

TEXAS ETHICS COMMISSION

IN THE MATTER OF
SYLVIA GARZA-PEREZ,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-32209319, SC-32210380,
AND SC-32210393

ORDER **and** **AGREED RESOLUTION**

I. Recitals

The Texas Ethics Commission (Commission) met on December 13, 2022, to consider sworn complaints SC-32209319, SC-32210380, and SC-32210393. 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 these complaints without further proceedings, the Commission adopted this resolution.

II. Allegations

Sworn complaint SC-32209319 was filed on September 12, 2022. The sworn complaint alleges that the respondent: 1) accepted a \$450 political contribution from Sierra Title Company, Inc., a domestic for-profit corporation, on August 23, 2021, in violation of Sections 253.003 and 253.094 of the Election Code; 2) accepted a \$1,000 political contribution from American Surveillance Company, a domestic for-profit corporation, on September 16, 2021, in violation of Sections 253.003 and 253.094 of the Election Code; and 3) accepted political contributions from Valleywide Pharmacy and DME, Inc., a domestic for-profit corporation, of \$2,500 on September 17, 2021, and \$1,200 on April 22, 2022, in violation of Sections 253.003 and 253.094 of the Election Code.

Sworn complaint SC-32210380 was filed on October 18, 2022. The sworn complaint alleges that the respondent failed to file the 30-day pre-election report for the November 8, 2022 general election, which was due by October 11, 2022, in violation of Section 254.064 of the Election Code.

Sworn complaint SC-32210393 was filed on October 21, 2022. The sworn complaint alleges that the respondent accepted a \$100 political contribution from Lupita Adult Day Care, Inc., a domestic for-profit corporation, on August 22, 2022, 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. At all times relevant to the complaints, the respondent was the Cameron County Clerk and was a candidate for re-election in the 2022 election cycle. The respondent was opposed in both the March 1, 2022 primary election and the November 8, 2022 general election. The respondent was re-elected.

Corporate Contributions

2. The complaints allege that the respondent accepted five political contributions from four corporations. The allegations were based on campaign finance reports filed by the respondent in 2022, which disclosed the following political contributions:
 - \$450 from Sierra Title, on August 23, 2021
 - \$1,000 from American Surveillance, on September 16, 2021
 - \$2,500 from Valleywide Ph. & DME, on September 17, 2021
 - \$1,200 from Valleywide Pharmacy, on April 22, 2022
 - \$100 from Lupita Adult Daycare, on August 22, 2022
3. Regarding the contribution disclosed from “Sierra Title,” the respondent swore that she had received numerous contributions from persons associated with the business from their personal funds, and that since the check did not appear to be drawn on a corporate entity, and since she was not provided with notice by the contributor that the check was drawn on a corporate entity, she was unaware the contribution was from a corporation. The respondent provided a copy of the \$450 contribution check, which contained the name “Sierra Title Company of Cameron, Willacy & Kenedy Counties, Inc.” The respondent provided evidence showing she returned the contribution on September 1, 2022. Records on file with the Texas Secretary of State (SOS) show that Sierra Title Company of Cameron, Willacy & Kenedy Counties, Inc. is a domestic for-profit corporation.
4. Regarding the contribution disclosed from “American Surveillance,” the respondent provided evidence showing the contribution was actually from American Divisions, LLC, an entity that has no corporate ownership according to SOS records. The respondent amended her January 2022 semiannual report to correct the error regarding the actual contributor.
5. Regarding the two contributions disclosed from “Valleywide Ph. & DME” and “Valleywide Pharmacy,” the respondent swore that since the checks did not appear to be drawn on a corporate entity, and since she was not provided with notice by the contributor that the checks were drawn on a corporate entity, she was unaware the contributions were from a corporation. The respondent provided a copy of the \$2,500 contribution check, which contained the name

- “Valleywide Pharmacy and DME.” The respondent provided evidence showing that she returned the contributions on August 30, 2022, and September 1, 2022. Records on file with the SOS show that Valleywide Pharmacy and DME, Inc. is a domestic for-profit corporation.
6. Regarding the contribution disclosed from “Lupita Adult Daycare,” the respondent swore that, at the time she received the contribution, she did not notice that the maker of the check may be a corporation. The respondent provided evidence showing the contribution was returned on October 19, 2022. The respondent provided a copy of the \$100 contribution check, which contained the name “Lupita Adult Day Care Inc.” Records on file with the SOS show that Lupita Adult Day Care, Inc., is a domestic for-profit corporation.
 7. The respondent filed a Campaign Treasurer Appointment form on July 12, 2019. The respondent signed the form under the pre-printed statement: “I am aware of the restriction in title 15 of the Election Code on contributions from corporations and labor organizations.”
 8. 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 authorized by Chapter 253, Subchapter D, of the Election Code. *Id.* § 253.094(a).
 9. Chapter 253, Subchapter D, of the Election Code applies only to corporations that are organized under the Texas Business Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation Act, the Texas Nonprofit Corporation Law, federal law, or law of another state or nation. *Id.* § 253.091.
 10. For purposes of Chapter 253, Subchapter D, of the Election Code, the following associations, whether incorporated or not, are considered to be corporations: banks, trust companies, savings and loan associations or companies, insurance companies, reciprocal or interinsurance exchanges, railroad companies, cemetery companies, government-regulated cooperatives, stock companies, and abstract and title insurance companies. *Id.* § 253.093(a).
 11. 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).
 12. In order to find the respondent violated Sections 253.003(b) and 253.094 of the Election Code, there must be credible evidence to show the respondent: a) knowingly accepted a political contribution from an entity that the respondent knew was a corporation; and b) knew that the law prohibited corporations from making political contributions.
 13. The respondent signed a campaign treasurer appointment form on July 11, 2019, in which she acknowledged she was aware of the restrictions on political contributions from corporations. Regarding the contributions from Sierra Title Company of Cameron, Willacy & Kenedy

Counties, Inc., and Lupita Adult Day Care, Inc., each contribution check contained the abbreviation of “Inc.” which identified each contributor as a corporation. Therefore, there is credible evidence that the respondent knowingly accepted two political contributions totaling \$550 from two corporations in violation of Sections 253.003(b) and 253.094 of the Election Code.

14. Regarding the contribution from American Surveillance, the respondent provided evidence showing the contribution was actually from American Divisions, LLC, an entity that has no corporate ownership. Therefore, there is credible evidence of no violation of Sections 253.003(b) and 253.094 of the Election Code. Regarding the two contributions from Valleywide Pharmacy and DME, there is no evidence to show the respondent knew the contributions were made by a corporation at the time the contributions were accepted. Therefore, there is no credible evidence of a violation of Sections 253.003(b) and 253.094 of the Election Code.

Failure to Timely File Pre-election Report

15. The complaint alleged that the respondent did not timely file the 30-day pre-election report for the November 8, 2022 general election, which was due by October 11, 2022.
16. Records on file with Cameron County show the respondent filed the report late on October 19, 2022. The report disclosed \$8,000 in total political contributions and \$8,991.67 in total political expenditures.
17. 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).
18. Records on file with Cameron County show the respondent filed the 30-day pre-election report late. Therefore, there is credible evidence of a violation of Section 254.064 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 these sworn complaints.

- 2. The respondent consents to this order and agreed resolution and waives any right to further proceedings in these matters.
- 3. The respondent acknowledges the legal requirements and restrictions under Sections 253.003, 253.094, and 254.064 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 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 \$1,250 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-32209319, SC-32210380, and SC-32210393.

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

Sylvia Garza-Perez, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
J.R. Johnson, Executive Director