

TEXAS ETHICS COMMISSION

IN THE MATTER OF

CARLOS SOTO,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-3220242

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on September 28, 2022, to consider sworn complaint SC-3220242. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Section 254.031 and 254.064(b), Election Code, laws administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the Commission adopted this resolution.

II. Allegations

The sworn complaint alleges that, as a candidate for El Paso County Commissioner, the respondent: 1) failed to report on his January 2022 semiannual campaign finance report political contributions accepted or political expenditures made for campaign t-shirts, signs, and an oversized sign displayed on the side of a trailer, in violation of Section 254.031 of the Election Code; and 2) failed to timely file the 30-day pre-election campaign finance report for the March 1, 2022 primary election, which was due by January 31, 2022, in violation of Section 254.064(b) of the Election Code.

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 an unsuccessful opposed candidate for El Paso County Commissioner, Precinct 2, in the March 1, 2022, primary election.

Failure to Report Political Contributions Accepted or Expenditures Made

2. The complaint alleges that the respondent failed to report political contributions accepted or expenditures made for campaign t-shirts, signs and an oversized sign on the side of a trailer in his January 2022 semiannual campaign finance report.
3. The allegation is based on the respondent's January semiannual report, filed on January 18, 2022, on which the respondent disclosed no campaign contributions or expenditures. The respondent filed his campaign treasurer appointment on November 3, 2021; therefore, the January 2022 semiannual report was the first in which the respondent could have disclosed any political contributions accepted. *See* Tex. Elec. Code § 254.063 (providing that the January semiannual campaign finance report covers the period beginning July 1, the day the candidate's campaign treasurer appointment is filed, or the last day covered by the previous report required to be filed, as applicable). The complaint included evidence of the alleged discrepancy in the form of photographs of the respondent's campaign signs around El Paso. The complainant further averred in the sworn complaint that he observed the respondent's supporters wearing t-shirts bearing the respondent's campaign logo and a large sign on the side of a truck supporting the respondent's candidacy at an event the respondent's supporters held when the respondent filed for a place on the ballot. The complainant included a photograph of the large sign on the truck with the sworn complaint. The deadline to file for a place on the ballot in the March 1, 2022, primary election, in which the respondent was filing to run, was December 13, 2022. *See* Tex. Elec. Code § 172.023.
4. For contributions accepted in 2021, each campaign finance report filed under Chapter 254 of the Election Code must include the amount of political contributions, other than political contributions that are made electronically from each person that in the aggregate exceed \$90 and that are accepted during the reporting period, the full name and address of the person making the contributions, and the dates of the contributions. Tex. Elec. Code § 254.031(a)(1); 45 Tex. Reg. 8511 (2020) (codified at 1 Tex. Admin. Code §18.31) (Tex. Ethics Comm'n) (establishing inflation-adjusted reporting thresholds for the 2021 calendar year). Further, each campaign finance report must include the total amount of all political contributions accepted and the total amount of all expenditures made during the reporting period. Tex. Elec. Code § 254.031(a)(6).
5. A "contribution" is a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. *Id.* § 251.001(2).
6. "Political contribution" means a campaign contribution or an officeholder contribution. *Id.* § 251.001(5). "Campaign contribution" means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. *Id.* § 251.001(3).

7. As noted above, on his original January 2022 semiannual report, the respondent did not disclose any political contributions or political expenditures.
8. In response to the complaint, on February 18, 2022, the respondent filed a corrected January 2022 semiannual report on which he disclosed \$1,062 in in-kind contributions, all of which he accepted on November 3, 2021, during the reporting period for the January 2022 semiannual report. Specifically, the respondent disclosed accepting in-kind contributions of campaign t-shirts, banners, signs, and hats. In his sworn response to the complaint, which he filed with the amended report, the respondent admitted to the reporting violations made apparent by the corrected report. In a subsequent telephone conversation with Commission staff, the respondent indicated that he misunderstood that in-kind contributions were required to be reported. Therefore, concerning the respondent's January 2022 semiannual report, there is credible evidence that the respondent failed to disclose in-kind contributions, in violation of Section 254.031(a)(1) of the Election Code, and that the respondent failed to correctly disclose the total amount of all contributions accepted during the reporting period, in violation of Section 254.031(a)(6) of the Election Code.

Failure to Timely File 30-day Pre-election Report

9. The sworn complaint further alleges that the respondent failed to timely file his 30-day pre-election campaign finance report by the February 1, 2022 filing deadline. As noted above, the respondent was an opposed candidate and did not qualify to file campaign finance reports under the modified reporting schedule.
10. In 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 pre-election campaign finance 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 report covers the period beginning on 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 this chapter, as applicable, and continuing through the 40th day before election day. *See* Tex. Elec. Code § 254.064(b).
11. The respondent was required to file the 30-day pre-election report by January 31, 2022, 30 days before the election. As noted above, the respondent did not file the report by the January 31, 2022, deadline. In the respondent's sworn response to the complaint, the respondent admitted that he failed to timely file the pre-election report.
12. The sworn complaint was filed on February 2, 2022. In response to the complaint, the respondent filed the required report on February 18, 2022. Therefore, there is credible evidence of a violation of Section 254.064(b) of the Election Code. The respondent included on the report \$160 in total political contributions and no other activity.

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 under Chapter 254 of the Election Code, each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed the applicable itemized reporting threshold and that are accepted during the reporting period, the full name and address of the person making the contributions, and the dates of the contributions. Each campaign finance report must also include the total amount of all political contributions accepted during the reporting period.
4. The respondent acknowledges that an opposed candidate is required under Chapter 254 of the Election Code to file pre-election campaign finance reports, the first of which is due no later than 30 days before the date of the election.
5. The respondent agrees to fully and strictly comply with the above requirements of 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

After considering the nature, circumstances, and consequences of the violations described under Section III, and after considering the sanction 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-3220242.

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

Carlos Soto, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
J.R. Johnson, Executive Director