

TEXAS ETHICS COMMISSION

**IN THE MATTER OF
CAROLYN VAUGHN,
RESPONDENT**

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**BEFORE THE
TEXAS ETHICS COMMISSION
SC-32203120**

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on September 28, 2022, to consider sworn complaint SC-32203120. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Sections 254.031(a)(2), 254.031(a)(3), 253.0351, 254.063, 254.064(b) and 254.064(c) 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 complaints alleged that, as a candidate for State Representative, District 34, in the March 1, 2022 primary election, the respondent: 1) did not disclose in campaign finance reports the required information for a \$20,000 loan, in violation of Section 254.031(a)(2) of the Election Code and/or Section 253.0351 of the Election Code (applicable if personal loan); 2) did not disclose in campaign finance reports political expenditures and/or political contributions for political advertising, in violation of Section 254.031 of the Election Code; 3) did not timely file a January 18, 2022 semiannual report, in violation of Section 254.063 of the Election Code; 4) did not timely file a 30-day pre-election report for the March 1, 2022, election, in violation of Section 254.064(b) of the Election Code; and 5) did not timely file a 8-day pre-election report for the March 1, 2022, election, in violation of Section 254.064(c) 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 successful opposed candidate for Texas House of Representatives District 34 in the March 1, 2022 primary election and will be on the ballot in the November 8, 2022 election.

Failure to Properly Disclose Loan on Campaign Finance Report

2. The complaint alleged that the respondent did not properly report a \$20,000 loan on her 30-day pre-election report for the March 1, 2022 election, which the respondent filed on February 8, 2022.
3. The information submitted with the complaint showed that the respondent disclosed a \$20,000 unitemized loan on her 30-day pre-election report, but did not disclose any further information, such as the date of the loan, the name and address of the lender, or the interest rate and maturity date of the loan.
4. In response to the complaint, the respondent stated that she had loaned herself the \$20,000. The respondent had correctly disclosed the information on the paper copy of the report that she had filed with the Nueces County clerk, but had not done so with the electronic copy she was required to file with the Commission.
5. Each report filed under this chapter 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. Tex. Elec. Code § 254.031(a)(2), 46 Tex. Reg. 9233 (2021) (codified at 1 Tex. Admin. Code § 18.31) (Tex. Ethics Comm'n).
6. A candidate 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. Tex. Elec. Code § 253.0351(c).
7. Credible evidence indicates that the respondent did not properly disclose a loan from personal funds on her 30-day pre-election report. Therefore, credible evidence indicates violations of Sections 254.031(a)(2) and 253.0351 of the Election Code.

Political Expenditures for Political Advertising

8. The complaint alleged that the respondent failed to disclose political expenditures and/or political contributions for political advertising on her campaign finance reports.
9. The information submitted with the complaint showed that an agency named Steve Ray Associates had purchased broadcast advertising time under the names “Elect Carolyn Vaughn,” “Elect Carolyn Vaughn Campaign,” or “Carolyn Vaughn for State Rep” on four separate occasions in February 2022. The expenditures for these ad buys were not specifically disclosed on the respondent’s campaign finance reports. The advertising totaled \$2,308.60.
10. In response to the complaint the respondent swore that she had correctly reported the advertising expenses, claiming that she had \$2,718 in political expenditures reported on her 30-day pre-election report, all to Steve Ray Associates, \$2,000 for “political advisor” and \$718 for “digital programmer.” The respondent also swore she had \$4,213.62 in political expenditures for political advertising to Steve Ray Associates on her 8-day pre-election report, \$3,500 for “advertising for ad buys” and \$713.62 for push cards and T-shirts. The respondent further swore that the advertising had been purchased by Steve Ray Associates, not “Elect Carolyn Vaughn.”
11. On her 30-day pre-election report, the respondent disclosed \$2,718 in unitemized expenditures. On her 8-day pre-election report, the respondent disclosed \$4,213.62 in four separate itemized expenditures to Steve Ray Associates for advertising expenses. One expenditure in the amount of \$1,500, dated February 19, 2022, had the description of “radio.” None of the descriptions of the other expenditures indicate that the expenditures were made for broadcast advertising, and it is not clear from the report which other expenditures to Steve Ray Associates are attributable to the broadcast advertisements purchased.
12. Each report filed must include the amount of political expenditures that in the aggregate exceed \$100 (\$190 as of January 1, 2022) 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), 46 Tex. Reg. 9233 (2021) (codified at 1 Tex. Admin. Code § 18.31) (Tex. Ethics Comm’n).
13. Credible evidence indicates that the respondent did not properly report political expenditures that in the aggregate exceeded \$190 to Steve Ray Associates for political advertising on her 30-day pre-election report. Therefore, there is credible evidence of violations of Section 254.031(a)(3) of the Election Code.

Failure to Timely File Campaign Finance Reports

14. The complaint alleged that the respondent did not timely file her January semiannual report, which was due on January 18, 2022, her 30-day pre-election report, which was due on January 31, 2022, or her 8-day pre-election report, which was due on February 22, 2022.
15. Records on file with the Commission and referenced in the sworn complaint show that the January semiannual report had been mailed to the Commission on February 3, 2022, and received by the Commission on February 7, 2022. Commission records further show that the respondent filed her 30-day pre-election report and 8-day pre-election report on February 8, 2022, and February 23, 2022, respectively.
16. On her January semiannual report, the respondent disclosed \$12,061.33 in political expenditures made from political contributions and \$15,000 worth of loans from personal funds made to the campaign. On her 30-day pre-election report, the respondent disclosed \$2,718.00 in political expenditures made from personal funds, a \$20,000 loan with no information beyond the loan amount disclosed, and \$35,000 in outstanding loans. On her 8-day pre-election report, the respondent disclosed \$17,813.62 in political expenditures from political contributions, a \$20,000 loan from the respondent to the campaign, and \$55,000 in outstanding loans.
17. In her response to the complaint, the respondent swore that her campaign treasurer usually filled out the reports, but that her campaign treasurer had been busy and that she had filed the 30-day pre-election report herself and submitted it to the “county court house” on time. According to the respondent, when notified of the mistake, she both mailed a copy of the report to the Commission and filed the report online. The respondent had previously been a local filer and had not had to file campaign finance reports with the Commission. As it concerns the 8-day pre-election report, the respondent stated in her sworn response that the report was late “due to unforeseen personal circumstances.” The respondent’s sworn response to the complaint did not clearly address her late semiannual report.
18. The respondent had an opponent on the ballot in the March 1, 2022 primary election. The respondent filed her campaign treasurer appointment indicating her intent to run for state representative on July 21, 2021, and did not elect to file on the modified reporting schedule.
19. A candidate shall file two reports each year. 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, as applicable, and continuing through December 31. Tex. Elec. Code § 254.063(c).

20. 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). 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).
21. If the deadline for a report falls on a Saturday, Sunday, or a legal state or national holiday, the report is due on the next regular business day. 1 Tex. Admin. Code § 20.21(a). January 15, 2022, was a Saturday, and Monday, January 17, 2022, was a legal national holiday; therefore, the January 2022 semiannual report was due on the next regular business day, January 18, 2022. *See* Tex. Gov't Code § 662.003, -.021(1); 1 Tex. Admin. Code § 20.21(a). Further, the eighth day before the March 1, 2022 election, Monday, February 21, 2022, was also a legal national holiday; therefore, the 8-day pre-election report was due the following day, Tuesday, February 22, 2022. *See id.*
22. Credible evidence showed that the respondent filed her semiannual campaign finance report that was due on January 18, 2022, on February 7, 2022. Therefore, credible evidence indicates a violation of Section 254.063 of the Election Code.
23. The respondent had an opponent on the ballot in the March 1, 2022 primary election, and did not elect to file on the modified reporting schedule when she filed her campaign treasurer appointment. The respondent was therefore required to file a 30-day pre-election report not later than January 31, 2022, and an 8-day pre-election report not later than February 22, 2022. The respondent filed her 30-day pre-election report on February 8, 2022, and filed her 8-day pre-election report on February 23, 2022. Therefore, credible evidence indicates violations of Section 254.064 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) each report filed under this chapter 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 the applicable itemized reporting threshold, 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; 2) each report filed must include the amount of political expenditures that in the aggregate exceed the applicable itemized reporting threshold 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) a candidate shall file two reports each year. 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, as applicable, and continuing through December 31; 4) 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, as applicable, and continuing through the 40th day before election day; and 5) 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. 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 seriousness of the violations described under Section III, including the nature, circumstances, consequences, extent, and gravity of the violations, after considering the sanction necessary to deter future violations, and after considering that the respondent failed to file a corrected report when requested by Commission staff, the Commission imposes a \$1,000 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-32203120.

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

Carolyn Vaughn, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
J.R. Johnson, Executive Director