

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JESUS “CHUY” ALVAREZ,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-32210364

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on June 27, 2023, to consider sworn complaint SC-32210364. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Sections 252.001, 253.031, 254.063, 255.001, and 259.001 of the Election Code, 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 file a campaign treasurer appointment, in violation of Section 252.001 of the Election Code; 2) accepted campaign contributions and/or made or authorized campaign expenditures without a campaign treasurer appointment on file, in violation of Section 253.031(a) of the Election Code; 3) did not file the January 2022 semiannual report, which was due by January 18, 2022 (January 15 deadline extended due to holiday weekend), in violation of Section 254.063 of the Election Code; 4) did not file the July 2022 semiannual report, which was due by July 15, 2022, in violation of Section 254.063 of the Election Code; 5) did not include a political advertising disclosure statement on political advertising signs, in violation of Section 255.001 of the Election Code; and 6) did not include a highway right-of-way notice on political advertising signs, in violation of Section 259.001 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 the successful incumbent candidate for Starr County Justice of the Peace Precinct 1 in the November 8, 2022 general election.

Failure to File Campaign Treasurer Appointment

2. The complaint alleged that the respondent did not file a campaign treasurer appointment.
3. The information submitted with the complaint showed that as of August 31, 2022, the respondent had not filed a campaign treasurer appointment with the Starr County Elections Department.
4. In his initial response to the allegation, the respondent admitted the violation and provided a copy of a campaign treasurer appointment dated October 20, 2022. However, the campaign treasurer appointment did not bear a file stamp from the filing authority.
5. Records on file with the Secretary of State indicate that the respondent filed his ballot application on November 15, 2021.
6. Each candidate and each political committee shall appoint a campaign treasurer. Tex. Elec. Code § 252.001.
7. “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 an application for a place on a ballot. *Id.* § 251.001(1)(B).
8. Credible evidence indicates that the respondent became a candidate on November 15, 2021, when he filed his application for a place on the ballot. Credible evidence also indicates that the respondent did not timely file his campaign treasurer appointment. Therefore, credible evidence indicates that the respondent violated Section 252.001 of the Election Code.

Campaign Contributions and/or Campaign Expenditures Without Treasurer Appointment

9. The complaint alleged that the respondent accepted campaign contributions and/or made or authorized campaign expenditures without a campaign treasurer appointment on file.
10. The information submitted with the complaint included pictures of large roadside political advertising signs for the respondent, taken on September 27 and September 28, 2022. The advertising included the election date of “Nov 2022” and read “Re-Elect Judge Chuy Alvarez For J.P. PCT #1.”

11. In his response to the complaint the respondent admitted to accepting political contributions and making political expenditures without a campaign treasurer appointment on file, but offered no further explanation.
12. 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. Tex. Elec. Code § 253.031(a).
13. The respondent did not have a campaign treasurer appointment on file in September 2022, when the political advertising signs were posted and the respondent admitted to accepting political contributions and making political expenditures without a campaign treasurer appointment on file. Therefore, there is credible evidence of a violation of Section 253.031(a) of the Election Code.

Failure to File Semiannual Reports

14. The sworn complaint alleged that the respondent failed to file his January 2022 and July 2022 semiannual campaign finance reports.
15. In response to the complaint the respondent admitted that he had not filed the reports, again with no further elaboration.
16. An open records request to Starr County for any reports filed by the respondent went unanswered.
17. A candidate shall file two reports each year as provided by this section. Tex. Elec. Code § 254.063(a). The first report shall be filed not later than July 15. The report covers the period beginning January 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 under this subchapter, as applicable and continuing through June 30. *Id.* § 254.063(b). The second report shall be filed not later than January 15. The report covers the period beginning July 1, the day the candidate 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).
18. If the deadline for a campaign finance report other than a special daily pre-election 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(a).

19. Credible evidence indicates that the respondent became a candidate on November 15, 2021, when he filed his application for a place on the ballot. Therefore, the respondent was required to file his January 2022 semiannual report by January 18, 2022,¹ and his July 2022 semiannual report by July 15, 2022. Credible evidence indicates and the respondent admits that he did not timely file his 2022 semiannual reports. Therefore, credible evidence indicates violations of Section 254.063 of the Election Code.

Political Advertising

20. The complaint alleged that all of the respondent's political advertising signs were missing the required disclosures. The complaint included pictures of several of the respondent's political advertising signs. The signs were missing the political advertising disclosure statement. The signs also did not have a highway right-of-way notice.
21. In response to the complaint, the respondent corrected the issues by adding both the political advertising disclosure statement and the highway right-of-way notice to his political advertising signs.
22. A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising: 1) that it is political advertising; and 2) the full name of either the person who paid for the political advertising, the political committee authorizing the political advertising, or the candidate if the political advertising is authorized by the candidate. Tex. Elec. Code § 255.001(a).
23. The following notice must be written on each political advertising sign designed to be seen from a road: "NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE), TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY." *Id.* § 259.001(a). A person commits an offense if the person knowingly enters into a contract to print or make a political advertising sign that does not contain the notice or instructs another person to place a sign that does not contain the notice. *Id.* § 259.001(b). In this section, "political advertising sign" means a written form of political advertising designed to be seen from a road but does not include a bumper sticker. *Id.* § 259.001(e).
24. A technical, clerical, or *de minimis* violation may include a first-time allegation against a respondent for failure to include a disclosure statement on political advertising. 1 Tex. Admin. Code § 12.81(a)(2).

¹ January 15, 2022, was a Saturday, and the following Monday, January 17, 2022, was a legal holiday, Martin Luther King, Jr. Day. *See* Tex. Gov't Code § 662.003(2). Therefore, the semiannual report was due the following day, Tuesday, January 18, 2022. *See* 1 Tex. Admin. Code § 20.21(a).

25. A technical, clerical, or *de minimis* violation may include a first-time allegation against a respondent for failure to include the highway right-of-way notice of political advertising. *Id.* § 12.81(a)(4).
26. Credible evidence indicates the respondent did not include a political advertising disclosure statement on political advertising signs. The respondent had no previous allegations regarding failure to include a disclosure statement on political advertising. Therefore, the evidence indicates technical or *de minimis* non-compliance with Section 255.001 of the Election Code.
27. Credible evidence also indicates the respondent did not include a highway right-of-way notice on political advertising signs. The respondent had no previous allegations regarding failure to include a highway right-of-way notice on political advertising signs. Therefore, the evidence indicates technical or *de minimis* non-compliance with Section 259.001 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 the filing requirements and restrictions prescribed by Sections 252.001, 253.031, and 254.063 of the Election Code. The respondent acknowledges the disclaimer requirements for political advertising prescribed by Sections 255.001 and 259.001 of the Election Code. 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, 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-32210364.

AGREED to by the respondent on this _____ day of _____, 2023.

Jesus "Chuy" Alvarez, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
J.R. Johnson, Executive Director