

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

Orlando Salinas

Plaintiff,

v.

J.R. Johnson, in his official capacity as
Executive Director of the Texas Ethics
Commission; Mary K. Kennedy, Randall H.
Erben, Chad M. Craycraft, Chris Flood,
Patrick W. Mizell, Richard S. Schmidt, Joseph
O. Slovacek, and Steven D. Wolens, in their
official capacities as members of the Texas
Ethics Commission,

Defendants.

ORIGINAL COMPLAINT

Civil Action No. 1:22-cv-1371

Plaintiff Orlando Salinas brings this civil action against Defendants J.R. Johnson, in his official capacity as Executive Director of the Texas Ethics Commission, and Mary K. Kennedy, Randall H. Erben, Chad M. Craycraft, Chris Flood, Patrick W. Mizell, Richard S. Schmidt, Joseph O. Slovacek, and Steven D. Wolens, in their official capacities as members of the Texas Ethics Commission, and allege as follows:

INTRODUCTION

1. This action seeks nominal damages and injunctive relief to remedy unconstitutional restrictions of Salinas's rights to free speech and due process protected under the First and Fourteenth Amendments.

2. Orlando Salinas was a candidate against Round Rock ISD board president Amber Feller¹ in the 2022 general election. Salinas's campaign against Feller focused on her malfeasance and corruption, specially including Feller's defense of the district superintendent in light of credible allegations of domestic violence leveled against him. In the closing days of the campaign, the alleged domestic violence victim produced a letter that she alleged Feller had sent to her employer seeking to have her fired (the "Feller letter."). Salinas became aware of the Feller letter and commented about it on his campaign's Facebook page.

3. In reaction, Feller alleged on her own campaign Facebook page that the Feller letter was a forgery, threatened legal action against Salinas and others for republishing it, and filed a complaint against Salinas with the Texas Ethics Commission charging that his assertion that the Feller letter was authentic violated the Texas Election Code.

4. Having received the Feller complaint, the Texas Ethics Commission not only accepted jurisdiction over it, but expanded their prosecution of Salinas, charging him with violating an additional section of the Election Code for commenting on the Feller letter. In essence, the Commission is using statutes that appear only tangentially-related to the facts alleged by Feller in her complaint to establish itself as the arbiter of whether the charges levied in the Salinas-Feller campaign over the authenticity of the Feller letter were true or not. The Commission seeks to subject Salinas to an abusive and unfair administrative process in its inquiry to determine the truth of statements made in his political campaign.

¹ Amber Feller recently changed her name to Amber Landrum on account of her marriage. However, because she is still referenced as Amber Feller in all documents related to this matter, she will be referred to as Amber Feller throughout this Complaint.

5. Due to the Commission's investigation, Salinas has ceased communicating about the Feller letter. He is actively suffering a violation of his right to free speech on account of the pending investigation and the potential for further enforcement and he is suffering a violation of his right to due process on account of the Commission's constitutionally deficient enforcement process. Accordingly, he seeks nominal damages and preliminary and permanent injunctive relief from this Court as to the current TEC enforcement action and as to any additional enforcement actions under the statutes in question.

JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of this suit pursuant to 28 U.S.C. §§ 1331 and 1343. This civil action arises under the First and Fourteenth Amendments of the United States Constitution and 42 U.S.C. § 1983. Plaintiff seeks a declaration of his rights in this case of actual controversy within the Court's jurisdiction pursuant to 28 U.S.C. §§ 2201-02.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b). All Defendants reside in Texas. The Texas Ethics Commission is located in this judicial district, and the Executive Director and members of the Commission perform their official duties in this district. In addition, the events giving rise to Plaintiff's claims occurred in this district.

PARTIES

8. Plaintiff Orlando Salinas is an individual who resides in Williamson County, Texas.

9. Defendants J.R. Johnson, Mary K. Kennedy, Randall H. Erben, Chad M. Craycraft, Chris Flood, Patrick W. Mizell, Richard S. Schmidt, Joseph O. Slovacek, and Steven D. Wolens are, respectively, the Executive Director and members of the Texas Ethics Commission, which is located at 201 East 14th St., 10th Floor, Austin, Texas 78701. The Texas Ethics Commission has

the statutory authority to administer and enforce TEX. ELEC. CODE §§ 255.004-005 including initiating civil enforcement actions, accepting jurisdiction of sworn complaints, or referring matters to an appropriate prosecuting attorney for criminal prosecution. These individuals are sued in their official capacities.

STATEMENT OF FACTS

Orlando Salinas Runs Against Amber Feller

10. Orlando Salinas was a candidate in the 2022 November general election against Amber Feller for Place 3 on the Round Rock ISD Board of Trustees. Feller was the incumbent Board of Trustees President who was running for reelection. Salinas was one of a group of challenger candidates who were disturbed by the actions of Feller and several of her fellow trustees. He was motivated to run against her because she and others on the board had supported the district's superintendent, Hafedh Azaiez. Feller had voted in June 2021 to hire Azaiez, whereas Salinas, a minority of trustees, and other community members objected to the rushed hiring process.

11. Just weeks following Azaiez's hiring, a woman named Vanessa Ruiz, an employee of a school in the Wayside School District, contacted numerous trustees to inform them that she was Azaiez's mistress and that Azaiez had impregnated her. Additionally, these trustees were notified that when she informed Azaiez of the pregnancy, he committed acts of domestic violence against her and pressured her to abort the unborn child. Ruiz succeeded in obtaining a permanent domestic violence restraining order against Azaiez.

12. Feller and a majority of the trustees denied being told about these allegations. She and the board's majority rallied to defend Azaiez. They later hired an independent investigator to investigate Azaiez while he took a leave of absence. When the investigator recommended that

Azaiez not return to his position, Feller nonetheless voted to ignore the investigator's recommendations and to reinstate Azaiez.

13. Based on these events and others, Salinas decided to run against Feller for Place 3. Salinas, as well as other challengers to incumbent trustees, were supported by the Round Rock One Family PAC. Ultimately, the 2022 Salinas campaign was unsuccessful, with Feller winning by a 50-40% margin, with a third candidate garnering around 10% of the vote.

Ruiz Provides a Letter Purportedly Authored by Feller; Salinas Comments on the Letter; Feller Reacts

14. On or around Friday, November 4, 2022, just days before the November 8, 2022, election, Vanessa Ruiz provided to Round Rock One Family PAC a copy of a letter purportedly sent by Amber Feller to Wayside School District on March 27, 2022 in her capacity as an RRISD Trustee (the "Feller letter"). In the letter, Feller claimed that Ruiz was lying about Azaiez and implied that the District should fire her. A copy of the Feller letter is attached hereto and incorporated herein as Exhibit A

15. On November 4, 2022, Round Rock One Family PAC published the letter on Facebook. Salinas shared the PAC's original post of the letter, commenting:

"Why did my opponent use her official email and title to send this derogatory email to the employer of Dr. Azaiez's domestic violence victim. This toxic rhetoric spewed by Board President Amber Feller is precisely the reason more victims of domestic violence do not step forward. Many victims fear that others will not believe their story, particularly when it involves someone of prominence, such as a Superintendent who makes \$350,000 per year. Let's end this cycle of violence and intimidation by the incumbent Board majority and Superintendent."

16. Salinas then encouraged his followers to vote for a slate of candidates for the Board of Trustees, including himself.

17. On November 5, 2022, Salinas received a “cease and desist” letter from legal counsel for Amber Feller alleging that the Feller letter was a forgery. Feller threatened a defamation suit and demanded Salinas cease making statements asserting the Feller letter was authentic.

18. Feller also personally responded to Salinas’ post on Facebook saying, “be very careful about doubling down on supporting this now that you have been informed it’s a forged document.”

Feller Engages the Texas Ethics Commission to Prosecute Salinas for Publishing the Feller Letter

19. On November 7, 2022, Feller filed Sworn Complaint SC-32211435 against Salinas with the Texas Ethics Commission. In it, Feller alleged that Salinas’ Facebook post had violated TEX. ELEC. CODE § 255.005. That section states:

Sec. 255.005. MISREPRESENTATION OF IDENTITY. (a) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person misrepresents the person’s identity or, if acting or purporting to act as an agent, misrepresents the identity of the agent’s principal, in political advertising or a campaign communication.
(b) An offense under this section is a Class A misdemeanor.

20. A copy of Sworn Complaint SC-32211435 and its attachments are attached hereto and incorporated herein as Exhibit B.

21. In Sworn Complaint SC-32211435 Feller alleges: “Mr. Salinas, along with the Round Rock One Family GPAC, knowingly continue to share a Facebook post to misrepresent my identity with the intent to influence the outcome of the 11/8/2022 election.” Feller further alleged, *inter alia*:

- Mr. Salinas and Round Rock One Family GPAC published a letter on their respective Facebook pages, around noon on Friday 11/4/2022;
- The letter . . . is a fake and was never authored by me;
- I have provided irrefutable evidence . . . that this signature was stolen from my July 2022 campaign finance report, publicly available on the RRISD website.
- Round Rock One Family GPAC added a “disclaimer” to their original Facebook post around 10:45pm on 11/4/2022 stating they did not verify the authenticity of the letter;

- Mr. Salinas stated in a Facebook comment, around 2pm on 11/5/2022, that he received the letter from a third party and thus passed it along to Round Rock One Family GPAC so they could post it;
- Mr. Matthew Abbot, Superintendent and CEO of Wayside Schools, responded via email around 4pm on 11/5/2022 that there was, “no record of receiving a letter of any kind from any member of the Round Rock School Board dated March 27, 2022.”
- A cease and desist letter was sent to Round Rock One Family GPAC and Orlando Salinas around 12:15am on 11/5/2022 but both have refused to comply and the letter is still posted on their respective FB pages;
- I filed a police report with the Round Rock Police Department around 5pm on 11/5/2022.

22. Nowhere in Sworn Complaint SC-32211435 did Feller provide evidence, much less allege, that Salinas had created the allegedly-forged Feller letter. She also did not allege that Salinas had entered into a contract or other agreement to print, publish, or broadcast political advertising.

23. On November 18, 2022, Salinas received a notice from the Texas Ethics Commission signed by TEC Executive Director J.R. Johnson and TEC Assistant General Counsel Mark H. Pillsbury. The Notice stated that the TEC, acting through Johnson, had accepted jurisdiction over the allegations in Sworn Complaint SC-32211435. The notice is attached hereto and incorporated herein as Exhibit C. It stated:

We received sworn complaint SC-32211435 on November 7, 2022. The sworn complaint alleges that you: 1) with intent to injure a candidate or influence the result of an election, entered into a contract or other agreement to print, publish, or broadcast political advertising that purported to emanate from a source other than its true source, in violation of Section 255.004(a) of the Election Code; 2) with intent to injure a candidate or influence the result of an election, knowingly represented in a campaign communication that the communication emanated from a source other than its true source, in violation of Section 255.004(b) of the Election Code; and 3) with intent to injure a candidate or influence the result of an election, misrepresented your identity or, if acting or purporting to act as an agent, misrepresented the identity of the agent's principal, in political advertising or a campaign communication, in violation of Section 255.005 of the Election Code.²

2

The Texas Ethics Commission (the Commission) accepts jurisdiction over the allegations. This does not mean that the Commission has found that a violation occurred. It means that the sworn complaint meets the Commission's legal and technical form requirements for accepting jurisdiction.¹

¹Although the complaint does not specifically cite Section 255.004 of the Election Code, the sworn complaint describes facts that, if true, could constitute a violation of that section of law ("Misrepresentation"). 1 Tex. Admin. Code § 12.59.

The sworn complaint allegations will be processed as Category Two violations. Under the law you are required to respond to the allegations not later than 25 business days from the date you receive this notice. Failure to respond will constitute a separate violation for which a separate civil penalty may be assessed.

The response must be in writing, admit or deny the allegations, and be signed by you. If you deny the allegations, then you should provide evidence supporting the denial. The response must include any challenge you seek to raise to the Commission's exercise of jurisdiction. The response should be under oath. We have enclosed an affidavit form that you may wish to use for the response. A respondent who is a candidate or officeholder may by writing submitted to the Commission designate an agent with whom the Commission staff may communicate regarding the complaint. If you have any information relevant to the complaint, please provide it at this time. Also, please be advised that you should preserve all documents and evidence related to the allegations in this complaint.

To comply with legal requirements regarding the initial notice of a sworn complaint, I have also included a copy of the sworn complaint, the Commission's sworn complaint rules, a Statement of Respondent's Rights, and a copy of the relevant statutes of the Election Code. More information about the complaint process is available on the Commission's website at www.ethics.state.tx.us.

Please note that at this stage in the process, Commission members and staff are required by law to keep the complaint and all documents relating to it strictly confidential.

24. Notably, the Commission expanded its prosecution of Salians beyond the section charged by Feller to include adjacent section 255.004 of the Election Code. TEX. ELEC. CODE § 255.004(a)-(c) states:

Sec. 255.004. TRUE SOURCE OF COMMUNICATION. (a) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person enters into a contract or other agreement to print, publish, or broadcast political advertising that purports to emanate from a source other than its true source.

(b) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person knowingly represents in a campaign communication that the communication emanates from a source other than its true source.

(c) An offense under this section is a Class A misdemeanor.

25. Attached to the TEC Notice was a “Statement of Respondent’s Rights. A copy of that document is attached hereto and incorporated herein as Exhibit D. That documents states, *inter alia*:

The Texas Ethics Commission (Commission) is required to conduct a preliminary review when it receives a written complaint that conforms with legal and technical form requirements and that alleges a violation of a law under the Commission’s jurisdiction.

At or after the time the Commission provides notice of a preliminary review hearing, the Commission may submit to the complainant and the respondent written questions and require those questions to be answered under oath within a reasonable time. The Commission may also subpoena documents and examine witnesses.

If a respondent fails to appear at a hearing, the Commission may proceed in the respondent’s absence and may find credible evidence of the violations alleged in the complaint and may issue a final order imposing a civil penalty.

26. In reaction to the TEC initiating an enforcement action against him under TEX. ELEC. CODE §§ 255.004 and 255.005, Salinas has ceased commenting publicly regarding the Feller letter and further publishing it to the community. Salinas has ceased his communications because he fears further prosecution under the statutes for both his past and future statements. Salinas fears that TEC enforcement against him could negatively impact his career and his ability to provide for his family. Although the November 2022 election has passed, Salinas has maintained his campaign

and campaign account, has an ongoing obligation to comply with the Election Code as at candidate, and intends to run against Feller in future elections.

The Texas Ethics Commission's Sworn Complaint Process Provides Insufficient Due Process to Protect Salinas' Constitutional Rights

27. Texas Ethics Commission is tasked with enforcing Title 15, Chapter 255 of the Election Code. TEX. GOV'T CODE § 571.061(a)(3). These statutes are also enforceable criminally. Despite Chapter 255 pertaining to regulations on the speech of citizens regarding elections, the TEC enforces it through an administrative law process common to regulatory bodies. The rules of civil procedure, as modified by statute and Commission rule, are employed to govern the administrative proceedings. The TEC's sworn complaint enforcement process is outlined in TEX. GOV'T CODE Chapter 571, Subchapter E.

28. The TEC's enforcement process is typically initiated when the Commission receives a sworn complaint. These complaints are overwhelmingly filed, as in this case, by one political candidate or their supporters against an opposing political candidate, or their supporters. The TEC takes the position that it must accept jurisdiction over a complaint that alleges an allegation that, if true, would constitute a violation of laws enforced by the Commission. A determination of whether a complaint states a violation of laws enforced by the commission is made by the Executive Director.

29. In the TEC's administrative process, the charges are prosecuted by TEC staff attorneys and argued in front of the eight members of the Texas Ethics Commission. These commissioners, who employ the Commission staff, serve as both fact-finder and the ultimate judge on all legal questions. While Commission rules provide that the TEC may order a formal hearing before the

State Office of Administrative Hearings, this has never taken place and all hearings in the history of the TEC have been conducted before the commissioners.

30. The standard of proof in the TEC's sworn complaint process is by a preponderance of the evidence.

31. The TEC unilaterally controls the flow of the sworn complaint process and there are few safeguards ensuring the process ever ends. When the Commission eventually processes an accepted complaint, the TEC staff are statutorily authorized and required to send written questions to the respondent regarding the subjects charged.

32. The respondent is required to answer the written questions and the Commission may penalize the Respondent if they refuse to answer. Under Commission Rule §12.33, the TEC has granted itself the authority to sanction a respondent for failure to comply with a Commission order.

33. After receiving the respondent's answers to the written questions, the TEC will schedule a preliminary review hearing. This hearing is always conducted in Austin, behind closed doors. On information and belief, the Commission always calls the respondent as a witness at the preliminary review hearing. This is done even with regard to enforcement of statutes that authorize simultaneous criminal prosecution, such as Sections 255.004 and 255.005, at issue in this case.

34. If the respondent invokes their right against self-incrimination and/or otherwise refuses to answer questions or testify, the Commission, holding that the sworn complaint process is governed by civil procedure, asserts that it may make a finding against a respondent on account of the respondent's failure or refusal to testify. Accordingly, because the standard of proof is a preponderance of evidence, a respondent who refuses to put on evidence in their defense will always be found to be in violation of the laws charged by the Commission.

35. During the Commission's administrative enforcement process, the respondent, if the enforcement involves a criminal statute, remains at risk of separate criminal prosecution by state and local prosecutors.

36. On information and belief, at the preliminary review hearing stage, respondents are expected to attempt to settle the case with the Commission, often for a relatively nominal penalty. On information and belief, those who resist the prosecution, and assert defenses or challenge the Commission's authority, are treated with scorn and are punished for refusing to cooperate.

37. Even if the commissioners at the preliminary review hearing are unsure whether the evidence supports the finding of a violation of law, and especially if the commissioners find a violation, the Commission may vote to proceed to a formal hearing. At a formal hearing, the preliminary review hearing process is essentially repeated, except this time in a hearing in Austin that is open to the public. The Commission may hold one or more prehearing conferences or other hearings between the preliminary review hearing and formal hearing at which the TEC may vote to issue subpoenas to the respondent and others. Through this pre-hearing/discovery process, the Commission may indefinitely delay scheduling the formal hearing.

38. Once the Commission holds a formal hearing, it is required to issue a final order within 60 days. The TEC may find the respondent has violated state law and impose a civil penalty, which in certain cases is only limited by the amount of the issues in controversy. This order becomes final unless the respondent files a civil lawsuit within 30 business days in state district court. Although TEX. GOV'T CODE 571.133 provides that such review is by trial de novo, the respondent is forced to proceed in the appeal as a Plaintiff. The Commission takes the position that it is not required to file a petition or otherwise plead or prosecute its charges against the respondent. As the plaintiff in

the appeal, the respondent is denied many of the procedural protections that would typically be afforded to a defendant. The TEC has never obtained a non-settlement final judgment against a respondent in the appeal process, though several of the appeals have dragged on for years, in one case, nearing a decade.

39. Throughout its administrative process, and both at the preliminary review hearing and formal hearing stage, the Commission refuses to hear constitutional arguments from the respondent. Commission staff have stated that such arguments may only be brought up later, once the case reaches appeal, if ever. One commissioner has even stated that the Commission is “not required to call constitutional balls and strikes” and that the Commission is not required to read binding state court of appeals opinions relevant to the Commission’s administrative enforcement action.

Count I
42 U.S.C. §§ 1983, 1988
Election Code Statutes Are Unconstitutional as Applied to Salinas

40. Salinas repeats and realleges each of the foregoing allegations in this Original Complaint as if fully set forth herein.

41. Salinas’s desired statements— including republishing the Feller letter, commenting on it, asserting that it is authentic and consistent with Feller’s other behavior with regard to Vanessa Ruiz—is speech protected by the First Amendment. However, in fear of further prosecution, Salinas has ceased making such statements regarding a public official in light of the prosecution against him.

42. Application of TEX. ELEC. CODE §§ 255.004-005 to Salinas’s speech violates his First Amendment right to free speech. The statutes are content-based restrictions on speech. However,

there is no compelling governmental interest in applying these laws to statements regarding a public official and candidate, such as Salinas's, that are merely alleged to be untrue. Application of these statutes to Salinas's speech is not narrowly tailored to achieve a compelling governmental interest.

43. Accordingly, Salinas seeks nominal damages and preliminary and permanent injunctive relief pursuant to 42 U.S.C. § 1983 against the Defendants from enforcing TEX. ELEC. CODE §§ 255.004-005 against him on account of his future statements regarding the Feller letter.

44. Additionally, Salinas is entitled to attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

Count II

42 U.S.C. §§ 1983, 1988; 22 U.S.C. § 2201

TEC Enforcement Procedures Are Unconstitutional Facially and as Applied to Salinas

45. Salinas repeats and realleges each of the foregoing allegations in this Original Complaint as if fully set forth herein.

46. The Texas Ethics Commission's sworn complaint enforcement procedures, described in TEX. GOV'T CODE Chapter 571 Subchapter E, and further as alleged in this Complaint, are totally deficient with regard to the enforcement of TEX. ELEC. CODE §§ 255.004-005. The Election Code statutes proscribe certain speech, in the context of political campaigns, and together with provisions of the Government Code, are enforceable simultaneously in civil, administrative, and criminal proceedings. Subjecting a respondent to the TEC's administrative procedures under Chapter 571, Subchapter E, on account of their First-Amendment-protected speech, in which the respondent's silence and opposition may be used against them, in a process that is biased, unfair, and potentially never-ending, and in the shadow of potential criminal prosecution, violates the respondent's right to due process as protected by the Fourteenth Amendment.

47. Accordingly, Salinas seeks declaratory relief pursuant to Section 22 U.S.C. § 2201 declaring the use of the TEX. GOV'T CODE Chapter 571, Subchapter E sworn complaint process to enforce TEX. ELEC. CODE §§ 255.004-005 is facially unconstitutional. In the alternative, Salinas seeks a declaration that use of the TEX. GOV'T CODE Chapter 571, Subchapter E sworn complaint process to enforce TEX. ELEC. CODE §§ 255.004-005 against his desired speech regarding the Feller letter is unconstitutional, as applied.

48. Salinas also seeks nominal damages and preliminary and permanent injunctive relief pursuant to 42 U.S.C. § 1983 against the Defendants to prohibit them from using the TEX. GOV'T CODE Chapter 571, Subchapter E sworn complaint process to enforce TEX. ELEC. CODE §§ 255.004-005 against him with regard his future statements regarding the Feller letter.

49. Additionally, Salinas is entitled to attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

Count III
42 U.S.C. §§ 1983, 1988
TEC Is Acting Without Statutory Authority

50. Salinas repeats and realleges each of the foregoing allegations in this Original Complaint as if fully set forth herein.

51. TEX. ELEC. CODE §§ 255.004-005 do not apply to Salinas' conduct, as alleged in the Sworn Complaint SC-32211435. The statutes appear to prohibit speech which falsely purports to emanate from a source other than its true source or otherwise misrepresents the speaker's identity. Here, there is no allegation that Salinas engaged in speech that misrepresented his identity or otherwise purported to emanate from a source other than himself. The allegation is that the speech was false—that Salinas alleged the Feller letter was authentic when Feller claims she can prove otherwise. These statements do not appear to violate either statute.

52. Nonetheless, the Texas Ethics Commission is enforcing TEX. ELEC. CODE §§ 255.004-005 against Salinas's statements despite the text of the statutes and despite TEX. GOV'T CODE § 571.121(b) which states "[t]he commission may not consider a complaint or vote to investigate a matter outside the commission's jurisdiction."

53. Subjecting Salinas to the TEX. GOV'T CODE Chapter 571, Subchapter E sworn complaint process with regard to Sworn Complaint SC-32211435 relating to his alleged statements that do not actually violate TEX. ELEC. CODE §§ 255.004-005 is causing and will continue to cause Salinas to suffer substantial and irreparable harm in violation of his First and Fourteenth Amendment rights.

54. Accordingly, Salinas seeks nominal damages and preliminary and permanent injunctive relief pursuant to 42 U.S.C. § 1983 against the Defendants to prohibit them from conducting further enforcement proceedings on Sworn Complaint SC-32211435.

55. Additionally, Salinas is entitled to attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

Count IV
42 U.S.C. §§ 1983, 1988
Current Enforcement Action Violates Salinas's Free Speech Rights

56. Salinas repeats and realleges each of the foregoing allegations in this Original Complaint as if fully set forth herein.

57. Sworn Complaint SC-32211435 concerns statements by Salinas regarding a matter of public concern, regarding his campaign opponent, a public official, on the eve of a general election. These statements are protected by the First Amendment.

58. Application of TEX. ELEC. CODE §§ 255.004-005 to Salinas's speech, as complained-of in Sworn Complaint SC-32211435, violates his First Amendment right to free speech. The statutes

are content-based restrictions on speech. However, there is no compelling governmental interest in applying these laws to the statements alleged in Sworn Complaint SC-32211435. Application of these statutes to Salinas's statements is not narrowly tailored to achieve a compelling governmental interest.

59. Subjecting Salinas to the TEX. GOV'T CODE Chapter 571, Subchapter E sworn complaint process with regard to the statements alleged in Sworn Complaint SC-32211435 is causing and will continue to cause Salinas to suffer substantial and irreparable harm in violation of his First Amendment rights.

60. Accordingly, Salinas seeks nominal damages and preliminary and permanent injunctive relief pursuant to 42 U.S.C. § 1983 against the Defendants to prohibit them from conducting further enforcement proceedings on Sworn Complaint SC-32211435.

61. Additionally, Salinas is entitled to attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

Count V
42 U.S.C. §§ 1983, 1988
Current Enforcement Action Violates Salinas's Due Process Rights

62. Salinas repeats and realleges each of the foregoing allegations in this Original Complaint as if fully set forth herein.

63. The Texas Ethics Commission's sworn complaint enforcement procedures, described in TEX. GOV'T CODE Chapter 571, Subchapter E, and further as alleged in this Complaint, provide insufficient due process with regard to Sworn Complaint SC-32211435.

64. Subjecting Salinas to the TEX. GOV'T CODE Chapter 571, Subchapter E sworn complaint process with regard to Sworn Complaint SC-32211435 is causing and will continue to cause Salinas to suffer substantial and irreparable harm in violation of his Fourteenth Amendment rights.

65. Accordingly, Salinas seeks nominal damages and preliminary and permanent injunctive relief pursuant to 42 U.S.C. § 1983 against the Defendants to prohibit them from conducting further enforcement proceedings on Sworn Complaint SC-32211435.

66. Additionally, Salinas is entitled to attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

Prayer for Relief

67. Plaintiff Orlando Salinas respectfully requests this Court enter judgment in his favor and against Defendant and provide the following relief:

- A. Preliminary and permanent injunctive relief pursuant to 42 U.S.C. § 1983 against further enforcement proceedings on Sworn Complaint SC-32211435;
- B. Declaratory relief pursuant to 22 U.S.C. § 2201 declaring that the TEC's sworn complaint enforcement procedures under TEX. GOV'T CODE Chapter 571, Subchapter E, are facially unconstitutional;
- C. In the alternative, declaratory relief pursuant to 22 U.S.C. § 2201 declaring that the TEC's sworn complaint enforcement procedures under TEX. GOV'T CODE Chapter 571, Subchapter E, are unconstitutional, as-applied to Salinas's statements regarding the Feller letter;
- D. Preliminary and permanent injunctive relief pursuant to 42 U.S.C. § 1983 against the initiation of additional actions to enforce TEX. ELEC. CODE §§ 255.004-005 on account of Salinas' future statements regarding the Feller letter;
- E. Preliminary and permanent injunctive relief pursuant to 42 U.S.C. § 1983 against the initiation of additional enforcement actions using the TEX. GOV'T CODE Chapter 571,

Subchapter E sworn complaint process to enforce TEX. ELEC. CODE §§ 255.004-005 on account of Salinas' future statements regarding the Feller letter;

- F. Salinas's reasonable costs and expenses of this action, including attorneys' fees, in accordance with 42 U.S.C. § 1988 and all other applicable laws; and
- G. Any and all other further relief to which Salinas may be justly entitled.

Respectfully submitted,

THE LAW OFFICES OF TONY McDONALD

By: /s/ Tony McDonald

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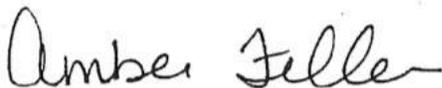
Dated December 27, 2022

March 27, 2022

To the School Board of the Wayside School District:

School boards are elected to work for public education and must be committed to taking this job very seriously. I am a Christian woman, and my religious beliefs guide my personal decision making which is why I write to you today. Sci-Tech Middle School is in danger with Vanessa [REDACTED] [REDACTED] serving as the school principal. If you are not aware she is not being truthful with her recent assault accusation against Dr. Hafedh Azaiez superintendent of Round Rock Independent School District and her pregnancy. There is facts and proof that show she has never been pregnant. Captain William Poole from the Travis County Sherriff's office has informed me that she does not have proof that this assault happened. I bring to your attention that this has created a stain for our district and Dr. Hafedh Azaiez. She tried to destroy his family and his career by contacting the school board to tell her fabricated story. I urge you to hold her accountable and remove her from her position as a school leader. She does not have the values and principles to be serving students.

Sincerely



Amber Feller, President
Round Rock ISD School Board
Trustee- Place 3

SWORN COMPLAINT BEFORE THE TEXAS ETHICS COMMISSION

Section 571.122 of the Government Code requires that a sworn complaint be filed on a form prescribed by the Texas Ethics Commission and include specific information.

- You must complete a separate sworn complaint form for each respondent.
- You must allege a violation of a law that is within the Texas Ethics Commission's jurisdiction, listed on p. 2. More information and instructions for this form can be found at <https://www.ethics.state.tx.us/tec/sworn.html>.
- A person filing a frivolous or bad faith complaint may be subject to a civil penalty.

OFFICE USE ONLY

Docket Number

SC-32211435

Date Hand-delivered or Date Postmarked

**Electronically Received
11/07/2022
Texas Ethics Commission**

Please completely fill out this form.

Failure to complete this form properly will cause your complaint to be noncompliant and returned.

I. IDENTITY OF COMPLAINANT

1 COMPLAINANT NAME (REQUIRED)	MS / MRS / MR	FIRST	MI		
	Amber				
	NICKNAME	LAST	SUFFIX		
	Feller				
2 COMPLAINANT PHYSICAL ADDRESS (REQUIRED)	ADDRESS	APT / SUITE #	CITY	STATE	ZIP CODE
	1001 Collingwood Cove	Round Rock		TX	78665
(Full home or business address, including street, city, state, and zip code)					
3 COMPLAINANT MAILING ADDRESS (REQUIRED)	ADDRESS	APT / SUITE #	CITY	STATE	ZIP CODE
	(Full street or mailing address, including city, state, and zip code)				
4 COMPLAINANT CONTACT NUMBER (REQUIRED)	AREA CODE	CONTACT NUMBER	EXT	5 COMPLAINANT E-MAIL ADDRESS (REQUIRED IF KNOWN)	acfeller@hotmail.com
	5127996945				

II. IDENTITY OF RESPONDENT

6 RESPONDENT NAME (REQUIRED)	MS / MRS / MR	FIRST	MI		
	Orlando				
	NICKNAME	LAST	SUFFIX		
	Salinas				
7 RESPONDENT POSITION OR (REQUIRED)	Candidate for Round Rock ISD Trustee Place 3				
8 RESPONDENT PHYSICAL ADDRESS (REQUIRED)	ADDRESS	APT / SUITE #	CITY	STATE	ZIP CODE
	1290 Rainbow Parke Dr		Round Rock	TX	78665
(Full home or business address, including street, city, state, and zip code)					
9 RESPONDENT MAILING ADDRESS (REQUIRED)	ADDRESS	APT / SUITE #	CITY	STATE	ZIP CODE
	(Full street or mailing address, including city, state, and zip code)				
10 RESPONDENT CONTACT NUMBER (REQUIRED)	AREA CODE	CONTACT NUMBER	EXT	11 RESPONDENT E-MAIL ADDRESS (REQUIRED IF KNOWN) (if unknown, please state that)	salinas4rrisd@gmail.com
	9168998797				

III. NATURE OF ALLEGED VIOLATION

Page 2

Include the specific law(s) or rule(s) alleged to have been violated. YOU MUST ALLEGE A VIOLATION OF A LAW THAT IS WITHIN THE COMMISSION'S JURISDICTION. The Texas Ethics Commission has jurisdiction to enforce only the following laws: (1) Title 15 of the Election Code; (2) Chapters 302, 303, 305, 572 and 2004 of the Gov't Code; (3) § 334.025 and § 335.055 of the Local Gov't Code; (4) Chapter 159 of the Local Gov't Code, in connection with a county judicial officer who elects to file a financial statement with the commission; and (5) § 2152.064 and § 2155.003 of the Gov't Code.

*Please completely fill out this form.
Failure to complete this form properly will cause your complaint to be noncompliant and returned.*

Alleged Violation of Title 15 Election Code - Sec. 255.005. MISREPRESENTATION OF IDENTITY. (a) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person misrepresents the person's identity or, if acting or purporting to act as an agent, misrepresents the identity of the agent's principal, in political advertising or a campaign communication.

Mr. Salinas, along with the Round Rock One Family GPAC, knowingly continue to share a Facebook post to misrepresent my identity with the intent to influence the outcome of the 11/8/2022 election.

ATTACH ADDITIONAL PAGES AS NEEDED

IV. STATEMENT OF FACTS

Page 3

You must state the facts constituting the alleged violation(s), including the dates on which or the period of time in which the alleged violation(s) occurred. Identify allegations of fact not personally known to you, but alleged on information and belief. Use simple, concise, and direct statements. You must state facts that, if true, would constitute a violation of a law within the Commission's jurisdiction and allege facts to sufficiently indicate the manner and means by which each alleged violation occurred.

Please completely fill out this form.

Failure to complete this form properly will cause your complaint to be noncompliant and returned.

- ~ Mr. Salinas and Round Rock One Family GPAC published a letter on their respective Facebook pages, around noon on Friday 11/4/2022.
- ~ The letter, Exhibit A below, is a fake and was never authored by me.
- ~ I have provide irrefutable evidence, exhibit C, that this signature was stolen from my July 2022 campaign finance report, publicly available on the RRISD website.
- ~ Round Rock One Family GPAC added a "disclaimer" to their original Facebook post around 10:45pm on 11/4/2022 stating they did not verify the authenticity of the letter.
- ~ Mr. Salinas stated in a Facebook comment, around 2pm on 11/5/2022, that he received the letter from a third party and thus passed it along to Round Rock One Family GPAC so they could post it.
- ~ Mr. Matthew Abbot, Superintendent and CEO of Wayside Schools, responded via email, around 4pm on 11/5/2022, that there is, "no record of receiving a letter of any kind from any member of the Round Rock School Board dated March 27, 2022." The email from Mr. Abbott, stating emphatically that no such letter exists is attached as, "Exhibit D."
- ~ A cease and desist letter was sent to Round Rock One Family GPAC and Orlando Salinas, around 12:15am on 11/5/2022 but both have refused to comply and the letter is still posted on their respective FB pages.
- ~ I filed a police report with the Round Rock Police Department around 5pm on 11/5/2022.

ATTACH ADDITIONAL PAGES AS NEEDED

V. LISTING OF DOCUMENTS AND OTHER MATERIALS

Page 4

You must list all documents and other materials filed with this complaint. Additionally, list all other documents and other materials that are relevant to this complaint and that are within your knowledge, including their location, if known. Relevant documents that are available to you or in your possession must be included.

Please completely fill out this form.

Failure to complete this form properly will cause your complaint to be noncompliant and returned.

- Exhibit A — Fake forged letter purported to be dated March 27, 2022
- Exhibit B — Round Rock One Family PAC Defamatory Facebook Post publishing Exhibit A
- Exhibit C — Signature Comparison, published by Amber Feller and shared publicly
- Exhibit D — Email from Matthew Abbot, Superintendent of CEO of Wayside Schools, confirming that the Exhibit A letter is false and no such letter was ever received
- Exhibit E — Orlando Salinas's Defamatory Facebook Post publishing Exhibit A
- Exhibit F — Cease and Desist Letter sent to Orlando Salinas and Round Rock One Family PAC

ATTACH ADDITIONAL PAGES AS NEEDED

VI. AFFIDAVIT BASED ON PERSONAL KNOWLEDGE

Page 5

(Execute this affidavit if the acts alleged are within your direct personal knowledge.)

Please completely fill out this form.

Failure to complete this form properly will cause your complaint to be noncompliant and returned.

I, Amber Feller, complainant, swear that I am a resident of the state of Texas. I swear that I have knowledge of the facts alleged in this complaint. I declare under penalty of perjury that the foregoing is true and correct and that the information contained in this complaint is true and correct.

Amber Feller

Signature of Complainant (Declarant)

UNSWORN DECLARATION SECTION

My name is Amber Christine Feller, and my date of birth is REDACTED.

My Address is 1001 Collingwood Cove, Round Rock, TX, 78665, USA.

Executed in Williamson County, State of Texas, on November 06, 2022.

Amber Feller

Signature of Complainant (Declarant)

VII. AFFIDAVIT BASED ON INFORMATION AND BELIEF

(Execute this affidavit if the acts alleged are not within your direct personal knowledge, but are based on reasonable belief.)

Please completely fill out this form.

Failure to complete this form properly will cause your complaint to be noncompliant and returned.

I, , complainant, swear that I am a resident of the state of Texas. I swear that I have reason to believe and do believe that the violation alleged in this complaint has occurred. The source of my information and belief is (state below):

Signature of Complainant (Declarant)

UNSWORN DECLARATION SECTION

My name is Amber Christine Feller, and my date of birth is REDACTED.

My Address is 1001 Collingwood Cove, Round Rock, TX, 78665, USA.

Executed in Williamson County, State of Texas, on November 06, 2022.

Signature of Complainant (Declarant)

6:08



< Orlando Salinas for Round Rock I... Q

Posts About Photos Mentions

Orlando Salinas for Round Rock ISD Board of Trustees Place 3's posts



Orlando Salinas for Round Rock ISD Board of Trustees Place 3 ***

4h · 🌐

Why did my opponent use her official email and title to send this derogatory email to the employer of Dr. Azaiez's domestic violence victim?

This toxic rhetoric spewed by Board President Amber Feller is precisely the reason more victims of domestic violence do not step forward. Many victims fear that others will not believe their story, particularly when it involves someone of prominence, such as a Superintendent who makes \$350,000 per year.

Let's end the cycle of violence and intimidation by the incumbent Board majority and Superintendent.

Vote for:

Place 3 - Orlando Salinas

Place 4 - Jill Farris for RRISD

Place 5 - Christie Slape for Round Rock ISD Trustee, Place 5

Place 6 - Don Zimmerman Texans for Zimmerman

Place 1 - John Keagy for RRISD

Round Rock One Family PAC · Follow

6h · 🌐

MORE BREAKING NEWS!!! WOW! Another email EXPOSING current Round Rock ISD Board President of PROTECTING the Supe... See more



👍 3

3 comments

👍 Like

💬 Comment

➦ Share





soliz law
G R O U P

November 5, 2022

Round Rock One Family PAC

Via email: contact@roundrockonefamily.com

Mr. Orlando Salinas

Via email: Salinas4RRISD@gmail.com

Via Public Social Media Posting Amber Feller, Round Rock ISD School Board Trustee, Place 3 and Messaging Service on Facebook to Orlando Salinas and Round Rock One Family PAC

Re: Fraudulent and Defamatory statements attributed to Amber Feller; Fraudulent and forged letter dated March 27, 2022, purportedly to “the School Board of Wayside School District [sic]”

Candidate Orlando Salinas and Round Rock One Family PAC:

My name is Cynthia Soliz and I am an attorney representing Ms. Amber Feller, as she prepares to take action against you and others regarding the forged and fraudulent letter referenced above, and the slanderous and defamatory comments made against her, spread by you and others and propagated at your insistence. The forged and fraudulent letter referenced is attached as, “Exhibit A,” and incorporated by reference herein. A screenshot collected by Ms. Feller of the Facebook post is attached as, “Exhibit B,” evidencing the publication of these false and defamatory statements with the forged document.

This is Ms. Feller’s formal Cease and Desist Letter, the condition precedent, to the forthcoming defamation suit. Ms. Feller formally demands that all publications of this information in all its forms is deleted and that a formal retraction is printed and widely disseminated immediately, as the election is two days away and time is of the essence. To that end, Ms. Feller now formally serves upon you the following legal notices:

FASLE STATEMENT: FORGERY AND FRAUD

As you have already been informed, the letter, “Exhibit A,” attached, is fake. Ms. Feller has shared information regarding the copying of her signature from her July 2022 Campaign Finance Report, publicly available on the Round Rock District website. Ms. Feller has shared publicly that the signature is obviously copied and pasted. Documents exhibiting this, that have been previously shared with you and publicly by Ms. Feller are attached as, “Exhibit C,” and in-

corporated by reference herein. Additionally, Mr. Matthew Abbot, Superintendent and CEO of Wayside Schools, has answered via email that there is, “no record of receiving a letter of any kind from any member of the Round Rock School Board dated March 27, 2022.” The email from Mr. Abbott, stating emphatically that no such letter exists is attached as, “Exhibit D.”

You have been formally noticed that this letter is fake, forged, slanderous and defamatory by the alleged recipient of the fake letter.

It is the duty of the publishing organization to assure the veracity of the statements that they share. These statements were released with malice, and with knowledge that it was false or with reckless disregard of whether it was false or not. You have received notice that this letter is false, these statements are defamatory, and that Ms. Feller did not author this letter.

Such knowledge is evidenced by your, “Disclaimer,” on “Exhibit B,” wherein you try to disavow responsibility, but acknowledge that you have chosen reckless disregard in publication then continued to publish it after having actual knowledge as to the forgery of my client’s name. When we pursue legal action against you, this will be considered, “defamation per se.”

CEASE AND DESIST — PUBLICATION OF FORGED LETTER

This is a formal notice to cease and desist the publication of the letter attached, as “Exhibit A,” as it is fake and forged and you have been informed thusly, above. Ms. Feller is suffering damages by the minute, as these are crucial days before the election for Round Rock School Board and is causing an invasion of Ms. Feller’s interest in her reputation and good name.

CEASE AND DESIST — DEFAMATION, SLANDER AND LIBEL OF AMBER FELLER

This is a formal notice to cease and desist ANY AND ALL FALSE, SLANDEROUS, LIBEL, MALICIOUS, AND OTHERWISE MISLEADING STATEMENTS REGARDING AMBER FELLER. The current false, slanderous statement include, but are not limited to Ms. Feller: 1. Having authored the forged letter, Exhibit A; 2. Sending the fake and forged letter; 3. is “Shady;” 4. is “Corrupt;” 5. is, “Manipulative,” or 6. is acting without the knowledge of the other members of the Round Rock ISD Board; 7. is attacking Ms. Vanessa Ruiz and 8. Is the author of the letter attached as Exhibit A. The purpose of this letter is to formally request that all false and misleading comments about Ms. Feller be removed from social media, a retraction be immediately published and widely shared, and that no additional false and defamatory comments be made regarding my client, Ms. Feller.

SPOILIATION NOTICE IN ANTICIPATION OF LITIGATION

This is my formal demand that you preserve the items described below in anticipation of litigation.

You are to preserve: any and all photographs, video footage, video clips, notes, graphs, depictions, drawings, reports (including but not limited to incident reports), investigative files, statements, emails, printouts, messages, texts, communications, screenshots or any document, item, record, report, or item in any way depicting, showing, or describing the subject of the suit.

Also, you are to preserve any and all contact information for any and all persons with knowledge of facts regarding the action, including but not limited to the administrators with power to post

on your public Facebook page, any employees, representatives, independent contractors or witnesses.

Electronic documents and the storage media on which they reside may contain relevant, discoverable information beyond what may be found in printed documents. Therefore, even where a paper copy exists, we will seek all documents in their electronic form along with meta data or information about those documents contained on the media.

We will seek paper printouts of only those documents that contain unique information created after they were printed (e.g., as paper documents containing handwriting, signatures, marginalia, drawings, annotations, highlighting and redactions) along with any paper documents for which no corresponding electronic files exist.

Types of electronic information: electronic information includes the following: 1) databases; 2) data files; 3) program files; 4) image files (i.e. JPEG, TIFF, PNG), 5) email messages and files; 6) voice---mail messages and files; 7) text messages; 8) temporary files; 9) system history files; 10) deleted files, programs, or emails; 11) back up files and archival tapes; 12) website files; 13) website information stored in textual, graphical, or audio format; 14) cache files, and 15) cookies.

This demand for preservation includes information stored in the following sources: 1) mainframe computers; 2) network servers; 3) internet ("web") servers, 4) desktop and laptop computers; 5) hard drives; 6) flash drives, which include "thumb" drives, secure digital cards, and other flash memory cards, 7) email servers; 8) handheld devices like personal digital assistants (PDAs) and personal media players (PMPs); or any wearable devices (ie: smart watches.) 9) cellphones and smartphones (e.g. iPhones, Androids, Windows Mobile devices, etc.); 10) event recorders in cars, trucks, and trains; 11) medical devices, and 12) global positioning system (GPS) devices.

Further, you are to immediately suspend any document retention policy designed to delete or eliminate data. I request that you take every reasonable step to preserve all of the above documents, items, and information. Do not destroy or dispose of any of it.

You are to forward a copy of this letter to all persons and entities with custodial responsibility for the items referred to in this letter. Also, frequent monitoring of compliance with this letter is to be ensured.

If you fail to do so and this matter goes to court, we will seek sanctions from the court against any and all individuals responsible for the disappearance, deletion, or otherwise destruction of any of the aforementioned items. If this letter is in any way unclear, please feel free to contact me.

Thank you for your anticipated cooperation in this most important matter.

FORMAL REQUEST FOR INSURANCE INFORMATION

In the event you have insurance or a bond which you believe may cover all or any part of the claim made in this letter, you are requested to notify your insurance carrier or bonding company immediately. You are further requested to provide such coverage information to us in order to facilitate a claim. Please forward the insurance carrier, policy number, and claims phone number, immediately. If you do not notify your insurance company or refuse to provide possible ap-

plicable insurance information, we will also pursue those claims under the Texas Insurance Code and applicable mirror statutes of the Deceptive Trade Practices Act.

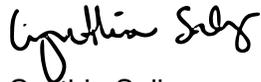
FORMAL REQUEST FOR NAME OF COUNSEL

If you have formal counsel, an attorney that represents you for this or similar matters, this is my formal request that you supply their contact information. Such contact information can be shared at my formal service email: answers@solizlawaustin.com If you are not represented by any counsel or attorney on this or similar matters, you can make contact with me directly at the above email address if you have any questions regarding this letter.

MITIGATION OF DAMAGES – ATTORNEYS FEE

As required by law, my client has instructed me to mitigate attorneys fees, as any action taken against you and your agents would statutorily entitle my client to attorneys fees. My client makes all reasonable effort to mitigate the attorney fees in good faith and fair dealings.

Kind Regards,



Cynthia Soliz

Enclosures:

Exhibit A — Fake forged letter purported to be dated March 27, 2022

Exhibit B — Round Rock One Family PAC Defamatory Facebook Post publishing Exhibit A

Exhibit C — Signature Comparison, published by Amber Feller and shared publicly

Exhibit D — Email from Matthew Abbot, Superintendent of CEO of Wayside Schools, confirming that the Exhibit A letter is false and no such letter was ever received

cc: Amber Feller, via email

March 27, 2022

To the School Board of the Wayside School District:

School boards are elected to work for public education and must be committed to taking this job very seriously. I am a Christian woman, and my religious beliefs guide my personal decision making which is why I write to you today. Sci-Tech Middle School is in danger with Vanessa [REDACTED] serving as the school principal. If you are not aware she is not being truthful with her recent assault accusation against Dr. Hafedh Azaiez superintendent of Round Rock Independent School District and her pregnancy. There is facts and proof that show she has never been pregnant. Captain William Poole from the Travis County Sherriff's office has informed me that she does not have proof that this assault happened. I bring to your attention that this has created a stain for our district and Dr. Hafedh Azaiez. She tried to destroy his family and his career by contacting the school board to tell her fabricated story. I urge you to hold her accountable and remove her from her position as a school leader. She does not have the values and principles to be serving students.

Sincerely



Amber Feller, President
Round Rock ISD School Board
Trustee- Place 3

EXHIBIT B



 **Round Rock One Family PAC** 1d · 

MORE BREAKING NEWS!!! WOW! Another email EXPOSING current Round Rock ISD Board President of PROTECTING the Superintendent and wanting the victim to be FIRED? Why? What is she to GAIN from protecting him? Did Amber Feller inform the rest of the board she was sending out emails like this? No, and that's another problem because she is supposed to! Do you want this kind of SHADY, CORRUPT and MANIPLUATIVE, NASTY person overseeing our children? We need to KICK HER TO THE CURB!! VOTE HER OUT!!

Disclaimer: The Round Rock One Family PAC received this document and in no way created the letter signed by Amber Feller nor have we had it authenticated but felt the public had a right to see it.

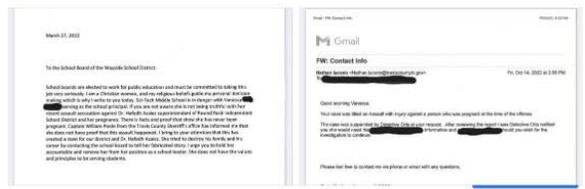


EXHIBIT C

2019 Amber Feller
Signature of Candidate or Officeholder

2020 Amber Feller
Signature of Candidate or Officeholder

Code: Amber Feller
Signature of Candidate or Officeholder

July 2022 Amber Feller

"Letter" Signature Amber Feller

July 2022 Signature overlaid over "Letter" signature Amber Feller



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TEXAS ETHICS COMMISSION

P.O. Box 12070, Capitol Station
Austin, Texas 78711-2070

Mary K. "Katie" Kennedy
Chair

Randall H. Erben
Vice Chair

J.R. Johnson
Executive Director



Commissioners

Chad M. Craycraft
Chris Flood
Patrick W. Mizell
Richard S. Schmidt
Joseph O. Slovacek
Steven D. Wolens

November 15, 2022

Mr. Orlando Salinas
1290 Rainbow Parke Drive
Round Rock, Texas 78665-8021

**CERTIFIED MAIL NO. 9236 0901 9403 8395 7441 98,
RETURN RECEIPT REQUESTED**

Re: Notice of Complaint, SC-32211435

Dear Mr. Salinas:

We received sworn complaint SC-32211435 on November 7, 2022. The sworn complaint alleges that you: 1) with intent to injure a candidate or influence the result of an election, entered into a contract or other agreement to print, publish, or broadcast political advertising that purported to emanate from a source other than its true source, in violation of Section 255.004(a) of the Election Code; 2) with intent to injure a candidate or influence the result of an election, knowingly represented in a campaign communication that the communication emanated from a source other than its true source, in violation of Section 255.004(b) of the Election Code; and 3) with intent to injure a candidate or influence the result of an election, misrepresented your identity or, if acting or purporting to act as an agent, misrepresented the identity of the agent's principal, in political advertising or a campaign communication, in violation of Section 255.005 of the Election Code.¹

The Texas Ethics Commission (the Commission) accepts jurisdiction over the allegations. This does not mean that the Commission has found that a violation occurred. It means that the sworn complaint meets the Commission's legal and technical form requirements for accepting jurisdiction.

The sworn complaint allegations will be processed as Category Two violations. Under the law you are required to respond to the allegations not later than 25 business days from the date you receive this notice. Failure to respond will constitute a separate violation for which a separate civil penalty may be assessed.

¹ Although the complaint does not specifically cite Section 255.004 of the Election Code, the sworn complaint describes facts that, if true, could constitute a violation of that section of law ("Misrepresentation"). 1 Tex. Admin. Code § 12.59.

Page 2

The response must be in writing, admit or deny the allegations, and be signed by you. If you deny the allegations, then you should provide evidence supporting the denial. The response must include any challenge you seek to raise to the Commission's exercise of jurisdiction. The response should be under oath. We have enclosed an affidavit form that you may wish to use for the response. A respondent who is a candidate or officeholder may by writing submitted to the Commission designate an agent with whom the Commission staff may communicate regarding the complaint. If you have any information relevant to the complaint, please provide it at this time. Also, please be advised that you should preserve all documents and evidence related to the allegations in this complaint.

To comply with legal requirements regarding the initial notice of a sworn complaint, I have also included a copy of the sworn complaint, the Commission's sworn complaint rules, a Statement of Respondent's Rights, and a copy of the relevant statutes of the Election Code. More information about the complaint process is available on the Commission's website at www.ethics.state.tx.us.

Please note that at this stage in the process, Commission members and staff are required by law to keep the complaint and all documents relating to it strictly confidential.

Please contact me if you have any questions.

Sincerely,

/s/ Mark H. Pillsbury

Mark H. Pillsbury
Assistant General Counsel

Jurisdiction accepted
For the Texas Ethics Commission



Digitally signed by J.R. Johnson
Date: 2022.11.15 09:17:02
-06'00'

J.R. Johnson
Executive Director

MHP:mc

Enclosures: Copy of Sworn Complaint
Commission Rules Concerning Sworn Complaints
Statement of Respondent's Rights
Relevant Statutes
Affidavit (for respondent only)

c: Ms. Amber Feller

SENT BY EMAIL



Texas Ethics Commission Statement of Respondent's Rights

Preliminary Review

The Texas Ethics Commission (Commission) is required to conduct a preliminary review when it receives a written complaint that conforms with legal and technical form requirements and that alleges a violation of a law under the Commission's jurisdiction. Upon receipt of a sworn complaint, the Commission is required to immediately attempt to notify the person against whom the complaint is filed (the "respondent") by telephone or email. Not later than the fifth business day after the date a complaint is filed, the Commission is required to send written notice to both the person who filed the complaint (the "complainant") and the respondent stating whether the complaint complies with the form requirements and, if applicable, whether the Commission's executive director accepts jurisdiction over the complaint.

At any stage of a proceeding, the Commission is required to dismiss a complaint to the extent the complaint alleges a statement, registration, or report violates a law or rule if: (1) the respondent has filed a corrected or amended statement, registration, or report before the Commission accepts jurisdiction over the complaint; and (2) the corrected or amended statement, registration, or report remedies the alleged violation.

If the sworn complaint does not comply with the form requirements, the complainant may resubmit the complaint not later than the 21st day after the date the notice letter is mailed. If the complaint is not resubmitted within the 21-day period, then that complaint will be dismissed.

If the executive director determines that the Commission does not have jurisdiction over the violation alleged in the sworn complaint, the complaint will be dismissed. The complainant or respondent may request that the Commission review the executive director's determination of no jurisdiction. The request for review must be filed not later than the 30th day after the date the complainant or respondent receives the executive director's determination.

If the sworn complaint complies with the form requirements and the Commission's executive director accepts jurisdiction over the complaint, the notice letter will indicate whether the complaint will be processed as a Category One violation or Category Two violation. If the alleged violation is a Category One violation, the respondent must respond to the notice of the complaint not later than 10 business days after receiving the notice. If the alleged violation is a Category Two violation, the respondent must respond to the notice of the complaint not later than 25 business days after receiving the notice. **The response must be in writing, admit or deny the allegations set forth in the complaint, and be signed by the respondent. A respondent's failure to timely respond constitutes a separate Category One violation for which a separate civil penalty may be assessed.** The Commission or executive director may, on its own motion or on the reasonable request of a respondent, extend any deadline for action relating to a sworn complaint, motion, preliminary review hearing, or formal hearing.

The preliminary review is the initial investigation phase in the process. The preliminary review also presents the Commission and the respondent their first chance to resolve and settle a sworn complaint. Generally, proceedings at a preliminary review hearing performed by the Commission, a sworn complaint, and documents and any additional evidence relating to the processing, preliminary

review, or preliminary review hearing are confidential and may not be disclosed by Commission members and staff.

A respondent has the right to be represented by counsel retained by the respondent in any proceeding of a complaint. A respondent may by writing submitted to the Commission designate an agent with whom the Commission staff may communicate regarding the complaint. The Commission, at least quarterly until final disposition of a complaint, shall notify the person who filed the complaint and each person who is a subject of the complaint, if any, of the status of the sworn complaint. The Commission is also required to notify both the complainant and respondent of any final disposition of a complaint.

During the preliminary review process, the Commission staff may submit to the respondent written questions reasonably intended to lead to the discovery of matters relevant to the investigation. The respondent must respond to written questions within 15 business days of receiving them.

During a preliminary review, the law allows the Commission to subpoena records or testimony, under certain circumstances. Before requesting a subpoena, Commission staff must make a written request for the production of documents. The person from whom documents are requested must either produce the documents or allow their inspection, submit objections in writing that the requests are unreasonable, improper, or unnecessary to investigate the complaint, or submit in writing that no items were identified that respond to the request after a diligent search.

If the person from whom documents are requested does not produce the documents, Commission staff may request that the Commission issue a subpoena. When requesting a subpoena from the Commission, Commission staff must provide any response or objection from the person to whom the subpoena is directed. A copy of any subpoena issued must be delivered to the respondent, and a respondent has the right to quash a subpoena as provided by law. A subpoenaed witness who attends a Commission hearing is entitled to the same mileage and per diem payments as a witness who appears before a grand jury. A person who provides subpoenaed documents to the Commission is entitled to reimbursement from the Commission for the person's reasonable cost of producing the documents. The Commission's ability to issue subpoenas on application by Commission staff continues through the preliminary review hearing. If a person to whom a subpoena is directed refuses to appear, refuses to answer inquiries, or fails or refuses to produce books, records, or other documents that were under the person's control when the demand was made, the Commission shall report that fact to a district court in Travis County. The district court shall enforce the subpoena by attachment proceedings for contempt in the same manner as the court enforces a subpoena issued by the court.

The complaint will be dismissed if there is credible evidence that no violation occurred. If there is credible evidence that a violation did occur, the Commission may offer a proposed agreed resolution to the respondent. Not later than the 120th day after the later of the date the Commission receives the respondent's response to the initial notice of complaint or the respondent's response to written questions, the Commission is required to offer the proposed agreed resolution or dismiss the complaint. If the respondent refuses to accept the proposed resolution or requests a hearing, the Commission must schedule a preliminary review hearing.

Preliminary Review Hearing

Commission rules require Commission staff to provide notice of a preliminary review hearing to a respondent and complainant at least 45 days before the date of the hearing that includes: (1) the date, time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and rules involved; and (4) a short and plain statement of the factual matters asserted.

Commission rules also require Commission staff to provide the following documents to the respondent at least 30 days before the hearing: (1) a list of proposed witnesses and a brief statement of the nature of their expected testimony; and (2) copies of all documents expected to be used or introduced as exhibits. **The respondent is required to provide the same information to Commission staff at least 14 days before the hearing.** If either Commission staff or the respondent do not comply with these requirements, the Commission may reschedule the hearing or proceed with the hearing but exclude that evidence, unless there is a showing of good cause why the information was not provided. A person entitled to receive notice may waive that right by filing a written waiver with the executive director.

At or after the time the Commission provides notice of a preliminary review hearing, the Commission may submit to the complainant and the respondent written questions and require those questions to be answered under oath within a reasonable time. The Commission may also subpoena documents and examine witnesses. Counsel for the respondent may subpoena a witness to a preliminary review hearing in the same manner as an attorney may issue a subpoena in a proceeding in a county or district court.

At a preliminary review hearing, the respondent has the right to:

- (1) appear in person, and with the assistance of legal counsel if desired;
- (2) present an opening and closing statement; and
- (3) present any written or oral evidence or information relevant to the complaint, including a written statement, examination and cross-examination of witnesses.

During a preliminary review hearing the Commission may consider all submitted evidence related to the complaint, may review any documents or material related to the complaint, and shall determine, by vote of at least six Commissioners, whether there is credible evidence that provides cause for the Commission to conclude that a violation within the jurisdiction of the Commission has occurred.

A respondent may waive the right to a hearing. **If a respondent fails to appear at a hearing, the Commission may proceed in the respondent's absence and may find credible evidence of the violations alleged in the complaint and may issue a final order imposing a civil penalty.** The final order will end the case, unless appealed. A respondent has the right to appeal a final order issued by the Commission. To appeal a final decision of the Commission, the respondent or the respondent's agent may file a petition in a district court in Travis County or in the county in which the respondent resides. The petition must be filed not later than the 30th business day after the date the respondent received the final decision.

Resolution of Preliminary Review Hearing

If there is credible evidence for the Commission to determine that a violation has occurred, the Commission is required to resolve and settle the complaint to the extent possible. The Commission may impose a civil penalty of not more than \$5,000 or triple the amount at issue under a law administered and enforced by the Commission, whichever amount is more, for a delay in complying with a Commission order or for a violation of a law administered and enforced by the Commission. Commission staff will send the respondent a proposed resolution within 10 days after the conclusion of the preliminary review hearing. Unlike a final order issued if a respondent fails to appear or waives their right to a hearing, the proposed order issued after a preliminary review hearing requires the respondent's agreement to become final. If the Commission and respondent cannot reach a resolution the matter will be set for a formal hearing, which is not confidential.

The resolution process is prescribed by Commission rule. Within 30 days of receiving the proposed resolution, the respondent must return to the Commission either: 1) the proposed resolution signed by the respondent; 2) a written counter offer; or 3) a written request that the matter be set for a formal hearing. Commission staff will report to the Commission any written counter offer, staff's recommendation to accept or reject the counter offer, if any, or any written request from the respondent that a matter be set for a formal hearing. Commission staff may request that the Commission set a matter for a formal hearing if the respondent does not reply to the proposed resolution following a preliminary review hearing within 30 days of receiving the proposed resolution.

If there is a finding that there is credible evidence for the Commission to determine that a violation has not occurred, the Commission must dismiss the complaint. If there is a finding that there is insufficient credible evidence for the Commission to determine whether a violation has occurred, the Commission must either dismiss the complaint or promptly conduct a formal hearing.

The executive director must dismiss a complaint if the Commission does not order a formal hearing within 180 days after the conclusion of a preliminary review hearing.