

TEXAS ETHICS COMMISSION

IN THE MATTER OF
RUBEN BECERRA,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3210343

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on December 8, 2021, to consider sworn complaint SC-3210343 at a preliminary review hearing. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Section 254.063 of the Election Code, a law administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the Commission adopted this resolution.

II. Allegations

The complaint alleged that the respondent did not timely file the July 2020 and January 2021 semiannual reports. Although not alleged in the complaint, the Commission also considered whether the respondent timely filed the July 2021 semiannual report.

III. Findings of Fact and Conclusions of Law

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

1. The respondent was elected as the Hays County Judge in the November 6, 2018, general election and currently holds the office.
2. Sworn complaint SC-3210343 was filed on March 30, 2021. The complaint alleged that the respondent did not file the July 2020 semiannual report, which was due by July 15, 2020, and the January 2021 semiannual report, which was due by January 15, 2021.
3. Regarding the July 2020 semiannual report, records on file with Hays County show the respondent filed the report on June 23, 2021, approximately three months after the sworn complaint was filed. The report disclosed \$0 in total political contributions and \$10,154.50 in total political expenditures.

4. Regarding the January 2021 semiannual report, records on file with Hays County show the respondent filed the report on June 23, 2021, approximately three months after the sworn complaint was filed. The report disclosed \$0 in total political contributions and \$7,030 in total political expenditures.
5. Regarding the July 2021 semiannual report, records on file with Hays County show the respondent filed the report on July 16, 2021. The report disclosed \$0 in total political contributions and \$6,102.44 in total political expenditures.
6. In his initial response to the complaint, the respondent acknowledged that the reports were filed late. The respondent also provided a supplemental statement from his spouse, who is the person who helps prepare the reports, in which his spouse stated:

Regarding the report due on July 15th, 2020, I don't understand what happened to it, or why it was never turned in. I asked the notary to see her ledger and there was an entry on 7/15/2020 for a campaign finance report. I remember several candidates and office holders putting the reports together for one person to drop them off at the elections office. All the others made it, but Ruben's did not. At this time I cannot say exactly why this happened, it may have been that I found a mistake I needed to fix, but am unsure at this time.

Regarding the report due on January 15, 2021, there were so many extenuating circumstances that hindered my ability to complete the report. On November 3rd, 2020, I broke my foot which in and of itself was pretty benign, besides receiving the terrible news that I couldn't put any weight on my right leg and would probably need surgery. I was scheduled to have surgery on 12/22/20. The weekend before my surgery, my husband (Ruben), children (2 adult sons), and myself started to feel sick. We were tested for COVID19 over the weekend and on 12/21/20 we got our positive test results. My surgery was cancelled and we started the process of convalescing from the symptoms of COVID19. I was able to bounce back after 2 weeks, but Ruben became what his doctor called a long hauler. Despite all of this, Ruben continued to work fulltime on the Hays County COVID19 response, and securing necessary assets for the community. I think it is also worth mentioning that Hays County started the pandemic without an Emergency Services Director, hired one for about a week, fired him, and then started the process of hiring another one, all during the beginning and middle of the pandemic. I mention this because the workload that Ruben had during that time was more than a 60 hour work week. Once we all started to bounce back, I scheduled my surgery at the end of April. I had major foot surgery to erase the incorrect healing and screw the bones together. Ruben was able to lighten his workload a little to care for me, as I was bed confined for 2 weeks

and needed his help for a total of about 4 weeks. Both Ruben and I work full time, so the amount of catch up we had to do was mountainous.

7. The respondent's spouse provided a picture of the notary's ledger showing an entry for the respondent on July 15, 2020, for a document described as "Officeholder Finance Report." Although the respondent provided evidence indicating he made attempts to timely file the report on July 15, 2020, records on file with Hays County show the report was not actually filed until June 23, 2021. With respect to the January 2021 semiannual report, the respondent added that on January 15 he was receiving chest x-rays because he was still having difficulty breathing, and it was later determined that he is a long-hauler of COVID symptoms.
8. Regarding the July 2021 semiannual report, the evidence shows the respondent submitted the report electronically to Hays County after 5 p.m. on the filing deadline of July 15, 2021. Since the report was not filed before 5 p.m., the report was considered filed on the next day, July 16, 2021. In response, the respondent stated that they had explicit direction from the local filing authority that it was acceptable and customary to file reports electronically before midnight on the filing deadline.
9. A candidate shall file two reports for each year. Tex. Elec. Code § 254.063(a). The first report shall be filed not later than July 15. The report covers the period beginning January 1, 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 subchapter, as applicable, and continuing through June 30. *Id.* § 254.063(b). The second report shall be filed not later than January 15. The report covers the period beginning July 1, 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 subchapter C of chapter 254, as applicable, and continuing through December 31. *Id.* § 254.063(c).
10. Except as provided by Subsection (b), the deadline for filing a report required by this chapter is 5 p.m. on the last day permitted under this chapter for filing the report. *Id.* § 254.037(a). The deadline for filing a report electronically *with the commission* as required by this chapter is midnight on the last day for filing the report. *Id.* § 254.037(b) (emphasis added).
11. Credible evidence shows the respondent filed the July 2020 and January 2021 semiannual reports late. Therefore, there is credible evidence of violations of Section 254.063 of the Election Code. Although not alleged in the complaint, there is also credible evidence of a violation of Section 254.063 of the Election Code regarding the respondent filing the July 2021 semiannual report one-day late.

IV. 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 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 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 a candidate shall file two reports for each year. The first report shall be filed not later than July 15; the second report shall be filed not later January 15. The respondent agrees to comply with these requirements of the law.

V. 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.

VI. Sanction

The Commission 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. Tex. Gov't Code § 571.177.

The respondent has prior violations for failing to timely file campaign finance reports. In sworn complaint SC-3190458 (2019), the Commission found violations of Sections 254.063 and 254.064 of the Election Code regarding the respondent filing a late 30-day pre-election report and January 2019 semiannual report. Regarding the reports at issue in this complaint, the respondent provided some good cause for the late filings. Moreover, the respondent appeared at the preliminary review hearing to acknowledge the violations and assure the Commission that future reports would be filed timely.

After considering the nature, circumstances, and consequences of the violations described under Section III, and after considering the respondent's previous violations for late campaign finance reports and the penalty necessary to deter future violations, the Commission imposes a \$500 civil penalty.

VII. 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-3210343.

AGREED to by the respondent on this _____ day of _____, 2022.

Ruben Becerra, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
Anne Temple Peters, Executive Director