspended with pay.

At their May 2007 sentencing, Isidro, Martha, Timo and Martin suddenly renounced their plea agreements, stopped cooperating with the government, and were ordered to stand trial.

On July 12, 2007, Abascal entered a plea of guilty to the charge of Tampering with a Governmental Record without intent to Defraud or Harm, a Class A misdemeanor. Abascal also agreed to pay a \$4,000 fine and civil damages in the amount of \$15,000 to

---

<sup>1</sup> 253.033, Tex. Election Code. The same restriction applies to federal candidates and officeholders under 11 CFR 110.4(c).

the State of Texas. In exchange for this guilty plea, the Travis County District Attorney's Office agreed to reduce the original charge of Tampering with a Governmental Record under Section 37.10(a)(1) and (5) of the Texas Penal Code, a State Jail Felony, to the lesser-included Class A misdemeanor offense. In addition, the State agreed to dismiss the Aggravated Perjury charges.

As a result of the plea to the lesser-included charge, which did not include the intent to defraud or harm, Abascal's conviction of a Class A misdemeanor no longer qualified as "official misconduct" or a crime of moral turpitude, and, therefore, would not result in his automatic removal from the bench. Further, as part of the agreement the parties entered into an "Agreed Judgment Under the Texas Election Code, Chapter 253" in which Abascal acknowledged committing civil violations of the Election Code and agreed to pay the state \$15,000 as a civil penalty. Shortly thereafter, the Commission lifted the judge's suspension allowing Abascal to return to the bench.<sup>2</sup>

In October 2007, Isidro, Martha, Timo, and Martin were tried in the Waco federal court and convicted of scheming together to steal more than \$2 million from the Casino and the Kickapoo tribe. Isidro and Martha were also convicted of tax evasion and other related conspiracy charges. At the trial, Abascal testified that he had received two cash payments from Isidro, a \$10,000 payment on February 12, 2002 and a \$5,000 payment on March 1, 2002 respectively.

In February 2008, Isidro was sentenced to 235 months in federal prison, 3 ½ years of supervised release, and ordered to pay \$500,000 in restitution; Martha was sentenced to 24 months in federal prison, 3 ½ years of supervised release and ordered to pay \$100,000 in restitution; Timo was sentenced to 78 months in federal prison, 3 ½ years of supervised release, and ordered to pay \$250,000 in restitution; and Martin was sentenced to 60 months in federal prison and ordered to pay \$250,000 in restitution.

### **Proceedings Before the Commission**

During its meeting on December 2-5, 2008, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Amado J. Abascal, III, Judge, Judge of the 365<sup>th</sup> Judicial District Court, Eagle Pass, Maverick County, Texas. Judge Abascal was advised by letter of the Commission's concerns and provided a written response. Judge Abascal appeared with counsel before the Commission on October 15, 2008, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusion:

### **FINDINGS OF FACT**

1. At all times relevant hereto, the Honorable Amado J. Abascal, III, was Judge of the 365<sup>th</sup> Judicial District Court in Eagle Pass, Maverick County, Texas.
2. Abascal's indictments, suspension from office, and subsequent plea agreement and conviction of a Class A misdemeanor described above generated widespread media attention.

---

<sup>2</sup> While under the first indictment and suspension, Judge Abascal was re-elected to his fifth term of office.

### **Abascal's 2002 Primary Election Campaign**

3. As of January 2, 2002, Abascal reported having a total of \$2,119.92 in his judicial campaign bank account.
4. In his testimony before the October 2005 Grand Jury, Abascal acknowledged that he did not have a lot of money on hand at the start of his 2002 campaign. Abascal testified that he thought he had approximately \$3,500 at the time.
5. Upon learning that he would have an opponent in the March 2002 Primary, Abascal determined that he would need to quickly raise a large amount of money to spend on his campaign.
6. According to witness testimony, elections in Abascal's district are won based on the amount of cash payments made to campaign workers who, in turn, block-walk, hand out push-cards, bus voters to the polls, and feed the voters before or after they vote.
7. Abascal immediately hired and began making cash payments to various campaign "canvassers," who would block walk and hand out "push cards" for his campaign in Maverick, Zavala, and Dimmit Counties.
8. Abascal also met with Isidro at the Casino to discuss obtaining the support of the Kickapoo tribe.
9. A campaign fundraising event for Abascal was organized to take place on February 7, 2002, at the Charcoal Grill Restaurant in Eagle Pass.
10. On February 6, 2002, Isidro and Martin issued Purchase Order #19662 for a check in the amount of \$10,000, to be paid to Abascal for a "Political Contribution."
11. On February 7, 2002, Check No. 21315, in the amount of \$10,000, paid to the order of Abascal, was issued from the Kickapoo Lucky Eagle Casino Operating Fund.
12. According to the March 2007 Grand Jury testimony of Isidro and Martin, the \$10,000 check was delivered to the Charcoal Grill Restaurant on February 7, 2002, but for some undisclosed reason was never given to Abascal.
13. Soon thereafter, the check was cashed, without endorsement, by Isidro at the Casino's "cash cage."
14. On February 12, 2002, Martha contacted Abascal at court to confirm that Isidro would be meeting with Abascal at 9:00 p.m. that evening. During that meeting, which took place at Abascal's home, Isidro presented Abascal with \$10,000 in cash.
15. According to his testimony before the October 2005 Grand Jury and before the Commission, Abascal informed Isidro at that meeting that he could not accept the \$10,000 unless he received the names and addresses of the individual contributors.

16. According to Abascal, he advised Isidro that it was illegal for him to accept contributions from corporations, and that it was illegal for him to accept contributions in excess of \$1,000 from an individual or a married couple.
17. According to Abascal, because Isidro assured him that the names and addresses of the contributors would be given to him, Abascal “conditionally” accepted the \$10,000 and stored the cash in an armoire located in his bedroom.
18. On March 1, 2002, Isidro and Martin issued Purchase Order #20446, for a check in the amount of \$5,000, to be paid to Abascal for a “Political Donation.” Check No. 21888, in the amount of \$5,000, paid to the order of Abascal, was issued from the Kickapoo Lucky Eagle Casino Operating Fund that same day, and was cashed, without endorsement, at the “cash cage” in the casino by Isidro on or about the same day.
19. On March 1, 2002, Isidro and Martha delivered \$5,000 in cash to Abascal at his home.
20. According to Abascal’s testimony, when he “conditionally” accepted the cash, he reminded Isidro that he needed the names and addresses of the individual contributors so that he could report the money in his campaign finance report, which was due on March 4, 2002.
21. Abascal’s testimony regarding his discussions with Isidro about the list of names was refuted by the March 2007 Grand Jury testimony of Isidro and Martha.
22. Some time after March 1, 2002 and on or before March 4, 2002, Martha telephoned Debbie Guerrero (“Debbie”), one of Abascal’s campaign volunteers, and provided fifteen (15) names and addresses from a list prepared by Martha and/or Isidro.
23. These names were to become the fifteen \$1,000 contributors reported by Abascal in his March 4<sup>th</sup> campaign finance report.
24. Debbie wrote the 15 names and addresses on a yellow legal pad, separating or identifying 10 names associated with the date “2-12-02” and 5 names with the date “3-1-02.” Debbie gave the list of names to Abascal, who used them to prepare his March 4, 2002 campaign finance report. Debbie and Abascal added the employment information for each of the names, as that information was not provided by Martha.
25. On March 4, 2002, Abascal completed, signed, and mailed the campaign finance report to the Texas Ethics Commission. In that report, he identified fifteen (15) contributions of \$1,000 each from different individuals.

26. Abascal, who identified himself as “Campaign Treasurer,” was well-acquainted with state campaign finance laws, having been an officeholder and/or candidate for election since he served as the Maverick County District Attorney starting in 1981.<sup>3</sup>
27. The judge’s report was notarized by Manuela Rodriguez, a court employee.
28. On March 7, 2002, Abascal’s campaign finance report was received in the mail by the Texas Ethics Commission.
29. During the course of their investigation into the Kickapoo Lucky Eagle Casino corruption case, federal authorities interviewed 10 of the 15 contributors identified in Abascal’s March 4, 2002 campaign finance report. According to their testimony, not one of the alleged donors had contributed \$1,000 to Abascal; however, a few of the individuals testified that they had agreed to allow Martha to use their name as a donor for a local candidate since it would not require them to actually donate any money of their own.
30. All but two of the straw donors were employees of the Casino. Several were either related to Abascal or worked on his campaign as volunteers. Many of these “donors” testified that Abascal never once mentioned the receipt of the funds or thanked them for their contribution.
31. Bank records show that Abascal did not deposit any of the cash he received from Isidro into his campaign account.
32. According to Abascal’s testimony before the October 2005 Grand Jury and before the Commission, the cash remained in an armoire until after he was provided with the list of fifteen (15) names.
33. Abascal further testified that although he may have occasionally handled the cash in order to “make change,” none of the cash was spent until after March 2, 2002.
34. Abascal’s campaign finance reports show that in the month of January 2002, he paid campaign “canvassers” a total of \$7,215 in cash; in the period covering February 1, 2002 through March 1, 2002, he paid the campaign workers a total of \$28,775 in cash; and in the period from March 8, 2002 through March 12, 2002, he paid the workers a total of \$9,480 in cash.
35. According to Abascal’s campaign finance reports, campaign workers were paid close to \$36,000 in cash between January 1, 2002 and March 1, 2002.

---

<sup>3</sup> According to the judge’s handwritten notes obtained by federal investigators, Abascal contacted the Texas Ethics Commission and reviewed the TEC website prior to the March 2002 primary. His notes include citations to provisions of the Election Code, including laws relating to voluntary compliance with expenditure limits and the effect on a non-compliant candidate. The judge also returned 4 checks received during the course of the 2002 election because the contribution amounts exceeded the limits allowed by law and/or the donors were not allowed to contribute by law. Finally, the TEC prepared an informative legal guide, which is posted on its website, as a resource for any candidate or officeholder.

36. Abascal's campaign bank account records show that only \$10,300 of the funds maintained in that account were applied toward the \$28,775 of cash payments made to campaign workers in the February 1, 2002 to March 1, 2002 reporting period.
37. As a result, according to Abascal's own records and testimony, prior to March 2, 2002, campaign workers were paid nearly \$26,000 in cash from a source of funds other than the contributions maintained in his campaign bank account.
38. Moreover, according to Abascal's testimony, that source of funds did not include the \$15,000 in cash he had received from Isidro.
39. The judge went on to testify that the source of funds used to pay the campaign workers was from cash accumulated over time from gifts from family members and other savings, which cash he maintained in a fire safe located in his home.
40. Abascal was unable to produce any records verifying the amount of cash maintained in the fire safe.
41. This private source of funds, which Abascal testified he had loaned to his own campaign, was not disclosed during the judge's October 2005 Grand Jury testimony and was never reported in Abascal's campaign finance reports as required by law.<sup>4</sup>
42. Abascal's testimony before the Commission regarding the availability of personal funds to support his campaign was at odds with the March 2007 Grand Jury testimony of Luis Minton ("Minton"), the judge's campaign manager. When asked about Abascal's campaign's finances, Minton recalled that when he approached the judge with the idea of buying television advertising, Abascal balked at the expense, telling Minton that he simply did not have enough money, approximately \$5,000, to cover the publicity that they had talked about.
43. According to Abascal's campaign bank account records and campaign finance reports, he received a total of \$11,450 in contributions between January 1, 2002 and January 31, 2002, and spent a total of \$12,486.22 during the same period; he received a total of \$42,468.72 in contributions between February 1, 2002 and March 1, 2002, and spent a total of \$43,845.72 during the same period.
44. Although the sum of \$42,468.72 in contributions reported in Abascal's March 4, 2002 campaign finance report included the \$15,000 in cash contributions received from Isidro, Abascal testified that he did not spend that cash until after he received the list of names and addresses on or after March 2, 2002.
45. The \$43,845.72 in reported expenditures for the reporting period covering February 1, 2002 through March 1, 2002, exceeded the amount of funds maintained in Abascal's campaign account during this period by just under \$15,000.

---

<sup>4</sup> Sections 254.001 ("Recordkeeping Required") and 254.031 ("General Contents of Reports") of the Texas Election Code; 1 TAC 20.63 ("Reporting the Use and Reimbursement of Personal Funds").

46. Additionally, although he reported paying campaign workers a total of \$9,480 in cash between March 2, 2002 and March 12, 2002, and testified that he spent the \$15,000 in cash he received from Isidro after March 2, 2002, Abascal was unable to account for the remaining \$5,000 in cash. Abascal acknowledged that he failed to report the balance as an expenditure or as cash on hand, as required by law.<sup>5</sup>
47. Abascal has never repaid himself any amount of the personal funds he loaned to his 2002 campaign.

### **RELEVANT STANDARDS**

1. Article 5, §1-a(6)A of the Texas Constitution provides that any Texas justice or judge may be disciplined for willful or persistent violation of the rules promulgated by the Supreme Court of Texas, . . .willful violation of the Code of Judicial Conduct, or willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice.
2. Canon 2A of the Texas Code of Judicial Conduct provides that “[a] judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”
3. Section 37.10(a)(1) of the Texas Penal Code provides that “[a] person commits an offense if he: knowingly makes a false entry in, or false alteration of, a governmental record.”
4. Section 37.10(a)(5) of the Texas Penal Code provides that “[a] person commits an offense if he: makes, presents, or uses a governmental record with knowledge of its falsity.”
5. Section 253.033 of the Texas Election Code provides that “a candidate may not knowingly accept from a contributor in a reporting period political contributions in cash that in the aggregate exceed \$100.”
6. Section 254.001(a) of the Texas Election Code provides that “each candidate and each officeholder shall maintain a record of all reportable activity.”
7. Section 254.031 of the Texas Election Code provides that each report filed under this chapter must include: detailed information about political contributions accepted by the campaign, loans made to the campaign, and expenditures made on behalf of the candidate during the campaign.
8. Title 1, Part 2, Section 20.63 of the Texas Administrative Code requires that a candidate report any campaign expenditures from personal funds.

---

<sup>5</sup> Sections 254.001 (“Recordkeeping Required”) and 254.031 (“General Contents of Reports”) of the Texas Election Code; 1 TAC 20.63 (“Reporting the Use and Reimbursement of Personal Funds”).



9. Canon 5(4) of the Texas Code of Judicial Conduct provides, in relevant part, that “. . . [a] judge . . . subject to the Judicial Campaign Fairness Act, Tex. Elec. Code §253.151, *et seq.* (the “Act”), shall not knowingly commit an act for which he or she knows the Act imposes a penalty.”

### CONCLUSIONS

The Commission concludes from the facts and evidence presented that Judge Abascal willfully and persistently violated the Texas Election Code, the Texas Penal Code, as well as Canons 2A and 5(4) of the Texas Code of Judicial Conduct, during the March 2002 Primary Election by (a) accepting a \$15,000 contribution from a single source, Isidro Garza; (b) accepting \$15,000 in cash from either a single source or \$1,000 in cash from fifteen (15) individuals; (c) failing to report the alleged loan of nearly \$26,000 in personal funds to his campaign; (d) failing to report the balance of approximately \$5,000 allegedly left over from the \$15,000 cash contribution received from Isidro. Moreover, by pleading guilty to the Class A misdemeanor of Tampering with a Governmental Docket, Judge Abascal acknowledged that he knowingly violated the law. Such conduct by a judicial officer was clearly inconsistent with the proper performance of his duties, and the media attention surrounding Judge Abascal’s indictments and his subsequent plea agreement cast public discredit upon the judiciary and the administration of justice, in violation of Article 5, Section 1-a(6) of the Texas Constitution.

\*\*\*\*\*

In condemnation of the above-recited conduct that violated Article 5, §1-a(6)A of the Texas Constitution, the Texas Penal Code, the Texas Election Code, and Canons 2A and 5(4) of the Texas Code of Judicial Conduct, it is the Commission’s decision to issue a **PUBLIC REPRIMAND** to the Honorable Amado Abascal, Judge of the 365<sup>th</sup> Judicial District Court, Eagle Pass, Maverick County, Texas.

Pursuant to the authority contained in Article 5, §1-a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a **PUBLIC REPRIMAND** by the Commission.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state’s judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this the 18th day of December, 2008.

### ORIGINAL SIGNED BY

---

Honorable Sid Harle, Chair  
State Commission on Judicial Conduct