

TEXAS ETHICS COMMISSION

IN THE MATTER OF

CHRISTOPHER M. MORALES,

RESPONDENT

§
§
§
§
§

BEFORE THE

TEXAS ETHICS COMMISSION

SC-31409190CI

ORDER And AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on June 1, 2016, to consider sworn complaint SC-31409190CI. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 252.001, 254.064(b), and 254.064(c) of the Election Code, and section 571.1242(c) of the Government Code, laws administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the Commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent, as an opposed candidate for the Edcouch-Elsa Independent School District (EEISD) Board of Trustees, did not file a campaign treasurer appointment (CTA) and did not file pre-election reports in connection with the November 6, 2012, general election.

III. Facts Supported by Credible Evidence

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

Background

1. At all times relevant to the complaint, the respondent was a candidate for the EEISD board of trustees in the November 6, 2012, general election.
2. On April 14, 2014, the Commission submitted an open records request to EEISD for all campaign finance reports filed by candidates in the November 6, 2012, general election and all CTAs filed after July 1, 2011. The Commission initiated this complaint after a

review of campaign finance reports on record with EEISD revealed that the respondent was an opposed candidate in the November 6, 2012, general election, but EEISD did not have a record of the respondent filing any campaign finance reports or a CTA. The Commission sent a second open records request to EEISD on September 26, 2014, that specifically asked by name for all campaign finance reports and CTAs filed by the respondent. In response to the second request, EEISD stated that it did not have any campaign finance reports or CTAs on file for the respondent.

3. The Commission did not receive a response to the complaint, although United States Postal Service's records indicate the respondent received notice of the complaint on April 14, 2016.

Campaign Treasurer Appointment

4. The complaint alleged that the respondent, as a candidate for the EEISD board of trustees in the November 6, 2012, general election, did not file a CTA with the EEISD.
5. On August 20, 2012, the respondent filed an application for a place on the ballot in the November 6, 2012, general election. The respondent was opposed in the election.
6. According to records on file with EEISD, the respondent did not file a CTA with the EEISD business administrator.

Filing of Campaign Finance Reports

7. The complaint alleged that the respondent did not file the 30-day and 8-day pre-election campaign finance reports for the November 6, 2012, general election in which the respondent was an opposed candidate for the EEISD board of trustees, place 2.
8. The respondent became a candidate for the EEISD board of trustees on or around August 20, 2012, when he filed his application for a place on the ballot. The respondent did not file a CTA, and therefore did not elect to file on the modified reporting schedule.
9. Regarding the 30-day pre-election report for the November 6, 2012, general election, the respondent was required to file the report with EEISD by October 9, 2012. EEISD records indicate the respondent did not file the 30-day pre-election report.
10. Regarding the 8-day pre-election report for the November 6, 2012, general election, the respondent was required to file the report with EEISD by October 29, 2012. EEISD records indicate the respondent did not file the 8-day pre-election report.

Response to Sworn Complaint

11. After several unsuccessful attempts at contacting the respondent using the address and telephone number he provided on his application for a place on the ballot, the Commission sent a notice of sworn complaint to the respondent by certified mail, return receipt requested, on April 4, 2016. The notice was addressed to a P. O. Box that corresponds with voting registration records and the Hidalgo County property tax records for the respondent. The notice stated that the respondent was required to respond within 10 business days from receipt of the notice. According to the United States Postal Service's record of the delivery, the notice of this complaint was delivered to the respondent on April 14, 2016. The notice informed the respondent that the alleged violations in the sworn complaint were Category One violations, and that a response was required not later than 10 business days from the date the notice was received and that failure to respond constituted a separate violation for which a separate civil penalty may be assessed. Based on the delivery date of the notice, the respondent was required to respond to the sworn complaint by April 28, 2016. The Commission did not receive a response to the sworn complaint.

IV. Findings and Conclusions of Law

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

Campaign Treasurer Appointment

1. "Candidate" means a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. ELEC. CODE § 251.001(1).
2. Examples of affirmative action include the filing of an application for a place on a ballot. *Id.* § 251.001(1)(B).
3. Each candidate and each political committee shall appoint a campaign treasurer as provided by chapter 252 of the Election Code. *Id.* § 252.001.
4. The respondent became a candidate for the EEISD board of trustees on or around August 20, 2012, when he filed his application for a place on the ballot. EEISD has no record that the respondent submitted a CTA. Therefore, there is credible evidence of a violation of section 252.001 of the Election Code.

Filing of Campaign Finance Reports

5. 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. ELEC. CODE § 254.064(a). The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day and covers 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. *Id.* § 254.064(b). The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. *Id.* § 254.064(c).
6. Regarding the 30-day pre-election report for the November 6, 2012, general election, the respondent was an opposed candidate for the EEISD board of trustees and was required to file the report with EEISD by October 9, 2012. The respondent did not file the report with EEISD. Therefore, there is credible evidence of a violation of section 254.064(b) of the Election Code.
7. Regarding the 8-day pre-election report for the November 6, 2012, general election, the respondent was an opposed candidate for the EEISD board of trustees and was required to file the report with EEISD by October 29, 2012. The respondent did not file the report with EEISD. Therefore, there is credible evidence of a violation of section 254.064(c) of the Election Code.

Response to Sworn Complaint

8. A respondent must respond to the notice of a Category One violation not later than the 10th business day after the date the respondent receives the notice, and failure to respond to a notice of a sworn complaint within the time required is a separate Category One violation. GOV'T CODE § 571.1242(a), (c).
9. The response required by section 571.1242 of the Government Code must be in writing, admit or deny the allegations set forth in the complaint, and be signed by the respondent. If a respondent does not submit a response within the time period prescribed by section 571.1242 of the Government Code, the Commission may issue an order imposing a civil penalty for failure to file a response. Ethics Commission Rules § 12.52.
10. United States Postal Service records show that the notice of the sworn complaint was delivered to the respondent on April 14, 2016. The notice stated that the respondent was required to respond within 10 business days from receipt of the notice. The respondent was required to respond by April 28, 2016.

11. The respondent did not submit a response to the sworn complaint. Therefore, there is credible evidence of a violation of section 571.1242(c) of the Government Code.

V. Representations and Agreement by Respondent

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

1. The respondent neither admits nor denies the facts described under Section III or the Commission's findings and conclusions of law described under Section IV, and consents to the entry of this order and agreed resolution solely for the purpose of resolving this sworn complaint.
2. The respondent consents to this order and agreed resolution and waives any right to further proceedings in this matter.
3. The respondent acknowledges that each candidate and each political committee shall appoint a campaign treasurer as provided by chapter 252 of the Election Code. The respondent further 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 must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The respondent further acknowledges that a respondent must respond to a notice of a sworn complaint that contains a Category One violation not later than the 10th business day after the date the respondent receives the notice, and failure to respond to a notice of a sworn complaint within the time required is a separate Category One violation. The respondent agrees to comply with these requirements of the law.

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 nature, circumstances, and consequences of the violations described under Sections III and IV, and after considering the sanction necessary to deter future violations, the Commission imposes an \$800 civil penalty if the required reports are not filed within 30 days of

receipt of the proposed order; or a \$250 civil penalty if the required reports are filed within 30 days of receipt of the proposed order.

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-31409190CI.

AGREED to by the respondent on this _____ day of _____, 20____.

Christopher M. Morales, Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director