

TEXAS ETHICS COMMISSION

IN THE MATTER OF

OSCAR "OSKIE" GARCIA, JR.,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31409202CI

FINAL ORDER

The Texas Ethics Commission (Commission), having heard this case and voting to find a violation of a law under its jurisdiction, makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. The respondent is Oscar "Osokie" Garcia, Jr., whose last known mailing address is P. O. Box 505, Elsa, Texas 78543. The Texas Ethics Commission (Commission) initiated the complaint against the respondent on August 20, 2014. The Notice of Hearing was mailed to the respondent on March 1, 2017, by certified mail, return receipt requested, restricted delivery, and delivery confirmation. United States Postal Service (USPS) records indicate the Notice of Hearing was delivered to the respondent on March 3, 2017.
2. The preliminary review hearing was held on March 30, 2017, by the Commission in Austin, Texas.
3. The respondent did not file a response to the notice of hearing or appear at the hearing.
4. At all times relevant to the complaint, the respondent was a candidate for the Edcouch-Elsa Independent School District (EEISD) board of trustees in the November 6, 2012, election.
5. 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, election and all Campaign Treasurer Appointments (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, 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.

6. The Commission did not receive a response to the complaint from the respondent, although USPS's records indicate the respondent received notice of the complaint on May 19, 2016.

Campaign Treasurer Appointment

7. On August 13, 2012, the respondent filed an application for a place on the ballot in the November 6, 2012, election. The respondent was opposed in the election.
8. The respondent did not file a CTA with EEISD.

Filing of Campaign Finance Reports

9. The respondent became a candidate for the EEISD board of trustees on or around August 13, 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 campaign finance reports on the modified reporting schedule.
10. Regarding the 30-day pre-election report for the November 6, 2012, 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 until September 9, 2016.
11. Regarding the 8-day pre-election report for the November 6, 2012, 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 until September 9, 2016.

Response to Sworn Complaint

12. USPS records indicate the respondent received notice of the complaint on May 19, 2016. The notice stated that the respondent was required to respond within 10 business days from receipt of the notice. 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 June 2, 2016. The Commission did not receive a written response to the sworn complaint.

Conclusions of Law

1. Disposition of this case is within the jurisdiction of the Commission. GOV'T CODE § 571.061.

2. The respondent received legally sufficient notice of the hearing in this case. *Id.* § 571.032 and 1 TAC § 12.21. The hearing was held in accordance with section 12.23, 1 Texas Administrative Code.

Campaign Treasurer Appointment

3. "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).
4. Examples of affirmative action include the filing of an application for a place on a ballot. *Id.* § 251.001(1)(B).
5. Each candidate and each political committee shall appoint a campaign treasurer as provided by chapter 252 of the Election Code. *Id.* § 252.001.
6. The respondent became a candidate for the EEISD board of trustees on or around August 13, 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

7. 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).
8. Regarding the 30-day pre-election report for the November 6, 2012, 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 until September 9, 2016. Therefore, there is credible evidence of a violation of section 254.064(b) of the Election Code.

9. Regarding the 8-day pre-election report for the November 6, 2012, 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 until September 9, 2016. Therefore, there is credible evidence of a violation of section 254.064(c) of the Election Code.

Response to Sworn Complaint

10. If the alleged violation in a sworn complaint is a Category One violation, the respondent must respond to the notice required by section 571.123(h) not later than the 10th business day after the date the respondent receives the notice. GOV'T CODE § 571.1242. A respondent's failure to timely respond to a sworn complaint as required by subsection (a)(1) or (b)(1) of section 571.1242 of the Government Code is a Category One violation. *Id.* § 571.1242(c). To date, the respondent has not responded to the complaint. Therefore, there is credible evidence of a violation of section 571.1242(c) of the Government Code.
11. The Commission may impose a sanction against the respondent of not more than \$5,000 or triple the amount at issue, whichever amount is greater. *Id.* § 571.173.

Therefore, the Texas Ethics Commission orders that:

1. The respondent pay to the Commission, within 30 days of the date of this order, a civil penalty in the amount of \$250. If the respondent does not pay the \$250 civil penalty within 30 days of the date of this order, then the Commission imposes a \$1,000 civil penalty.

Order Date: _____

FOR THE COMMISSION

Seana Willing
Executive Director
Texas Ethics Commission