

TEXAS ETHICS COMMISSION

IN THE MATTER OF

JOE VERACRUZ,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-3190590

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on February 27, 2020, to consider sworn complaint SC-3190590. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 254.031 and 254.064 of the Election Code and section 20.219(9) 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 alleges that the respondent: 1) did not file an 8-day pre-election report for the May 2019 election, in violation of section 254.064 of the Election Code; 2) did not disclose political expenditures for mailers, in violation of section 254.031 of the Election Code; and 3) improperly disclosed a political expenditure as an expenditure made to a business in which the respondent had an ownership interest, in violation of section 254.031 of the Election Code and section 20.219(9) of the Ethics Commission Rules.

III. Findings of Fact and Conclusions of Law

Credible evidence supports the following findings of fact and conclusions of law:

1. The respondent was an opposed candidate for Duncanville City Council, District 1, in the May 4, 2019, election.

Failure to File 8-Day Pre-Election Report and Report Expenditure for Mailer

2. The complaint alleged that the respondent did not file an 8-day pre-election report and did not report an expenditure made for mailers, one of which was received by the complainant on or about April 19, 2019.

3. Campaign records provided with the complaint and by the respondent show that the respondent timely filed a 30-day pre-election report on April 3, 2019, and a final report after the election on May 10, 2019. The 30-day pre-election report covered a period beginning January 18, 2019, through April 4, 2019. The final report covered a period beginning January 18, 2019, through May 4, 2019. The 30-day report contained the designation of final report page signed by the respondent, and indicated that he did not expect any further political contributions or political expenditures and did not have unexpended contributions in connection with his campaign. The final report contained the same designation of final report page and indicated that he did not have unexpended contributions in connection with his campaign but was not signed.
4. In response to the complaint, the respondent swore that it was his first time to ever file campaign finance reports and admitted that he failed to report some of his expenditures. The respondent also admitted that he checked the wrong box in the 30-day pre-election report. The respondent also swore at the time he checked “do not have unexpended contributions or interest or income earned from political contributions” on the “Designation of Final Report” page of his 30-day pre-election report, he was not expecting any further contributions at the time. However, the respondent admitted that he did accept additional political contributions after the reporting period for the 30-day pre-election report. The respondent filed another final report in response to the complaint. The report disclosed a political expenditure for the mailers at issue of \$426.45 made on April 18, 2019, to DFW Mail Today, Inc. for printing expenses.
5. 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 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).
6. A candidate is 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. An example of affirmative action includes the soliciting or accepting of a campaign contribution or the making of a campaign expenditure. *Id.* § 251.001(1)(G).
7. Each campaign report must include, in relevant part, the amount of political expenditures that in the aggregate exceed \$100 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. *Id.* § 254.031(a)(3).

8. Each campaign report must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period. *Id.* § 254.031(a)(6).
9. Although the respondent filed a designation of final report with his 30-day pre-election report, the respondent made a campaign expenditure for the mailers after filing the report and during the 8-day pre-election reporting period. Therefore, the respondent was a candidate during the 8-day pre-election reporting period, he was required to file the 8-day pre-election report by April 26, 2019, and disclose activity from March 26, 2019, through April 24, 2019. The respondent did not file the 8-day pre-election report. Instead, the respondent filed a final report on May 10, 2019, that encompassed activity from January 18, 2019, through May 4, 2019. The respondent also admitted that he did not report some of his expenditures when the final report was originally filed. The respondent's final report filed in response to the complaint disclosed that on April 18, 2019, he made an expenditure of \$426.45 to DFW Mail Today, Inc. for printing expenses that was not previously reported. Since this expenditure exceeded \$100 in the aggregate, he was required to disclose the full name and address of the person to whom the expenditure was made as well as the date and purpose of the expenditure. The respondent's final report filed in response to the complaint disclosed \$50 in total political contributions and \$426.45 in total political expenditures in reportable activity for the reporting period covered in the 8-day pre-election report. There is credible evidence of a violation of sections 254.064(c), 254.031(a)(3), and 254.031(a)(6) of the Election Code.

Reporting Expenditures to a Business in which Respondent has an Interest

10. The complaint also alleged that the respondent improperly reported a political expenditure as an expenditure made to a business in which the respondent had an interest.
11. The respondent's 30-day pre-election report disclosed two expenditures for printing expenses. The first expenditure occurred on March 15, 2019, and was in the amount of \$482, to "KNR Signs" and was reported on Schedule H as a payment made to a business that the respondent owned. The second expenditure occurred on April 3, 2019, and was also in the amount of \$482, to "Rojas, Cruz KNR Signs" and was reported on Schedule G as a political expenditure made from personal funds. The respondent's final report filed on May 10, 2019, only disclosed one expenditure from personal funds for printing expenses made on April 29, 2019.
12. In response to the complaint, the respondent admitted that he did not properly report certain expenditures. The respondent stated that the expenditures involving KNR Signs were an error on his part and that he did not own or have any interest in KNR signs. The respondent filed another final report in response to the complaint to remove the expenditures from Schedule G and H. The respondent disclosed the expenditure on Schedule F1 as a single expenditure of \$482 to an individual for "Printing Expense."

13. Each campaign report must include, in relevant part, the amount of political expenditures that in the aggregate exceed \$100 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. ELEC. CODE § 254.031(a)(3).
14. Semiannual, pre-election, and runoff reports must include each expenditure from political contributions made to a business in which the candidate has a participating interest of more than 10%, holds a position on the governing body of the business, or serves as an officer of the business. ETHICS COMMISSION RULE § 20.219(9). Each expenditure of this type must include the full name of the business to which the expenditure was made; the address of the person to whom the expenditure was made; the date of the expenditure; the purpose of the expenditure; and the amount of the expenditure on each semiannual, pre-election, and runoff report. *Id.*
15. Credible evidence shows that the respondent did not properly disclose political expenditures in the 30-day pre-election report. Therefore, there is credible evidence of a violation of section 254.031(a)(3) of the Election Code and section 20.219(9) of 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) in addition to other required reports, an opposed candidate shall file two additional reports. One of the reports must be received by the authority with whom the report is required to be filed not later than the 8th day before election day and cover a period beginning from the 39th day before election day and continuing through the 10th day before election day; 2) campaign finance reports must include the amount of political expenditures that in the aggregate exceed \$100 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; 3) campaign finance reports must include the total amount of all political contributions accepted and the total amount of all political expenditures made during the report period; and 4) campaign finance reports must include on Schedule H the following information for each expenditure from political contributions made to a business in which the candidate has a participating interest of more than 10%, holds a position on the governing body of the business, or services as an

officer of the business: the full name of the business to which the expenditure was made; the address of the person to whom the expenditure was made; the date of the expenditure; the purpose of the expenditure; and the amount of the expenditure. 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 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 to be paid within 120 days from the date of execution of this order. If the \$500 penalty is not paid within 120 days from the date of execution of this order, then the penalty is increased to \$2,500 and will be referred to the Office of the Attorney General of Texas for collection.

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-3190590.

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

Joe Veracruz, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
Anne Temple Peters, Executive Director