



Office of the City Clerk  
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Ethan Watson, City Clerk

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July 9, 2021

SENT VIA EMAIL ONLY

Mr. Andy Schultz, Chair, Board of Ethics and Campaign Practices

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Ms. Nicole Kelley, Acting Inspector General

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P.O. Box 1293

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Re: Investigations into complaints

Mr. Schultz, Mr. Aguilar, Ms. Kelley:

The Office of the City Clerk is requesting that investigations be initiated into various qualifying contributions submitted to the Office of the City Clerk by the campaign of Manuel Gonzales III for Mayor. For the reasons described below, the Office is referring certain matters to the City Attorney and also recommends that the Board of Ethics consider initiating an investigation by the City of Albuquerque's Office of the Inspector General (OIG) due to the OIG's expertise and focus in election related matters, its specific authorities under the City Charter and ordinances, and two related complaints pending before the Board of Ethics and Campaign Practices ("Board of Ethics").

### **I. Background**

The period for gathering qualifying contributions for mayoral candidates in the 2021 Regular Local Election began on Saturday April 17, 2021. In a complaint filed with the Board of Ethics

on June 7, 2021, Dean Zantow provided a signed statement attesting that at an event on May 27, 2021, candidate for mayor and current Bernalillo County Sheriff Manuel Gonzales III solicited five-dollar contributions from members of the Salvation Army Advisory Board. Complaint at 8, *Holguin I v. Gonzales*, 01-2021, June 7, 2021. Mr. Zantow details that after he filled out the five-dollar contribution form he asked Sherriff Gonzales whether he needed to contribute five dollars. *Id.* According to Mr. Zantow, Sherriff Gonzales replied “No, that’s Ok, we’ll cover that.” *Id.* Mr. Zantow states that he did not make a five-dollar contribution. *Id.* No person is permitted to pay public financing contributions on behalf of another. 2021 Regulations of the Albuquerque City Clerk for the Open and Ethical Elections Code [hereinafter OEEC Regulations], pt. C(6).

On June 29, 2021, a second complaint was filed with the City Clerk against Sherriff Gonzales’ campaign. *See* Complaint, *Holguin II v. Gonzales*, 02-2021, June 29, 2021. This complaint alleges the Gonzales campaign forged various qualifying contributions. As evidence, the complaint compared: signatures on the qualifying contributions to signatures on the petitions; signatures on duplicate qualifying contributions; and signatures on the qualifying contributions to signatures on voter registration cards. *See id.* The complaint alleges that the violations the complainant has identified are just a sampling of broader issues. *See id.* In statements to the media, Sherriff Gonzales’ campaign has acknowledged there may be errors in the material submitted to the City Clerk’s Office. *See* Jessica Dyer, [Keller’s Campaign Files Second Ethics Complaint Against Gonzales Camp](https://www.abqjournal.com/2404820/keller-campaign-files-second-ethics-complaint-against-gonzales-camp.html), *Albuquerque Journal*, June 29, 2021, <https://www.abqjournal.com/2404820/keller-campaign-files-second-ethics-complaint-against-gonzales-camp.html> (last accessed July 4, 2021).

On July 6, 2021, a letter was submitted by attorney Lauren Keefe to the City Clerk’s Office in connection with these complaints. This letter alleges additional violations of the Open and Ethical Election Code by the Gonzales campaign and also references the Clerk’s role in certifying candidates for eligibility to receive public financing under the City Charter. *See* City Charter art. XVI, § 17. The letter attaches 100 additional qualifying contribution records and alleges the signatures on those qualifying contribution records do not match the corresponding signatures on the petitions, the corresponding signatures on a duplicate qualifying contribution, or the corresponding signatures on the voter registration cards. *See* Exhibit 1, attached.

## **II. Referral to the City Attorney**

Part C(6) of the OEEC Regulations provides that “[a]ll \$5 Qualifying Contributions must be paid by the contributor; if the funds are provided by any person other than the contributor who is listed on the receipt, the Qualifying Contribution will be deemed fraudulent.” The regulation further provides that “[t]he City Clerk shall not certify Qualifying Contributions toward the required number of Qualified Contributions necessary to qualify an Applicant Candidate as a Participating Candidate that do not meet the requirements of this paragraph.” *Id.* pt. C(14) of the regulations further provides:

In the case of a rejected Qualifying Contribution with some evidence of intentional wrong-doing, the City Clerk will notify the City Attorney for further investigation. The City Clerk will consider any Qualifying Contribution submitted to the City

Attorney as rejected until receiving an opinion or court order that the Qualifying Contribution is acceptable.

Based on the signed statement of Mr. Zantow, there is some evidence of intentional wrongdoing in the collection of Mr. Zantow's qualifying contribution and the Clerk's Office hereby requests an investigation by the City Attorney.

### III. Additional Investigation

The contentions in *Holguin I*, *Holguin II*, and the letter of July 6 are cumulatively much broader than the single qualifying contribution that this Office is referring to the City Attorney. In effect, they allege an intentional and improper effort by the Gonzales campaign to qualify for public financing. The City's Inspector General, which is an independent office overseen by the City's Accountability in Government Oversight Committee, has previously investigated these types of broader allegations. See *Padilla, et. al. v. Benavidez*, 02-2017.

Pursuant to City Ordinances, the Clerk may request the Office of the Inspector General investigate this matter. See ROA 1994, § 2-17-6(B) (“[T]he Inspector General shall receive and evaluate complaints referred to him by any official, employee, contractor or the public and initiate an investigation when he deems it appropriate.”). There appears to be some ambiguity, however, between the Inspector General Ordinance and the provisions of the City Charter governing the Board of Ethics as to the process for initiating an investigation of a matter pending before the Board of Ethics. See City Charter, art. XII, § 9(a) (“No such investigation shall be undertaken unless it is specifically authorized and defined by the Board.”). Because of this ambiguity, I am simultaneously requesting that the Office of Inspector General investigate this matter, and that the Board of Ethics initiate an investigation of the matters raised in *Holguin I*, *Holguin II*, and the letter of July 6, 2021, which it may independently refer to the Inspector General.

### IV. Conclusion

The City Clerk's Office has independent obligations under the Open and Ethical Election Code to ensure that applicant candidates have acted in accordance with the provisions of the Code and to safeguard public funds. These complaints allege material violations of the City Charter, election laws, and the Clerk's Rules, and the Office of the City Clerk seeks the assistance of your entities in investigating these matters fully.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ethan Watson', with a long horizontal line extending to the right.

Ethan Watson

City Clerk

Enclosed.

Cc: Carter Harrison, via email; Lauren Keefe, via email.