

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ZACHARY BOYER,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-32206257

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on September 28, 2022, to consider sworn complaint SC-32206257. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Sections 253.0351, 254.031, 254.063, and 254.064 of the Election Code, laws administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the Commission adopted this resolution.

II. Allegations

The complaint alleged that the respondent: 1) did not timely file the 8-day pre-election report for the May 7, 2022 election, which was due by April 29, 2022, in violation of Section 254.064 of the Election Code; and 2) did not properly disclose a loan on his 8-day pre-election report, in violation of Sections 253.0351 and/or 254.031(a)(2) 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 Pearland City Council, Position 5, in the May 7, 2022 election. The respondent was unsuccessful in the subsequent June 11, 2022 runoff election.

Failure to Timely File 8-day Pre-election Report

2. The complaint alleged the respondent did not timely file the 8-day pre-election report for the May 7, 2022 election, which was due by April 29, 2022.

3. Records on file with the City of Pearland show the respondent filed the 8-day pre-election report late on May 23, 2022. The report disclosed \$250 in total political contributions and \$1,049.29 in total political expenditures.
4. Although not specifically alleged in the complaint, records on file with the City of Pearland also show the respondent filed the July 2021 semiannual report late on July 26, 2021 (report was due by July 15, 2021), and the 30-day pre-election report late on April 18, 2022 (report was due by April 7, 2022). In response to the complaint, the respondent filed a July 2022 semiannual report and a final report. The respondent acknowledged the violations and stated that, as a first-time candidate, he was unaware of all the reporting requirements. Regarding the 8-day pre-election report, the respondent stated that he was unable to timely file the report because he was out of town.
5. A candidate shall file two reports for each year as provided by this section. Tex. Elec. Code § 254.063(a). The first report shall be filed not later than July 15. The 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 this subchapter, as applicable, and continuing through June 30. *Id.* § 254.063(b). The second report shall be filed not later than January 15. The report covers the period beginning July 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 this subchapter, as applicable, and continuing through December 31. *Id.* § 254.063(c).
6. 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. *Id.* § 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. 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 this chapter, as applicable, and continuing through the 40th day before election day. *Id.* § 254.064(b). 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. *Id.* § 254.064(c).
7. The respondent was required to file the 8-day pre-election report for the May 7, 2022 election by April 29, 2022. Credible evidence shows the respondent filed the report late on May 23, 2022. Credible evidence also shows the respondent did not timely file the July 2021 semiannual report, 30-day pre-election report, and July 2022 semiannual report. Therefore, there is credible evidence of violations of Sections 254.063 and 254.064 of the Election Code.

Failure to Disclose Personal Loans

8. The complaint alleged that the respondent failed to disclose a loan on his 8-day pre-election report for the May 7, 2022 election. In the 8-day report, the respondent disclosed \$1,300

- in total outstanding loans but did not disclose any loans on the reporting schedule used to disclose and itemize loans (Schedule E).
9. On June 3, 2022, the respondent corrected the 30-day pre-election report to disclose on Schedule E a \$600 personal loan that was made on February 4, 2022. The respondent also corrected the 8-day pre-election report to disclose on Schedule E a \$700 personal loan that was made on April 15, 2022.
 10. A candidate or officeholder who deposits personal funds in an account in which political contributions are held shall report the amount of personal funds deposited as a loan and may reimburse the amount deposited as a loan from political contributions or unexpended personal funds deposited in the account. The reimbursement may not exceed the amount reported as a loan. Personal funds deposited in an account in which political contributions are held are subject to Section 253.035 and must be included in the reports of the total amount of political contributions maintained required by Section 254.031(a)(8) and Section 254.0611(a). Tex. Elec. Code § 253.0351(c).
 11. Each campaign finance report must include the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person or committee required to file the report and that in the aggregate exceed \$50 (\$90 as of January 1, 2022), the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amount of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period. *Id.* § 254.031(a)(2); 1 Tex. Admin. Code § 18.31(a).
 12. Credible evidence indicates that the respondent did not properly disclose two personal loans totaling \$1,300. Therefore, there is credible evidence of violations of Sections 253.0351(c) and 254.031(a)(2) 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 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: 1) the filing schedules for campaign finance reports prescribed by Sections 254.063 and 254.064 of the Election Code; and 2) the reporting requirements for loans prescribed by Sections 253.0351(c) and 254.031(a)(2) of the Election Code. The respondent agrees to comply with these requirements of the law.

V. Confidentiality

This order and agreed resolution describes 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, extent, and consequences of the violations described under Section III, and after considering the sanction necessary to deter future violations, the Commission imposes a \$750 civil penalty.

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 SC-32206257.

AGREED to by the respondent on this _____ day of _____, 2022.

Zachary Boyer, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
J.R. Johnson, Executive Director