



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 12, 1996

Mr. Winston W. Lorenz
Chair, San Antonio River Authority
P.O. Box 830027
San Antonio, Texas 78283-0027

Letter Opinion No. 96-066

Re: Status of a member of the board of directors of a river authority who assumes office in the so-called "Republic of Texas" (ID# 38802)

Dear Mr. Lorenz:

We have received and considered your questions as to whether the taking of an oath of allegiance to the purported "Republic of Texas" by one of your elected board members divests that board member of his office by virtue of an implicit revocation of his prior oath of office, or by the operation of the common-law doctrine of incompatibility.

The San Antonio River Authority was created under the authority of article XVI, section 59 of the Texas Constitution. *Lewis v. San Antonio River Auth.*, 343 S.W.2d 475, 476 (Tex. Civ. App.—San Antonio 1960), *aff'd*, 363 S.W.2d 444 (1962). As you inform us, one of its elected board members, who had sworn an oath of office which pledged him to "preserve, protect, and defend" the constitution and laws of Texas and the United States, has since "held office" under and taken an oath of allegiance to the so-called "Republic of Texas," a body of persons who, with no shred of legal authority, hold themselves out to be the true government of Texas. The board member in question has since resigned his purported office under the "Republic." You ask whether the act of taking that office and swearing an oath to the "Republic" has divested him of his membership on the San Antonio River Authority Board.

Foolish though these actions may be, they do not divest the individual in question of his office. A duly elected public official may not be removed from office except for the violation of some rule established by a legislature or some comparable legal authority. *State ex rel. Edwards v. Reyna*, 333 S.W.2d 832, 836 (Tex. 1960). We have been presented with no evidence to suggest that the board member has broken such a rule. The mere taking of this purported oath without more does not appear, for example, to fit within the definitions of incompetency or official misconduct to be found in section 87.011 of the Local Government Code.

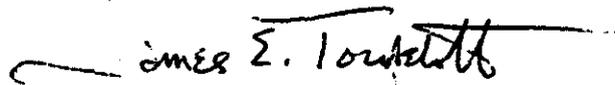
Nor does the board member's acceptance of the "vice-presidency" of the "Republic" constitute dual office-holding or the holding of incompatible offices. The board member did not hold two incompatible offices, because he did not hold two public offices. The Republic of Texas does not exist. Texas has not been a republic for over 150 years. The so-called Republic has no sovereignty, no authority, no part in the political apparatus of this state. Courts of competent jurisdiction have attempted, apparently in vain, to explain this to the partisans of the "Republic." See, e.g., *United States v. Greenstreet*, 912 F. Supp. 224 (N.D. Tex. 1996); *Kimmel v. Burnet County Appraisal Dist.*, 835 S.W.2d 108 (Tex. App.—Austin 1992, writ dismissed w.o.j.). Accordingly, the board member's oath of allegiance to the "Republic" and his acceptance of office under it are devoid of any legal significance.

While we do not condone the board member's relation to the "Republic," such relation does not as a legal matter divest him of his elected office.

SUMMARY

The taking of an oath of allegiance to and acceptance of an "office" from the purported Republic of Texas does not as a legal matter divest a board member of the San Antonio River Authority of his elected public position.

Yours very truly,



James E. Tourtelott
Assistant Attorney General
Opinion Committee