

TEXAS ETHICS COMMISSION

IN THE MATTER OF

LINA GARZA,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-3220267

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on May 11, 2022, to consider sworn complaint SC-3220267. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Sections 253.003, 253.094, 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: 1) failed to timely file her 30-day pre-election campaign finance report for the March 1, 2022 primary election, in violation of Section 254.064 of the Election Code; and 2) accepted political contributions from a corporation, in violation of Sections 253.003 and 253.094 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 candidate for chair of the Hidalgo County Republican Party in the March 1, 2022 primary election.

30-Day Pre-election Report

2. The complaint alleges that the respondent did not timely file her 30-day pre-election report for the March 1, 2022 primary election, which was due by January 31, 2022.

3. The information submitted with the complaint shows that the respondent filed her 30-day pre-election report on February 11, 2022.
4. In response to the complaint, the respondent swore that she had mistakenly conflated the 30-day pre-election report with the semiannual report due on January 18, 2022. She further swore that she became aware of the need to file the 30-day pre-election report when the sworn complaint was initially submitted to the Commission on February 10, 2022.
5. On the 30-day pre-election report that she filed on February 11, 2022, the respondent disclosed \$10,490.99 in total political contributions and \$2,292.36 in total political expenditures.
6. 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, as applicable, and continuing through the 40th day before election day. *Id.* § 254.064(b).
7. For all campaign finance reports except special daily pre-election reports, if the deadline for a report falls on a Saturday, Sunday, or a legal state or national holiday, the report is due on the next regular business day. 1 Tex. Admin. Code § 20.21.
8. The respondent had an opponent whose name appeared on the ballot in the March 1, 2022 primary election. The 30th day before election day, January 30, 2022, was a Sunday. Therefore, the respondent was required to file her 30-day pre-election report by January 31, 2022.
9. Credible evidence indicates that the respondent filed her 30-day pre-election report 11 days after it was due, on February 11, 2022. Therefore, there is credible evidence of a violation of Section 254.064(b) of the Election Code.

Accepting Political Contributions from a Corporation

10. The complaint alleges that the respondent accepted a political contribution from a corporation.
11. On her 8-day pre-election campaign finance report for the March 1, 2022 election, the respondent reported a political contribution of \$500 from "Midas JIB Enterprises INC [sic]" on February 8, 2022.

12. According to records on file with the Texas Secretary of State, Midas JIB Enterprises Inc. is a Texas for-profit corporation.
13. In response to the complaint, the respondent swore that she returned the contribution by a check dated March 18, 2022. She explained she had accepted the contribution in error because she saw other candidates accepting contributions from businesses and did not “draw a distinction” between LLCs and corporations.
14. The respondent filed her campaign treasurer appointment on December 8, 2021. The respondent signed the form under the pre-printed statement: “I am aware of the restrictions in title 15 of the Election Code on contributions from corporations and labor organizations.”
15. A person may not knowingly accept a political contribution the person knows to have been made in violation of Chapter 253 of the Election Code. Tex. Elec. Code § 253.003(b). Under Section 253.094 of the Election Code, a corporation may not make a political contribution that is not otherwise specifically authorized by Subchapter D of Chapter 253 of the Election Code. *Id.* § 253.094(a). Subchapter D of Chapter 253 of the Election Code does not authorize corporations to make political contributions to candidates.
16. A “political contribution” is 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).
17. In order for the respondent to have violated Sections 253.003(b) and 253.094 of the Election Code, the respondent must have: a) knowingly accepted a political contribution from an entity that the respondent knew was a corporation; and b) known that the law prohibited corporations from making political contributions to candidates. *See* Tex. Elec. Code §§ 253.003(b), 253.094.
18. The respondent executed and filed a campaign treasurer appointment in which she acknowledged she was aware of the corporate contributions prohibition, showing her knowledge of the law. The contribution from Midas JIB Enterprises Inc. was listed on the respondent’s campaign finance report as being from a corporation, with the suffix “INC.” Therefore, there is credible evidence that the respondent knowingly accepted a contribution from the corporation Midas JIB Enterprises Inc. and knew that it was prohibited. As such, there is credible evidence of a violation of Sections 253.003(b) and 253.094 of the Election Code. Credible evidence also shows the respondent returned the contribution.

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) 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, as applicable, and continuing through the 40th day before election day; 2) a person may not knowingly accept a political contribution the person knows to have been made in violation of Chapter 253 of the Election Code; and 3) a corporation or labor organization may not make a political contribution to a candidate or officeholder, and a candidate or officeholder may not knowingly accept such a contribution. 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

After considering the seriousness of the violations described under Section III, including the nature, circumstances, consequences, extent, and gravity of the violations, after considering the sanction necessary to deter future violations, and after considering the affidavit of financial hardship presented by the respondent, 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-3220267.

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

Lina Garza, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____

Anne Temple Peters, Executive Director