

TEXAS ETHICS COMMISSION

IN THE MATTER OF
FIDENCIO LEIJA, JR.,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-32206258

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on December 13, 2022, to consider sworn complaint SC-32206258. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Section 254.064 of the Election Code, a law 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 file a 30-day pre-election report for the May 7, 2022 election, in violation of Section 254.064(b) of the Election Code; and 2) failed to file an 8-day pre-election report for the May 7, 2022 election, in violation of Section 254.064(c) 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 Mayor of Santa Fe, Texas in the May 7, 2022 election.
2. The complaint alleged that the respondent was an opposed candidate in the May 7, 2022 election and did not file his 30-day pre-election report, which was due on April 7, 2022, or his 8-day pre-election report, which was due on April 29, 2022.

3. The information submitted with the complaint shows that as of May 3, 2022, the respondent had not filed either a 30-day or an 8-day pre-election report.
4. In response to the complaint, the respondent swore that his first campaign contribution had been received on April 11, 2022, after the filing deadline for the 30-day pre-election report. The respondent filed a final report on July 15, 2022, which disclosed \$7,290 in total political contributions and \$7,071.29 in total political expenditures.
5. The respondent filed a 30-day pre-election report on August 18, 2022. This report disclosed \$0 in political contributions received and \$0 in political expenditures made. The respondent also filed an 8-day pre-election report on August 18, 2022. The report disclosed \$7,290 in total political contributions, \$5,256.19 in total political expenditures and \$2,033.81 in total political contributions maintained. Finally, the respondent filed a corrected final report on August 18, 2022, which disclosed \$1,815.10 in total political expenditures and \$218.71 in total political contributions maintained. The total contributions accepted by the respondent for the May 7, 2022 election therefore totaled \$7,290, and the total expenditures totaled \$7,071.29.
6. The respondent had an opponent on the ballot in the May 7, 2022 election. The respondent filed his campaign treasurer appointment with the Santa Fe City Secretary on December 10, 2021, and did not elect to file on the modified reporting schedule.
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. 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).
8. Regarding the 30-day pre-election report for the May 7, 2022 election, credible evidence shows that the respondent filed the report late. 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 May 7, 2022 election, credible evidence shows that the respondent filed the report late. Therefore, there is credible evidence of a violation of Section 254.064(c) of the Election Code.

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 under this chapter, as applicable, and continuing through the 40th day before election day; and 2) 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. 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, gravity of the violations, in light of the Commission's previous penalty against the respondent for similar violations in sworn complaint SC-31908128, and after considering the sanction necessary to deter future violations, the Commission imposes a \$1,000 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-32206258.

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

Fidencio Leija, Jr., Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
J.R. Johnson, Executive Director