To The Elections Campaign Review Board City of Santa Fe

From: David Montoya

Date: 9/27/2026

Subject: Complaint 2026-02

Beninato asserts that David Montoya committed fraud in his financial reporting by pretending to make four loans to his campaign-none of which actually occurred and then fraudulently repaid himself through three checks drawn on his campaign account for $ I 595 of the $14,200 that he allegedly loaned the campaign (embezzlement). See Ordinances below re financial reporting. See that each report is notarized-that is sworn under oath to be true and correct as well as ordinance requiring the financial reporting be true and accurate.

In the alternative, David Montoya and his treasurer, Victor Vigil conspired to commit

fraud/embezzlement by having Mr Vigil falsely state on the campaign reporting form that David Montoya had made four loans to the campaign and then aiding and abetting Montoya by writing three checks from the campaign account and designating them as repayments of loans to Montoya (fraud, embezzlement). See Ord 9-2.8 D (no expenditure without the authorization of the treasurerÂ·), 9-2.9 (general duties of treasurer) and 9-2. I 0- 9-2. l 3A (statement must be true and complete)

Beninato has established probable cause for this complaint through the macro accounting of David Montoya's four financial reports (NOTE final report not filed). See Summary of Montoya's Finances and Financial Reports Attached. Exh 1-5

This macro accounting shows four loans to the campaign by Montoya for $14, 200; contributions of approximately $16, 082 for a total of$30,282. NOTE Montoya failed to provide a final report thus obscuring this fraudulent reporting and embezzlement and Beninato did not discover it until preparing for the hearing on the first complaint in July 2026.

The expenditures listed show the campaign account paying a total of $14,284 including the three loan repayments of $1595 and Montoya paying from his personal accounts $12,853 and from a capital one credit card account another $940. The total expenditures were $28,210

If you subtract the amount paid for the expenditur by campaign funds (1--l. 284) from

loan/contributions (30.282). the balance would be approximate! $16.000. M nt ya's financiaJ report claims a total of approximately $2500 remaining in th account. Therefore.

there were no loan payments deposited into the campaign account. Any loan repa\ m nt to Montoya wa based on a non existent loan and thus fraudulent.

MONTOYA Response: I deny the allegations above. She has repeatedly made these same allegations during the previous complaint 2026-01, attempted amendments as well as during the various hearings related to this matter. They were ruled as denied by the ECRB in their 9/18/2026 Decision. Please see Decision 26-0398 Conclusions of Law Item 9, which states: " All allegations of the Petitioner that are not specifically mentioned in this decision are denied as being without adequate proof or having been waived."

As to her behavior after the hearing, she repeatedly harassed my former campaign treasurer, Victor Vigil at both his residence and place of work. Her repeated harassment has caused fear and disruption of his work. Her actions go beyond the actions of a concerned citizen and should be sanctioned by the ECRB.

PERJURY

I Besides the perjury committed by signing off on the Finance Reports under oath when the candidate and his treasurer knew or should have known there were no loans, Montoya committed perjury when he stated under oath that the expense listed as "catering from Dinner for Two" was really for the appetizers served the next night at his advertised fund raiser at Casa Sena on 9 October 2025. See Exh 3, 6 and 7. Montoya stated that the owner of Dinner for Two owned Casa Sena in October 2025. (YouTube I :56-2:00.) Montoya insisted that even though Casa Sena was not open that he rented the space from the owner of Dinner for Two and that owner provided the liquor for the cash bar. Besides the campaign finance report not supporting this testimony, recent articles in the Santa Fe New Mexican demonstrate Montoya's false statement about ownership of Casa Sena and the ownership of a liquor license in October 2025 (Ad for Fund Raiser says "cash bar". QUOTE article from 29 July 2025: Andy Barne . the owner of Dinner for r wo al l 06 N. Gundalup t., said he i in the proce of completing the purcha c of La Casa

ena, 125 E. Palace Av ., from anta F Dining In ., the restaurant group headed by art and real estate magnate Gerald Peters. The deal is being held up by an is ue ith Lhe tran fer of La Ca a Sena liquor license. and wiU not be completed until that issue i re olved, Barnes said. "The liquor license transfer i going to take a long time:· he said, adding it likely will be December or January before that happens and he can reopen La Casa Sena.

The more recent article SFNM 6 August 2026 indicates that the "He [Andy Barnes] originally had hoped to reopen La Ca a na in March 12026]. but a liquor license i sue delayed that move." See Exh 6

MONTOYA RESPONSE: Andy Barnes has not opened Casa Sena because of ongoing renovations and liquor license for Casa Sena. He does and did in fact own La Casa Sena at the time of the fundraiser. He used Dinner for Two as the Catering company to conduct the event at La Casa Sena.

2 Montoya testified that it is "in the discovery" that every time the clerk told him his signs were improperly placed that he moved them and told the clerk he had moved them. The emails from the clerk show that Montoya alleged someone had stolen his signs and that he did not know where they were. There is nothing from Montoya indicating that he had taken the signs down. YouTube 1 :49-1 :50 See Exh 8

MONTOYA RESPONSE: Again this is a recycled allegation and I was responsive to the clerk's sign requests when I knew their location. This was also previously addressed in ERCB 26-0398 Decision.

3 Mr Montoya statement that he had a complaint for $27 for falsification of travel expenses filed against him when working at the VA in Washington DC. He said it was adjudicated and dismissed by VA OIG because "along the way he made [authorized] stops at VA facilities"

MONTOYA RESPONSE: Nothing that I said is inaccurate. It is also immaterial to any campaign violations

You Tube 1 :54-1 :55 See Exh 9

4. Home broken into You Tube I :50:31 Waiting for IRPA response to see if this statement is true. Mr Montoya tied the break in at his home to the complaint filed and to his campaign and said he felt harassed and was reliving the trauma including the break-in. Exh 12 IPRA response re police report re break in

MONTOYA RESPONSE: The Santa Fe County Sheriff's office took a police report on this matter.