

**STATE OF NEW MEXICO
CITY OF SANTA FE
ELECTIONS AND CAMPAIGN REVIEW BOARD**

STEFANIE BENINATO,

Petitioner,

v.

No. 2025-04

DAVID MONTOYA,

Respondent.

DECISION

THIS MATTER, having come before the Ethics and Campaign Review Board (“ECRB”) for an evidentiary hearing on August 11, 2026, and both parties appearing *pro se*, and the ECRB, having heard presentation of the parties, having sworn in witnesses testifying during the hearing, and being otherwise fully advised in the premises, FINDS:

1. The election at issue occurred on November 4, 2025. Respondent was an unsuccessful candidate for Councilor, District 2.

2. Petitioner filed her Complaint with the ECRB on November 5, 2025. Her Complaint alleged that Respondent’s political campaign signs were improperly placed on public property and private property, and also alleged that some campaign expenditures were improper.

3. Later, Petitioner, in a “Verified Amended/Clarified Verified [sic] Reply” included allegations that Respondent failed to provide a timely sworn response to the Complaint or her Reply, that Respondent had failed to follow the sign code by failing to include the name of the liaison on the signs, that signs were not taken down within a reasonable time after the election, that the campaign Treasurer, Mr. Vigil, submitted inaccurate campaign reports, that credit card purchases occurred prior to the creation of a campaign depository and the appointment of a

campaign Treasurer (Mr. Vigil) in violation of Sec. 9-2.8, commingling credit card proceeds with other campaign funds in violation of 9-2.13(H)(1), paying for various meals, and failure to provide a final accounting under Sec. 9-2.13(H)((2).

4. The ECRB Rules do not permit amendments to the Complaint but these matters were also addressed in the hearing without an objection from Respondent.

5. Respondent denied the allegations generally.

6. The ECRB Chair conducted a prehearing conference, filed a Pre-Hearing Order, and ruled on pending motions.

7. Notice was given to the parties of the date of the hearing. Both parties appeared. Notice of the hearing was adequate.

8. The evidence adduced during the hearing established, by clear and convincing evidence, that Respondent violated the City's Campaign Code during the campaign for Councilor, District 2, as described herein.

9. Respondent admitted during the hearing that he violated subsections 9-2.9(B)(D)(E) and (H) of the Campaign Code in that signs were placed on public property, and signs were not removed promptly after the election. Respondent did not prepare and did not maintain and produce for inspection a list of signs and their locations and was generally cavalier about his compliance with Subsections 9-2.9(B)(D)(E) and (H). Respondent's excuse that signs were stolen and moved to impermissible locations to create a violation under the Code is not credible.

10. Petitioner failed to satisfy her burden of proof with respect to signs allegedly improperly placed on commercial property. There was no evidence produced that the commercial establishments mentioned did not want the signs placed on their property.

11. Concerning campaign expenditures, Respondent failed to comply generally with Sec. 9-2.9 of the Campaign Code.

12. In particular, Respondent failed to preserve receipts and records of donations and expenditures as required by Code Sec. 9-2.9(B). Receipts in particular must be kept for two years and Respondent was unable to produce any.

13. The campaign finance reports disclosed that Respondent started collecting donations for his campaign prior to creating a depository for campaign funds and appointment of a campaign treasurer, in violation of Sec. 9-2.8(C).

14. Respondent's campaign finance reports were incomplete and at times inaccurate, making it difficult to determine compliance with the Code.

15. Respondent failed to address campaign funds that were unspent following the campaign and the disposition of tangible property as required by Code Sec. 9-2.9(H)(2)(3). The audio-visual equipment was purchased with campaign funds and those items are owned by the campaign. These assets should have been disposed of pursuant to Sec. 9-2.9(H)(2)(3) and a final report filed showing the disposition pursuant to Sec. 9-2.9(H)(2)(3).

16. The campaign truck was loaned to the campaign by the candidate and was not converted into property of the campaign simply because it was minimally repaired to make it safe for use.

17. Petitioner complains that improper loans were made to the campaign. The alleged loans were credit card purchases for campaign purposes which do not improperly commingle personal funds with campaign funds. Credit card purchases do not violate the Code so long as they are properly recorded on campaign finance reports.

18. Loans to a campaign are proper if properly documented on campaign finance reports. Sec. 9-2.11(C).

19. Petitioner presented the testimony of Katherine Rivera over objection. The objection is overruled. Respondent presented the testimony of Joan Cato; the ECRB finds that her testimony was helpful to the Board and the witness properly gave opinion testimony. The objection is hereby overruled.

20. The ECRB finds that Respondent generally failed to comply with Orders of the ECRB during these proceedings. Specifically, Respondent was ordered by the ECRB to respond to interrogatories 2(A), 2(B), 2(c), 2(D) and 8. Respondent failed to do so. Respondent failed to disclose witnesses and exhibits timely when directed by the Board.

21. Although several violations of the Campaign Code were committed and identified herein, the net impact of the violations was relatively minor. The Board is cognizant that Respondent was running for office for the first time and was unfamiliar with the requirements of the Code and the Rules of the ECRB. In future elections, Respondent must better acquaint himself with the Code and ECRB Rules and work with knowledgeable and competent campaign staff to ensure strict compliance with the City of Santa Fe election rules.

CONCLUSIONS OF LAW

1. The ECRB concludes that Respondent violated the Campaign Code during the Election of 2025.

2. The ECRB concludes that penalties should be assessed for the violations.

3. For the violation of Paragraph 8 of this Decision relating to signs, the ECRB concludes that Respondent shall be assessed a fine of \$250.

4. For the violations of the Code described in paragraphs 10, 11, 12 and 13 of this Decision relating to record-keeping, the ECRB concludes that Respondent shall be assessed a fine of \$150.

5. The fines herein shall be deposited with the City Clerk within thirty (30) days of the date of this Order.

6. For the violation of the Orders of the ECRB, no fine is assessed but Respondent is cautioned to diligently follow the Board's orders in the future.

7. For the violation of Code Sec. 9-2.9(H)(2)(3), no fine is assessed but respondent is cautioned to strictly comply with these provisions in future elections in the City of Santa Fe.

8. The expenditures made by Respondent during the campaign were for a political purpose.

9. All allegations of Petitioner that are not specifically mentioned in this Decision are denied as being without adequate proof or having been waived.

10. The proof of the violations exists by clear and convincing evidence.

11. Appeal of this decision is by writ of certiorari pursuant to NMRA 2013, Rule 1-075, request for which must be made to the district court within thirty (30) days of the issuance of this decision.

SO ORDERED.

THE ETHICS AND CAMPAIGN REVIEW BOARD

By: _____
Paul Biderman, Chair

Date: _____

ATTEST:

City Clerk