

TEXAS ETHICS COMMISSION

IN THE MATTER OF
CARLOS ESPINOZA,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-32404289



ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (TEC) met on September 24, 2024, to consider sworn complaint SC-32404289. A quorum of the TEC was present. The TEC determined that there is credible evidence of violations of Sections 254.063 and 254.064 of the Election Code, laws administered and enforced by the TEC.

To resolve and settle this complaint without further proceedings, the TEC proposed this resolution to the respondent. This proposed resolution imposes a \$3,500 civil penalty that, if not paid within 30 days, will be referred to the Office of Attorney General of Texas for collection.

II. Allegations

The sworn complaint alleges that the respondent violated Section 254.063 of the Election Code by failing to file the following four semiannual campaign finance reports: 1) the July 2022 semiannual report, which was due by July 15, 2022; 2) the January 2023 semiannual report, which was due by January 17, 2023; 3) the July 2023 semiannual report, which was due by July 17, 2023; and 4) the January 2024 semiannual report, which was due by January 16, 2024.

The TEC also considered whether the respondent failed to file the 30-day and 8-day pre-election reports for the March 5, 2024 primary election, and the runoff report for the May 28, 2024 runoff election, in violation of Section 254.064 of the Election Code.

III. Findings of Fact and Conclusions of Law

Credible evidence available to the TEC supports the following findings of facts and conclusions of law:

The Respondent Failed to File His Campaign Finance Reports

1. The respondent was an incumbent candidate for Hidalgo County Justice of the Peace, Precinct 4, Place 1, in the March 5, 2024 Democratic primary election and advanced to the May 28, 2024 Democratic runoff election. The respondent was successful and will be the

Democratic candidate for Hidalgo County Justice of the Peace, Precinct 4, Place 1, in the November 7, 2024 general election.

2. Records on file with the Hidalgo County elections department show that the respondent filed his campaign treasurer appointment on October 3, 2007, and filed a July 2009 semiannual report on July 15, 2009, which included the designation of final report form. The July 2009 semiannual report therefore was a final report that terminated his campaign treasurer appointment. The respondent has been a local officeholder without a campaign treasurer appointment on file since July 15, 2009.
3. In response to the complaint, the respondent acknowledged that he failed to file the campaign finance reports at issue. The respondent claimed that this was due to an oversight and was not done intentionally. The respondent filed a campaign treasurer appointment and the semiannual campaign finance reports at issue on June 6, 2024. The respondent disclosed no political contributions or expenditures on his July 2022, January 2023, or July 2023 semiannual reports. On his January 2024 semiannual report, the respondent disclosed \$5,057 in total unitemized political contributions and \$8,452 in total political expenditures.
4. The respondent became a candidate when he began accepting political contributions and making political expenditures during the January 2024 semiannual reporting period. Therefore, he was required to file the January 2024 semiannual report as a candidate. *See* Tex. Elec. Code §§ 251.001(1), 254.063(c). The respondent did not file his January 2024 semiannual report until after the election, on June 6, 2024. Therefore, there is credible evidence of a violation of Section 254.063 of the Election Code.
5. From 2020 to 2023, the respondent was an officeholder, not a candidate. Because the respondent was a local officeholder who did not have a campaign treasurer appointment on file and did not accept or make more than the aggregate amount of \$500 (\$940 as of January 2022 and \$1,010 as of January 2023) in political contributions or political expenditures during the reporting periods covered by the July 2022, January 2023, and July 2023 semiannual reports, the respondent was not required to file these three reports. *See* Tex. Elec. Code § 254.095, 1 Tex. Admin. Code §§ 18.31, 20.275. Therefore, there is no credible evidence of violations of Section 254.063 as to these semiannual reports.
6. During the preliminary review investigation, TEC staff requested that the respondent file his 30-day and 8-day pre-election reports for the March 5, 2024 primary election and his runoff report for the May 28, 2024 runoff election. The respondent filed his reports on July 11, 2024. The 30-day report disclosed \$500 in total political contributions and \$5,494 in total political expenditures. The 8-day report disclosed \$7,770 in total political contributions and \$10,392 in total political expenditures. The runoff report disclosed \$7,210 in total political contributions and \$7,843.48 in total political expenditures.
7. The respondent had an opponent on the ballot in the March 5, 2024 primary election and in the May 28, 2024 runoff election and did not elect modified reporting. Therefore, the

respondent was required to file the 30-day pre-election report by February 5, 2024, the 8-day pre-election report by February 26, 2024, and the runoff report by May 20, 2024. *See* Tex. Elec. Code § 254.064.

8. The respondent did not file his 30-day pre-election report, 8-day pre-election report, and runoff report until after the election, on July 11, 2024. Therefore, there is credible evidence of violations of Section 254.064 of the Election Code.

V. Representations and Agreement by Respondent

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

1. The respondent neither admits nor denies the findings of fact and conclusions of law described under Section III, and consents to the entry of this order and agreed resolution solely for the purpose of resolving the sworn complaint.
2. The respondent consents to this order and agreed resolution and waives any right to further proceedings in this matter. The respondent consents to TEC staff presenting this resolution to the Commissioners outside of the respondent's presence.
3. The respondent acknowledges that a candidate must file two semiannual reports for each year, on July 15 and January 15. The respondent acknowledges that a local officeholder without a campaign treasurer appointment on file may still be required to file semiannual reports if they exceed the applicable threshold for contributions or expenditures, or if they are active as a candidate. The respondent also acknowledges that an opposed candidate who does not select modified reporting on their campaign treasurer appointment must file a 30-day pre-election report and an 8-day pre-election report, and if a runoff election occurs, must also file a runoff report.
4. The respondent agrees to fully and strictly comply with the above requirements of law. The respondent further agrees to file campaign finance reports disclosing his campaign finance activity in connection with the 2020 election.

VI. Confidentiality

This order and agreed resolution describe violations that the TEC 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 TEC.

VII. Sanction

The TEC may impose a civil penalty of not more than \$5,000 or triple the amount at issue under a law administered and enforced by the TEC, whichever amount is more, for a delay in complying with a TEC order or for violation of a law administered and enforced by the TEC. Tex. Gov't Code § 571.173. The TEC shall consider the following factors in assessing a sanction: 1) the seriousness of the violation, including the nature, circumstances, consequences, extent and gravity of the violation; 2) the history and extent of previous violations; 3) the demonstrated good faith of the

violator, including actions taken to rectify the consequences of the violation; 4) the penalty necessary to deter future violations, and 5) any other matters that justice may require. *Id.* § 571.177.

Factor 1: The Seriousness of the Violation

The respondent filed all of his campaign finance reports in connection with the March 5, 2024 primary election and May 28, 2024 runoff election late. The respondent did not file his January 2024 semiannual report until five months after the election, his pre-election reports until four months after the election, and his runoff report until two months after the election. The campaign finance reports at issue disclosed a substantial amount of campaign financial activity, including \$20,537 in total political contributions, of which the public had no knowledge until the respondent filed his campaign finance reports. The respondent's failure to file his campaign finance reports before the election significantly harmed public transparency in a contested election.

Factor 2: The History and Extent of Previous Violations

The TEC has not previously found violations by the respondent.

Factor 3: The Demonstrated Good Faith of the Violator

While the respondent filed the campaign finance reports at issue, the respondent did not file the reports until several months after the election occurred. The TEC also takes into account that the respondent filed his campaign finance reports for the 2020 election after TEC staff requested he do so.

Factor 4: The Penalty Necessary to Deter Future Violations

The respondent has been a local officeholder since 2008 and has previously filed campaign finance reports, so the respondent is aware of candidates' and officeholders' obligation to file campaign finance reports. Despite being the incumbent candidate and a judge, the respondent failed to file reports for the 2020 or 2024 elections. While the respondent was not opposed in the 2020 primary election, he accepted political contributions in late 2019 and early 2020, apparently in connection with the 2020 election. Based on the respondent's previous filing history, it is likely that the respondent would not have filed any campaign finance report in connection with the 2020 or 2024 elections if this sworn complaint were not filed.

Factor 5: Any Other Matters that Justice May Require

At the request of TEC staff, the respondent conducted an informal accounting of his contributions and expenditures dating back to 2016. This accounting revealed that the respondent accepted \$23,060 in contributions associated with the 2020 election, and \$20,537 in contributions associated with the 2024 election. These contributions included a \$500 corporate contribution in November 2019 and another \$500 corporate contribution in January 2024. Even among the contributions that the respondent accepted that were not self-evidently from corporations, many were from businesses.

While TEC staff takes into consideration the respondent's willingness to file the requested campaign finance reports in response to the complaint, his failure to file the reports before the elections significantly harmed public disclosure. Specifically, at the time of the elections, the public had no way of knowing from whom the respondent received the \$43,597 in political contributions associated with these elections. Further, the most generous explanation of the respondent's complete failure to file reports in connection with either the 2020 or 2024 election is that the respondent was indifferent to his filing obligations. The only alternative explanation is that the respondent did not want to identify his campaign contributors. Either way, a significant penalty is necessary to ensure future compliance by the respondent.

Conclusion

After considering the nature, circumstances, and consequences of the violations described under Section III, the TEC imposes a \$3,500 civil penalty that, if not paid within 30 days, will be referred to the Office of Attorney General of Texas for collection.

VIII. Order

The TEC hereby orders that if the respondent consents to the proposed resolution, this order and agreed resolution is a final and complete resolution of SC-32404289.

AGREED to by the respondent on this 3RD day of SEPTEMBER, 2024.



Carlos Espinoza, Respondent

EXECUTED by the TEC on: 9/24/24.

Texas Ethics Commission

By: 

J.R. Johnson, Executive Director