

TEXAS ETHICS COMMISSION

IN THE MATTER OF
MITCHELL JORDAN,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-32106144

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on December 8, 2021, to consider sworn complaint SC-32106144. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Section 254.064 of the Election Code, a law administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the Commission proposed this resolution to the respondent.

II. Allegations

The complaint alleged that the respondent: 1) failed to file a 30-day pre-election report for the May 1, 2021, election, in violation of Section 254.064(b) of the Election Code; 2) failed to file an 8-day pre-election report for the May 1, 2021, election, in violation of Section 254.064(c) of the Election Code; and 3) failed to file a runoff report for the June 12, 2021, runoff election, in violation of Section 254.064(e) 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 a candidate for Mayor of the City of Palestine, Texas, in the May 1, 2021, election. The election proceeded to a runoff on June 21, 2021, where the respondent was the unsuccessful candidate.

30-day Pre-election Report

2. The complaint alleges the respondent did not file a 30-day pre-election report, which was due by April 1, 2021.

3. According to open records requests submitted to the Palestine City Secretary on April 27, 2021, and July 30, 2021, the respondent did not have a 30-day pre-election report on file.
4. In response to the complaint, the respondent provided a copy of an email that he sent to the Palestine City Secretary on April 1, 2021, at 10:20 PM, which contained pictures of his 30-day pre-election report in the body of the email. In his response, the respondent referred to that email to indicate that he had submitted his 30-day pre-election report on April 1, 2021.
5. The respondent filed a copy of his 30-day pre-election report with the Palestine City Secretary on September 15, 2021. The cover page indicated that the report covered the period from February 2, 2021, through April 1, 2021. The report disclosed \$1,611.01 in total political contributions, \$1,611.01 in total political contributions maintained, and left total political expenditures blank on page 2 of the report. On page 3 of the report, the respondent gave the subtotal for Schedule A1, Monetary Political Contributions, as \$1,501.01, and for Schedule G, Political Expenditures Made from Personal Funds, as \$111.01. On Schedule A1, the respondent disclosed a contribution of \$1,501 from an individual, and a contribution of \$111.01 from himself, neither contribution had a corresponding date listed. The respondent also disclosed an expenditure to himself on Schedule G, dated March 31, 2021, for advertising expenses, but did not disclose the amount.
6. The respondent's response also included an email he sent to the Palestine City Secretary on July 15, 2021, containing pictures of the respondent's July 15 semiannual report, which was also marked as a final report, embedded in the body of the email. The respondent also submitted the Palestine City Secretary's response to that email, which read, in relevant part: "I have received your final report as of 3:51 p.m. I am still waiting for the other reports, which were due earlier in the year."
7. 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. 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).
8. In prescribing the format of a report filed under this chapter with an authority other than the Commission, the Commission shall ensure that a report may be filed by electronic filing, if the authority with whom the report is required to be filed has adopted rules and procedures to provide for the electronic filing of the report and the report is filed in accordance with those

rules and procedures, and an authority with whom a report is electronically filed issues an electronic receipt for the report to the person filing the report. *Id.* § 254.036(f)(1)(C).

9. Except as provided by Subsection(b), the deadline for filing a report required by this chapter is 5 p.m. on the last day permitted under this chapter for filing the report. *Id.* §254.037(a). The deadline for filing a report electronically *with the Commission* as required by this chapter is midnight for the last day for filing the report. *Id.* § 254.036(b) (emphasis added).
10. The 30-day pre-election report was required to be filed by April 1, 2021. Credible evidence shows that the respondent attempted to file the report on April 1, 2021, after 5 p.m., but the report was filed on September 15, 2021, 167 days later. The respondent filed his campaign treasurer appointment on February 12, 2021, and selected modified reporting. However, the respondent had an opponent on the ballot and accepted a political contribution in excess of \$930 during the period covered by the 30-day pre-election report. Therefore, the respondent was required to file pre-election reports. The respondent was a local filer, and therefore the 30-day pre-election report was required to be filed by 5 p.m. on April 1, 2021.
11. The 30-day pre-election report for the May 1, 2021, election was required to be filed by April 1, 2021, and disclose activity from February 2, 2021, through March 22, 2021. The respondent submitted a 30-day pre-election report at 10:20 p.m. on April 1, 2021, but did not receive an electronic receipt. Furthermore, the report was not marked as filed by the Palestine City Secretary until the respondent submitted the report in person on September 15, 2021. Therefore, there is credible evidence of a violation of Section 254.064(b) of the Election Code.

8-Day Pre-election Report

12. The complaint alleges that the respondent did not file an 8-day pre-election report, which was due by April 23, 2021.
13. According to open records requests submitted to the Palestine City Secretary on April 27, 2021, and July 30, 2021, the respondent did not have an 8-day pre-election report on file.
14. In response to the complaint, the respondent did not address the allegation and provided a copy of the email he sent to the Palestine City Secretary on April 1, 2021, at 10:20 PM, which contained pictures of his 30-day pre-election report in the body of the email.
15. The respondent filed a copy of his 8-day pre-election report with the Palestine City Secretary on September 15, 2021. The report disclosed \$0 in both political contributions and expenditures, and \$0 in total political contributions maintained.

16. 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. 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).
17. The 8-day pre-election report was required to be filed by April 23, 2021, and disclose activity from March 23, 2021, through April 21, 2021. Credible evidence shows the respondent filed the 8-day pre-election report on September 15, 2021, 145 days late. Therefore, there is credible evidence of a violation of Section 254.064(c) of the Election Code.

Runoff Report

18. The complaint alleged that the respondent failed to file a runoff report, which was due by June 4, 2021.
19. According to an open records request submitted to the Palestine City Secretary on July 30, 2021, the respondent did not have a runoff report on file.
20. In response to the complaint, the respondent did not address the allegation and provided a copy of the email he sent to the Palestine City Secretary on April 1, 2021, at 10:20 PM, which contained pictures of his 30-day pre-election report in the body of the email.
21. The respondent filed his runoff report with the Palestine City Secretary on September 23, 2021. The report disclosed \$0 in both political contributions and expenditures, and \$0 in total political contributions maintained.
22. In addition to other required reports, an opposed candidate in a runoff election shall file one report for that election. The runoff election report must be received by the authority with whom the report is required to be filed not later than the eighth day before runoff election day. The report covers the period beginning the ninth day before the date of the main election and continuing through the 10th day before runoff election day. Tex. Elec. Code § 254.064(e).
23. The runoff report was required to be filed by June 4, 2021, and disclose activity from April 22, 2021, through June 2, 2021. Credible evidence shows the respondent filed his runoff report on September 23, 2021, 111 days late. Therefore, there is credible evidence of a violation of Section 254.064(e) 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 that: 1) 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. 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; 2) 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; and 3) in addition to other required reports, an opposed candidate in a runoff election shall file one report for that election. The runoff election report must be received by the authority with whom the report is required to be filed not later than the eighth day before runoff election day. The report covers the period beginning the ninth day before the date of the main election and continuing through the 10th day before runoff election day. The respondent agrees to comply fully with these requirements of 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, and consequences of the violations described under Section III, and after considering the sanction necessary to deter future violations, the Commission imposes a \$500 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-32106144.

AGREED to by the respondent on this _____ day of _____, 2021.

Mitchell Jordan, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
Anne Temple Peters, Executive Director