

December 7, 2009

Director Sandra K. Perez, State Personnel Office
2600 Cerrillos Road
P.O. Box 26127
Santa Fe, NM 87505-0127

Dear Director Perez,

As concerned citizens of Valencia County, we would like to tell you of some facts we believe add up to a violation of the Rules and Regulations of the State Personnel Board by a long-time employee of the State of New Mexico.

As you are aware, section 1.7.6.11 of those regulations address what kinds of political activities state employees are and are not allowed to engage in. Specifically, it states:

A. Employees covered by the provisions of the *Hatch Act* [5 U.S.C. Sections 1501 to 1508] may not be candidates for partisan political office elections.

B. Employees not covered by the provisions of the *Hatch Act* [5 U.S.C. Sections 1501 to 1508] may be candidates for any partisan political office if, upon filing or accepting the nomination and during the entire campaign, they are authorized full-time continuous leave without pay.

The Secretary of State, with the intent of enforcing openness and accountability, defines a candidate as:

E. “candidate” means an individual who seeks or considers an office in an election covered by the campaign reporting act, including a public official, who either has filed a declaration of candidacy or nominating petition or:

(1) for a non-statewide office, has received contributions or made expenditures of one thousand dollars(\$1,000) or more or authorized another person or campaign committee to receive contributions or make expenditures of one thousand dollars (\$1,000) or more for the purpose of seeking election to the office;

Mr. Julian Luna, the Executive Director of the State Racing Commission, has started his campaign for State Representative, District 8. As part of that campaign, he has begun holding fundraisers and has purchased campaign materials such as signs, banners, bumper stickers, and t-shirts. On September 21, 2009, a poll was conducted on his behalf, asking voters to rate their preferences in the race between Mr. Luna and the incumbent. All of this campaigning has taken place while Mr. Luna still works in his role at the Racing Commission. His position as Executive

Director is one of power and influence, and one that controls the flow of money to different individuals and various parts of the state. Mr. Luna has not complied with the State Personnel Regulations by taking the required leave of absence upon becoming a candidate for partisan political office.

These laws and regulations exist for a good reason. They are meant to stop powerful state employees from abusing their power and influence as they solicit political support and monetary contributions from the people over whom they hold power. Soliciting contributions from the special interests under their control also has the potential to create the appearance of "pay to play" situations.

Mr. Luna may very well be innocent of influence peddling and we hope that is the case, but by beginning his campaign while still holding an important public position, he is guilty of violating regulations that were put in place to prevent even the appearance of impropriety. That is unfair to a state government that is working hard to improve its image among the people of Valencia County and New Mexico.

We would know more about Mr. Luna's campaign finances if he would follow the New Mexico Election code and the Secretary of State's reporting guidelines. According to the Campaign Reporting Act, anyone meeting the definition of a candidate in Section 1-19-26, must file reports of contributions and expenditures with the Secretary of State. Election code says that someone is a candidate once they have raised or spent \$1000 for a particular office.

The most recent required report was due by October 13, 2009. Since Mr. Luna was part of a poll in September 2009, which should have been counted as an in-kind contribution to his campaign, he should have filed that report. He did not do so.

These actions and inactions mean that Mr. Luna is not in compliance with two state departments: the State Personnel Office for which he works, and the Secretary of State's office, which exists to ensure fair elections for the citizens of New Mexico. We ask that swift and appropriate action be taken by both agencies to correct the situation and to prevent Mr. Luna from continuing his campaign until he has come into full compliance.

Sincerely,

Mr. Albert Chavez
190 Tafoya Road
Belen, NM 87002

William Pratt, M.D.
515 Green Acres Lane
Bosque Farms, NM 87068

Cc: Governor Bill Richardson
Cc: Mr. A.J. Salazar, Bureau of Elections Director