

TEXAS ETHICS COMMISSION

IN THE MATTER OF
MARTHA C. STIPP,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3200246

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on June 18, 2020, to consider sworn complaint SC-3200246. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Sections 254.031, 254.064, and 254.065 of the Election Code, laws administered and enforced by the Commission. To resolve and settle the complaint without further proceedings, the Commission adopted this resolution.

II. Allegations

The complaint alleged that the respondent: 1) did not properly disclose a political expenditure on the report filed on April 29, 2019, as a modified filer who exceeded the \$500 limit on political contributions and political expenditures, for the May 4, 2019, election, in violation of Section 254.031 of the Election Code; 2) did not file the 30-day pre-election report for the May 4, 2019, election, in violation of Section 254.064 of the Election Code; 3) did not timely file the 8-day pre-election report for the May 4, 2019, election, in violation of Section 254.064 of the Election Code; 4) did not cover the correct reporting period in the 8-day pre-election report for the May 4, 2019, election, in violation of Section 254.064 of the Election Code; 5) did not properly disclose political expenditures on the 8-day pre-election report for the May 4, 2019, election, in violation of Section 254.031 of the Election Code; 6) did not cover the correct reporting period in the final report filed on May 21, 2019, in violation of Section 254.065 of the Election Code; and 7) did not disclose political expenditures on the final report filed on May 21, 2019, in violation of Section 254.031 of the Election Code.

III. Findings of Fact and Conclusions of Law

Credible evidence available to the Commission supports the following findings of fact and conclusions of law:

1. The respondent was an opposed candidate for Garden Ridge City Council, Place 3, in the May 4, 2019, election. The respondent filed the modified reporting declaration with the campaign treasurer appointment on February 14, 2019.

Failure to Properly Disclose a Political Expenditure as a Modified Filer who Exceeded the \$500 Limit

2. The complaint alleged that the respondent did not properly disclose a political expenditure on the report filed on April 29, 2019, as a modified filer who exceeded the \$500 limit on political contributions and political expenditures, for the May 4, 2019, election. Specifically, the complaint alleged that the respondent did not disclose a political expenditure of \$970 made on or before February 26, 2019, when she purchased political advertising from a particular vendor. The complaint included a photograph of the respondent's political advertising sign dated March 26, 2019. The complaint further alleged that the respondent disclosed the date of the expenditure as April 26, 2019, and left the amount of the expenditure blank.
3. In response to the complaint, regarding the \$970 expenditure to the particular vendor, the respondent swore, "this is true." The respondent did not deny that the expenditure was made on or before February 26, 2019. After the complaint was filed, the respondent corrected the report to disclose a \$970 expenditure made on March 23, 2019.
4. Records on file with the Garden Ridge City Secretary show the original report filed for exceeding the \$500 limit disclosed \$0 in total political contributions and \$970 in total political expenditures, with one itemized political expenditure made from personal funds, for which the date was April 26, 2019, and the amount was blank.
5. Each report must include the amount of political expenditures that in the aggregate exceed \$100 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures. Tex. Elec. Code § 254.031(a)(3).
6. Credible evidence indicates that the respondent did not properly disclose the amount and date of a political expenditure on the report filed on April 29, 2019, by leaving the amount of the expenditure blank and disclosing an incorrect date. Therefore, there is credible evidence of a violation of Section 254.031(a)(3) of the Election Code.

Failure to File the 30-day Pre-election Report

7. The complaint alleged that because the respondent made a political expenditure of \$970 on or before February 26, 2019, she was required to file the 30-day pre-election report. The complaint further alleged that the respondent did not file the 30-day pre-election report.
8. In response to the complaint, the respondent did not deny that she was required to file the report and failed to file the report. After the complaint was filed, the respondent filed the 30-day pre-election report, which disclosed \$0 in total political contributions and \$970 in total political expenditures.

9. Records on file with the Garden Ridge City Secretary show that the respondent had not filed the 30-day pre-election report at the time the complaint was filed.
10. In addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports. Tex. Elec. Code § 254.064(a). The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. *Id.* § 254.064(b). The report covers the period beginning the day the candidate's campaign treasurer appointment is filed or the first day after the period covered by the last report required to be filed under Chapter 254 of the Election Code, as applicable, and continuing through the 40th day before election day. *Id.*
11. An opposed candidate or specific-purpose committee required by Chapter 254 of the Election Code to file pre-election reports may file a report under the modified filing schedule instead if the candidate or committee does not intend to accept political contributions that in the aggregate exceed \$500 or to make political expenditures that in the aggregate exceed \$500 in connection with the election. *See* Tex. Elec. Code § 254.181(a). A candidate or committee filing under the modified filing schedule is not required to file any reports of political contributions and political expenditures other than the semiannual reports required to be filed not later than July 15 and January 15. *See id.* § 254.184(b). An opposed candidate or specific-purpose committee that exceeds \$500 in political contributions or political expenditures in the election shall file pre-election reports as required by Chapter 254 of the Election Code. *See id.* § 254.183(a).
12. As a modified filer, the respondent made a political expenditure of \$970 during the reporting period beginning the date she filed the campaign treasurer appointment, February 15, 2019, and continuing through March 25, 2019. Therefore, she was required to file the 30-day pre-election report, which was due by April 4, 2019.
13. Credible evidence indicates that, although the respondent was a modified filer, she was required to file the 30-day pre-election report for the May 4, 2019, election, but did not file the report. Therefore, there is credible evidence of a violation of Section 254.064 of the Election Code.

Failure to Timely File the 8-day Pre-election Report

14. The complaint alleged that the respondent did not timely file the 8-day pre-election report for the May 4, 2019, election.
15. In response to the complaint, the respondent did not deny that she failed to timely file the report.

16. Records on file with the Garden Ridge City Secretary show that the respondent filed the 8-day pre-election report on April 29, 2019.
17. In addition to other required reports, for each election in which a person is a candidate and has an opponent whose name is to appear on the ballot, the person shall file two reports. Tex. Elec. Code § 254.064(a). The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. *Id.* § 254.064(c). The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day. *Id.*
18. The 8-day pre-election report for the May 4, 2019, election was due by April 26, 2019.
19. Credible evidence indicates that the respondent filed the 8-day pre-election report for the May 4, 2019, election three days late. Therefore, there is credible evidence of a violation of Section 254.064 of the Election Code.

Failure to Cover Correct Reporting Period on the 8-day Pre-election Report

20. The complaint alleged that the respondent did not cover the correct dates for the reporting period on the 8-day pre-election report for the May 4, 2019, election.
21. In response to the complaint, the respondent did not deny that she failed to cover the correct reporting period on the report. After the complaint was filed, the respondent corrected the reporting period covered on the report.
22. Records on file with the Garden Ridge City Secretary show that the respondent covered the period from April 26, 2019, through May 4, 2019, on the original 8-day pre-election report filed.
23. The 8-day pre-election report covers the period beginning the 39th day before the election and continuing through the 10th day before election day. *See* Tex. Elec. Code § 254.064(c).
24. The respondent's 8-day pre-election report was required to cover the period beginning March 26, 2019, and continuing through April 24, 2019.
25. Credible evidence indicates that the respondent did not cover the correct reporting period for the 8-day pre-election report for the May 4, 2019, election. Therefore, there is credible evidence of a violation of Section 254.064 of the Election Code.

Failure to Properly Disclose a Political Expenditure on the 8-day Pre-election Report

26. The complaint alleged that the respondent did not properly disclose a political expenditure on the 8-day pre-election report for the May 4, 2019, election. Specifically, the complaint alleged that the date of the expenditure was incorrect because it was made on a Sunday, and the amount of the expenditure was blank.
27. In response to the complaint, the respondent did not deny that she failed to properly disclose a political expenditure on the report. After the complaint was filed, the respondent corrected the report by properly disclosing the political expenditure.
28. Records on file with the Garden Ridge City Secretary show that the date of the expenditure was April 28, 2019, and that the amount of the expenditure was blank for the only expenditure disclosed on the original 8-day pre-election report filed.
29. The date of a political expenditure is the date the amount is readily determinable by the person making the expenditure. 1 Tex. Admin. Code § 20.57(a). Because no facts indicate that the expenditure was not readily determinable on April 28, 2019, no credible evidence indicates that the date of the expenditure was improperly disclosed.
30. Credible evidence indicates that the respondent did not disclose the amount of a political expenditure on the 8-day pre-election report for the May 4, 2019, election. Therefore, there is credible evidence of a violation of Section 254.031(a)(3) of the Election Code.

Failure to Cover Correct Reporting Period on Final Report

31. The complaint alleged that the respondent did not cover the correct dates for the reporting period on the final report filed May 21, 2019.
32. In response to the complaint, the respondent did not deny that she failed to cover the correct reporting period in the final report. After the complaint was filed, the respondent corrected the reporting period covered on the report.
33. Records on file with the Garden Ridge City Secretary show that the respondent covered the period beginning February 15, 2019, and continuing through May 15, 2019, on the original final report filed.
34. A “candidate” includes a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office, with such action including the filing of a campaign treasurer appointment. *See* Tex. Elec. Code § 251.001(1)(A). A campaign treasurer appointment continues in effect until terminated. *Id.* § 252.011(b). The July 2019 semiannual report covers the period beginning January 1, the day the candidate’s campaign treasurer appointment is filed, or the first day after the period covered by the last

report required to be filed under Chapter 254 of the Election Code, as applicable, and continuing through June 30. *See Id.* § 254.063(b). If a candidate expects no reportable activity in connection with the candidacy to occur after the period covered by a report filed under Chapter 254 of the Election Code, the candidate may designate the report as a “final” report. *Id.* § 254.065(a). The designation of a report as a final report relieves the candidate of the duty to file additional reports under Chapter 254 of the Election Code and terminates the candidate’s campaign treasurer appointment. *Id.* § 254.065(b). A candidate or officeholder must file a report required by Chapter 254 of the Election Code even if there has been no reportable activity during the period covered by the report. 1 Tex. Admin. Code § 20.65(a).

35. The respondent was required to cover the first day after the period covered by her last report, the 8-day pre-election report, which was May 5, 2019. The next report due after the 8-day pre-election report for the May 4, 2019, election was the July 2019 semiannual report. The respondent chose to designate her May 21, 2019, report as a final report and terminated the campaign treasurer appointment prior to filing the July 2019 semiannual report. Because the respondent was a candidate through May 21, 2019, she was required to cover the period through that date, even if she had no activity from March 15, 2019, to March 21, 2019.
36. Credible evidence indicates that the respondent did not properly file the final report. Therefore, there is credible evidence of a violation of Section 254.065 of the Election Code.

Failure to Disclose Political Expenditures on the Final Report

37. The complaint alleged that the respondent did not disclose political expenditures on the final report. Specifically, the complaint alleged that the respondent disclosed \$1,081.37 in total political expenditures, but did not itemize the expenditures.
38. In response to the complaint, the respondent did not deny that she failed to disclose political expenditures on the final report. After the complaint was filed, the respondent corrected the report by disclosing four itemized expenditures.
39. Records on file with the Garden Ridge City Secretary show that the respondent disclosed \$0 in total political expenditures of \$100 or less and \$1,081.37 of total political expenditures on the original final report filed. The records show that no schedules to itemize expenditures were included in the report.
40. Credible evidence indicates that the respondent did not disclose political expenditures totaling \$1,081.37 in the final report. Therefore, there is credible evidence of violations of Section 254.031(a)(3) of the Election Code.

IV. Representations and Agreement by Respondent

By signing this order and agreed resolution and returning it to the Commission:

1. The respondent neither admits nor denies the Commission's findings of fact and conclusions of law described under Section III, and consents to the entry of this order and agreed resolution solely for the purpose of resolving this sworn complaint.
2. The respondent consents to this order and agreed resolution and waives any right to further proceedings in this matter.
3. The respondent acknowledges that: 1) for each election in which a person is a candidate and has an opponent whose name is on the ballot, the person shall file two reports in addition to other reports required by Chapter 254 of the Election Code. This requirement applies to an opposed candidate who files a modified reporting declaration, but exceeds \$500 in political contributions or political expenditures in the election. The first report must be received by the authority with whom the report is required to be filed not later than the 30th day before election day. The report covers the period beginning the day the candidate's campaign treasurer appointment is filed or the first day after the period covered by the last report required to be filed under Chapter 254 of the Election Code, as applicable, and continuing through the 40th day before election day. The second report must be received by the authority with whom the report is required to be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before election day and continuing through the 10th day before election day; 2) each report must include the amount of political expenditures that in the aggregate exceed \$100 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures; 3) if a candidate expects no reportable activity in connection with the candidacy to occur after the period covered by a report filed under Chapter 254 of the Election Code, the candidate may designate the report as a "final" report. The designation of a report as a final report relieves the candidate of the duty to file additional reports under Chapter 254 of the Election Code and terminates the candidate's campaign treasurer appointment. A final report must be properly filed.
4. The respondent agrees to fully and strictly comply with the above requirements of law.

V. Confidentiality

This order and agreed resolution describes certain violations that the Commission has determined are neither technical nor *de minimis*. Accordingly, this order and agreed resolution is not confidential under Section 571.140 of the Government Code and may be disclosed by members and staff of the Commission.

VI. Sanction

After considering the nature, circumstances, and consequences of the violations described under Section III, and after considering the sanction necessary to deter future violations, the Commission imposes a \$250 civil penalty to be paid within 30 days from the date of execution of this order. If the \$250 penalty is not paid within 30 days from the date of execution of this order, then the penalty is increased to \$2,500 and will be referred to the Office of the Attorney General of Texas for collection.

VII. Order

The Commission hereby orders that if the respondent consents to the proposed resolution, this order and agreed resolution is a final and complete resolution of sworn complaint SC-3200246.

AGREED to by the respondent on this _____ day of _____, 20__.

Martha C. Stipp, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
Anne Temple Peters, Executive Director