

Cause No. C-4762-16-G

A.C. CUELLAR	§	IN THE DISTRICT COURT OF
	§	
<i>Plaintiff</i>	§	
	§	
v.	§	HIDALGO COUNTY, TEXAS
	§	
DAVID FUENTES	§	
	§	
<i>Defendant.</i>	§	370th JUDICIAL DISTRICT

**PLAINTIFF’S FIRST AMENDED PETITION AND
REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Commissioner A.C. Cuellar, and complains of David Fuentes and Ezequiel Reyna, Jr., as to fundamental campaign finance violations regarding transparency of the political system, and for causes of action shows as follows:

A. PARTIES

1. Plaintiff A.C. Cuellar is an individual who resides in Hidalgo County, Texas.
2. Defendant David Fuentes, is an individual and has made an appearance.
3. Defendant Ezequiel Reyna, Jr. is an individual who may be served with process at 5000 S. Border Ave., Weslaco, Texas 78596, or wherever he may be found.

B. DISCOVERY PLAN AND RULE 47 STATEMENT

4. Pursuant to Tex. R. Civ. P. 190.4, Plaintiff intends to conduct discovery under Level 3.
5. Pursuant to Tex. R. Civ. P. 47(c), Plaintiff seeks monetary relief over \$1,000,000.

C. JURISDICTION & VENUE

6. This Court has jurisdiction over this matter because the amount in controversy exceeds the minimal jurisdictional limits of this Court. Venue in this Court is proper under Texas Civil Practice & Remedies Code § 15.002(a)(1) as all or a substantial part of the events or omissions giving rise to the claims occurred in Hidalgo County.

D. RELEVANT FACTUAL BACKGROUND

7. Plaintiff A.C. Cuellar held the position of Hidalgo County Commissioner, Precinct 1, from 2012 through 2016. Defendant David Fuentes challenged A.C. Cuellar in the March 1, 2016, Democratic Primary.

8. Defendant Ezequiel Reyna, Jr. is the uncle of Defendant Fuentes, who made significant contributions to Fuentes' campaign in the form of monetary contributions, loans, loan guarantees, and other in-kind contributions. Defendant Reyna conspired with Defendant Fuentes by laundering cold cash through Fuentes's personal checking account.

9. As with other jurisdictions in the State of Texas, Hidalgo County from time to time bears witness to unscrupulous campaign tactics wherein illegal money and secret cash infect the political system and threaten the efficient and ethical administration of government. The March 1, 2016, Democratic Primary for Hidalgo County Commissioner, Precinct 1, was a hard fought battle, and apparently was not an exception to this unfortunate trend.

10. Out of 20,203 votes cast for Hidalgo County Commissioner, Precinct 1, in the March 2016 Democratic Primary, Plaintiff A.C. Cuellar lost to Defendant Fuentes by 295 votes. Following the election, it became abundantly clear that in Defendant Fuentes's zeal to win, basic laws, including Tex. Elec. Code Chapter 254, protecting the sanctity of the ballot

box and the integrity of the election process were overlooked. Secret cash, such as undisclosed contributions from Defendant Reyna, were funneled into the election, in an effort to conceal interests that were bankrolling the candidacy of Defendant Fuentes. Fuentes's own campaign contribution and expenditure reports illustrate multiple violations of Texas campaign finance law. Given that Defendant Fuentes is a Certified Public Accountant, the discrepancies and lack of transparency in his campaign finance reports raise disturbing questions.

**E. CAUSE OF ACTION I - FAILURE TO REPORT
CONTRIBUTIONS AND EXPENDITURES**

11. Plaintiff incorporates paragraphs 1 – 10 as set forth above.

12. At various times through calendar years 2015 and 2016, Defendant Fuentes filed Campaign Finance Reports that failed to disclose various campaign contributions and expenditures, hiding them from public scrutiny. Accordingly, Defendant Fuentes violated Tex. Elec. Code §254.031, as further set forth below.

13. Defendant Fuentes failed to report approximately \$28,000 in campaign contributions in his report ending December 31, 2015.

14. Defendant Fuentes failed to report approximately \$11,000 in campaign expenditures in his report ending January 21, 2016.

15. Defendant Fuentes failed to report approximately \$1,700 in campaign expenditures in his report ending February 20, 2016.

16. Defendant Fuentes failed to report approximately \$55,000 in campaign expenditures and/or \$55,000 in contributions received via credit card charges for goods and/or services in his report ending June 30, 2016.

17. Defendant Fuentes failed to report in-kind contributions regarding the use of Tierra Santa Golf Club on multiple dates, in both 2015 and 2016, for purposes of fundraisers. Either Defendant Fuentes paid for use of the golf course and failed to disclose it, or Defendant Fuentes received in-kind contributions of significant value that he failed to list in his campaign finance reports.

18. In the course of the campaign, Defendant Fuentes purportedly loaned his campaign approximately \$400,000 in personal funds. However, a significant source of these funds was Defendant Reyna, as both a guarantor of loans and a direct contributor. Defendant Fuentes, therefore, failed to accurately and transparently report the true underlying source of the loans in question, and Defendant Reyna actively conspired with Defendant Fuentes to move funds between accounts to avoid disclosure. In sum, Defendants laundered campaign cash through the personal checking account of Fuentes.

19. Based upon information and belief, Defendant Fuentes kept a campaign office at 709 Angelita, Weslaco, Texas 78599. Further, based upon representation by Defendant Fuentes, Fuentes occupied this space from approximately September or October 2015 through March 2016, or the approximate duration of the primary campaign. Fuentes does not own the building in question, yet failed to list expenditures for the space and/or failed to list in-kind contributions for same on his Campaign Finance Reports for the same period of time.

20. On the day of the primary and during early vote, various private investigators were observed near polling sites working on behalf of Defendant Fuentes. Defendant Fuentes failed to list expenditures and/or in-kind contributions for private investigators that were utilized on his behalf.

21. Plaintiff Cuellar seeks liquidated damages in the form of twice the unreported contributions accepted by Defendant Fuentes, and twice the unreported expenditures made by Defendant Fuentes, as well as reasonable attorney's fees. Tex. Elec. Code Sec. 254.231.

F. CAUSE OF ACTION II - CONSPIRACY

22. Plaintiff incorporates paragraphs 1 – 21 as set forth above.

23. Defendant Fuentes and Defendant Reyna conspired to unlawfully file false reports of campaign contributions and expenditures, in violation of Chapter 254 of the Texas Election Code.

24. Defendant Reyna provided various contributions to Defendant Fuentes through personal loans and guarantees which Defendants failed to disclose on Campaign Finance Reports in violation of Chapter 254 of the Texas Election Code.

25. Defendants were aware the reports were false and took steps to hide the true nature of contributions and expenditures reported by Defendant Fuentes.

26. Defendants filed false reports, knowing of their falsity, in furtherance of the conspiracy.

27. As a proximate result of Defendants' actions, Plaintiff suffered damages within the jurisdictional limits of this Court.

G. JURY DEMAND

28. Plaintiff requests a trial by jury on all issues and has tendered the requisite jury fee with the filing of his petition.

H. REQUEST FOR DISCLOSURE

29. Under Texas Rule of Civil Procedure 194, Plaintiff requests that Defendant Reyna disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

PRAYER

Wherefore, Plaintiff prays that Defendants be cited to appear and answer herein, and that upon final consideration Plaintiff recover judgment against Defendants Fuentes and Reyna for liquidated damages, pre-judgment and post-judgment interest, court costs, attorney fees pursuant to Chapter 254 of the Texas Election Code, and all other relief to which Plaintiff is entitled.

Respectfully submitted,

FELDMAN & FELDMAN, P.C.

/s/ Cris Feldman

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CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of February, 2017, a true and correct copy of the foregoing was delivered to the attorneys of record in this cause in accordance with the Texas Rules of Civil Procedure as follows:

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