

TEXAS ETHICS COMMISSION

IN THE MATTER OF

HILARIO RAMON 'LALO' GUTIERREZ,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31205154

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on May 30, 2013, to consider sworn complaint SC-31205154. A quorum of the commission was present. The commission 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 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 did not file the January 2012 semiannual campaign finance report and the 30-day pre-election report for the May 2012 primary election.

III. Facts Supported by Credible Evidence

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

1. The respondent was an unsuccessful candidate for Bexar County Constable in the May 2012 primary election.
2. In response to the complaint, the respondent filed the January 2012 semiannual report and 30-day pre-election report with the local filing authority on May 21, 2012.

IV. Findings and Conclusions of Law

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

1. 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 than January 15. ELEC. CODE § 254.063.

2. 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 filing authority with whom the report is required to be filed not later than the 30th day before election day. ELEC. CODE § 254.064.
3. On May 21, 2012, in response to the complaint, the respondent filed the January 2012 semiannual report, which was due on January 17, 2012, and the 30-day pre-election report for the May 2012 primary election, which was due on April 30, 2012. Therefore, there is credible evidence of violations of sections 254.063 and 254.064 of the Election 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 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 than January 15. The respondent also 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 filing authority with whom the report is required to be filed not later than the 30th day before election day. 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 the sanction necessary to deter future violations, the commission imposes a \$500 civil penalty.

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-31205154.

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

Hilario Ramon 'Lalo' Gutierrez, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director