

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
ELIZABETH CHISUM DE LA GARZA,	§	TEXAS ETHICS COMMISSION
RESPONDENT	§	SC-3200391

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on December 1, 2020, to consider sworn complaint SC-3200391. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Sections 252.001, 253.031(a), 254.031, 254.063, and 254.064 of the Election Code and Section 20.61 of the Ethics Commission Rules, laws 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: 1) did not timely file a campaign treasurer appointment and accepted campaign contributions and/or made or authorized campaign expenditures without a campaign treasurer appointment on file, in violation of Sections 252.001 and 253.031(a) of the Election Code; 2) did not file a January 2020 semiannual campaign finance report that was due by January 15, 2020, in violation of Section 254.063 of the Election Code; 3) did not disclose the period covered in the 30-day and 8-day pre-election reports, in violation of Section 254.064 of the Election Code; 4) did not properly disclose multiple political contributions and political expenditures in the 30-day and 8-day pre-election reports, including dates, address information, descriptions of expenditures, and totals on cover sheet page two, in violation of Section 254.031 of the Election Code and Section 20.61 of the Ethics Commission Rules.

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 the unsuccessful candidate for Eagle Pass City Council, Place 2, September 5, 2020, runoff election.

Failure to Timely File Campaign Treasurer Appointment

2. The complaint alleges the respondent did not timely file a campaign treasurer appointment and made or authorized a campaign expenditure without a treasurer appointment on file.
3. The complaint included a copy of the respondent's 30-day pre-election report showing the respondent disclosed a campaign expenditure, dated December 2, 2019, in the amount of \$1,639 to Leticia Cantu for "Consulting Exp/Advertising Exp." The complaint also alleged that the respondent erected campaign signs around the city on December 3, 2019. The respondent's campaign treasurer appointment and ballot application were filed with the Eagle Pass city secretary on December 4, 2019.
4. In response to the complaint, the respondent submitted a general denial.
5. Each candidate shall appoint a campaign treasurer as provided by this chapter. Tex. Elec. Code § 252.001. A candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. *Id.* § 253.031(a). A person becomes a candidate when taking affirmative action to gain election to public office, and examples of affirmative action include making a campaign expenditure, and making a public announcement of a definite intent to run for public office. *Id.* § 251.001(1).
6. "Expenditure" means a payment of money or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a payment. *Id.* § 251.001(6). "Campaign expenditure" means an expenditure made by any person in connection with a campaign for an elective office or on a measure. Whether an expenditure is made before, during, or after an election does not affect its status as a campaign expenditure. *Id.* § 251.001(7).
7. The respondent became a candidate on or before December 2, 2019, when she made a campaign expenditure for consulting and/or advertising. *See id.* § 251.001(1)(G).
8. Credible evidence based on the respondent's own campaign finance report shows the respondent made or authorized a campaign expenditure without a campaign treasurer appointment on file. There is also credible evidence based on the statement of facts alleged in the sworn complaint that the respondent erected campaign signs before filing a treasurer appointment. The respondent did not provide anything in response to the complaint to specifically refute the evidence. Therefore, there is credible evidence of a violation of Sections 252.001 and 253.031(a) of the Election Code.

Failure to File January 2020 Semiannual Report

9. The complaint alleges that the respondent did not file a January 2020 semiannual campaign finance report.
10. An open records request to the Eagle Pass city secretary's office did not return a January 2020 semiannual campaign finance report. However, the records show the respondent filed a 30-day pre-election report on January 2, 2020. The 30-day report did not include a period covered on the cover sheet but disclosed itemized activity on the report schedules from December 2, 2019, through December 31, 2019. The records also confirmed that the respondent filed her ballot application and campaign treasurer appointment on December 4, 2019. The respondent did not elect modified reporting on her campaign treasurer appointment form.
11. A candidate shall file two reports for each year. Tex. Elec. Code § 254.063(a). The second report shall be filed not later than January 15. The report covers the period beginning July 1, the date 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 December 31. *Id.* § 254.063(c).
12. 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. *Id.* § 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. The report 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).
13. The Eagle Pass City Council election was held on February 1, 2020. The respondent did not elect to file reports on the modified reporting schedule and had an opponent whose name appeared on the ballot. Therefore, the respondent's 30-day pre-election report was required to be filed by January 2, 2020, and disclose activity from December 4, 2019 (the date the respondent filed her campaign treasurer appointment), through December 23, 2019. *See id.* § 254.064. The respondent's January 2020 semiannual was required to be filed by January 15, 2020, and disclose activity from December 24, 2019, through December 31, 2019. *See id.* § 254.063. The respondent's 8-day pre-election report was required to be filed by January 24, 2020, and disclose activity from January 1, 2020, through January 22, 2020. *See id.* § 254.064.

14. “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. Examples of affirmative action include the filing of a campaign treasurer appointment and the filing of an application for a place on the ballot. *Id.* § 251.001(1).
15. The respondent was a candidate in December 2019 and was required to file a January 2020 semiannual report by the January 15, 2020, filing deadline. The respondent did not file the report. Therefore, there is credible evidence of a violation of Section 254.063 of the Election Code.

Failure to Disclose Period Covered on Pre-election Reports

16. The complaint alleged that the respondent did not disclose a reporting period covered on the cover sheet of her 30-day and 8-day pre-election reports.
17. The respondent’s 30-day pre-election report filed on January 2, 2020, did not include a period covered on the cover sheet. The report disclosed itemized activity on the reporting schedules from December 2, 2019, through December 31, 2019, but left the dates blank for certain expenditures that were itemized on Schedule G (used to disclose political expenditures from personal funds). The respondent submitted a general denial and did not correct the report in response to the complaint
18. The respondent’s 8-day pre-election report filed on January 24, 2020, did not include a period covered on the cover sheet. The report disclosed dates of certain contributions as “Jan. 2020,” and left multiple dates blank for other activity that was itemized on the report schedules. The respondent submitted a general denial and did not correct the report in response to the complaint.
19. 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. Tex. 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. The report 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).

20. Each campaign finance report must be filed on a form prescribed by the Commission. *Id.* § 254.036(a). The campaign finance report form prescribed by the Commission for candidates and officeholders (Form C/OH) requires a date range to be specified on the cover sheet of the report.
21. The Eagle Pass City Council election was held on February 1, 2020. Therefore, the respondent's 30-day pre-election report was required to be filed by January 2, 2020, and disclose activity from December 4, 2019 (the date the respondent filed her campaign treasurer appointment), through December 23, 2019. *See id.* § 254.064(b). The respondent's January 2020 semiannual was required to disclose activity from December 24, 2019, through December 31, 2019. *See id.* § 254.063(c). The respondent's 8-day pre-election report was required to disclose activity from January 1, 2020, through January 22, 2020. *See id.* § 254.064(c).
22. The respondent did not include the period covered on the cover pages of her 30-day and 8-day pre-election campaign finance reports. Therefore, there is credible evidence of violations of Section 254.064 of the Election Code.

Disclosure of Political Contributions and Expenditures

23. The complaint alleged the respondent did not properly disclose required information on her 30-day and 8-day pre-election campaign finance reports, including dates, address information, descriptions of expenditures, and totals on the cover sheets.
24. The respondent did not include any totals or sub-totals of her campaign contributions and campaign expenditures on cover sheets pages 2 and 3 of her 30-day pre-election report. None of the expenditures disclosed on schedules F1 and G had a purpose of expenditure description. Two contributions disclosed on schedule A1, each over \$500, were missing contributor address information. One of the expenditures disclosed on schedule G is dated "1."
25. The respondent did not include a date for any of the contributions disclosed on her 8-day pre-election report. None of the political expenditures disclosed on Schedules F1 and G had addresses or dates disclosed. None of the expenditures disclosed on schedule G have a purpose of expenditure description. Page 2 of the cover sheet does not have an amount listed for total political contributions maintained. The affidavit on page 2 of the cover sheet is not notarized. All political contributions listed on Schedule A1 are dated "Jan. 2020," and no contributor addresses are disclosed.
26. Each report filed under this chapter must include the amount of political contributions from each person that in the aggregate exceed \$90 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name

- and address of the person making the contributions, and the dates of the contributions. Tex. Elec. Code § 254.031(a)(1); 1 Tex. Admin. Code § 18.31.
27. Each report filed under this chapter must include the amount of political expenditures that in the aggregate exceed \$180 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures. Tex. Elec. Code § 254.031(a)(3); 1 Tex. Admin. Code § 18.31.
 28. Each report filed under this chapter must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. Tex. Elec. Code § 254.031(a)(6).
 29. Each report filed under this chapter must include as of the last day of a reporting period for which the person is required to file a report, the total amount of political contributions accepted, including interest or other income on those contributions, maintains in one or more accounts in which political contributions are deposited as of the last day of the reporting period. *Id.* § 254.031(a)(8).
 30. The purpose of an expenditure must include both a description of the category of goods or services received in exchange for the expenditure and a brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure. A description of an expenditure that merely states the item or service purchased is not adequate because doing so does not allow a person reading the report to know the allowable activity for which an expenditure was made. 1 Tex. Admin. Code § 20.61(f).
 31. The respondent did not disclose required information for numerous political contributions and political expenditures and did not disclose activity totals on her 30-day and 8-day pre-election reports. Therefore, there is credible evidence of violations of Section 254.031 of the Election Code and Section 20.61 of the Ethics Commission Rules.

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: 1) each candidate shall timely file a campaign treasurer appointment, and a candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect; 2) each candidate must file two reports for each year - the second report shall be filed not later than January 15 and 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, as applicable, and continuing through December 31; 3) 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 report 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. 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; 4) each campaign finance report must disclose the period covered; 5) each report must include the amount of political contributions from each person that in the aggregate exceed \$90 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions; 6) each report must include the amount of political expenditures that in the aggregate exceed \$180 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures. The purpose of an expenditure must include both a category and description of the expenditure; 7) each report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period; and 8) each report must include as of the last day of the reporting period the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period. 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 Section III, and after considering the lack of good faith demonstrated by the respondent in not filing corrected reports and the sanction necessary to deter future violations, the Commission imposes a \$750 civil penalty. If the \$750 civil penalty is not paid within 30 days after the date this order is executed, then the civil penalty is increased to \$2,500 and will be referred to the Office of the Attorney General of Texas for collection.

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-3200391.

AGREED to by the respondent on this _____ day of _____, 2020.

Elizabeth Chisum De La Garza, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
Anne Temple Peters, Executive Director