

TEXAS ETHICS COMMISSION

IN THE MATTER OF
CARYL RAY COCHRAN,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-32210372

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on February 15, 2023, to consider sworn complaint SC-32210372. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Sections 252.001, 254.063, 254.064, and 253.031 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 file a campaign treasurer appointment, in violation of Section 252.001 of the Election Code; 2) did not file a January 18, 2022 semiannual campaign finance report, in violation of Section 254.063 of the Election Code; 3) did not file a July 15, 2022 semiannual campaign finance report, in violation of Section 254.063 of the Election Code; 4) did not file a 30-day pre-election report for the November 8, 2022 election, in violation of Section 254.064 of the Election Code; and 5) made or authorized political expenditures and/or accepted political contributions without a campaign treasurer appointment on file, in violation of Section 253.031 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 unsuccessful candidate for Morris County Clerk in the November 8, 2022 election. The sworn complaint was filed on October 13, 2022.

Campaign Treasurer Appointment

2. The complaint alleged that the respondent did not file a campaign treasurer appointment.

3. The information submitted with the complaint shows that as of October 13, 2022, the respondent had not filed a campaign treasurer appointment with Morris County.
4. According to the Secretary of State, the respondent filed his ballot application on December 13, 2021.
5. In response to the complaint, the respondent filed a campaign treasurer appointment on October 19, 2022.
6. Each candidate shall appoint a campaign treasurer. Tex. Elec. Code § 252.001.
7. “Candidate” means a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. Affirmative action includes the filing of an application for a place on a ballot. *Id.* § 251.001(1)(B).
8. Credible evidence indicates that the respondent became a candidate on December 13, 2021, when he filed his application for a place on the ballot. Credible evidence also indicates that the respondent did not file his campaign treasurer appointment until October 19, 2022. Therefore, there is credible evidence of a violation of Section 252.001 of the Election Code.

Semiannual Campaign Finance Report

9. The complaint alleged that the respondent failed to file his January 2022 and July 2022 semiannual campaign finance reports.
10. The information submitted with the complaint showed that as of October 13, 2022, the respondent had not filed his semiannual campaign finance reports.
11. In response to the complaint, the respondent filed both reports on October 19, 2022. The January 2022 semiannual report disclosed \$0 in total political contributions, \$750 in total political expenditures, and \$0 in total political contributions maintained. On the July 2022 semiannual report, the respondent disclosed \$0 in total political contributions, \$288.07 in total political expenditures, and \$0 in total political contributions maintained.
12. 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 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).

13. Credible evidence indicates that the respondent failed to timely file his January 2022 and July 2022 semiannual reports. Therefore, there is credible evidence of violations of Section 254.063 of the Election Code.

30-Day Pre-election Report

14. The complaint alleged that the respondent failed to file his 30-day pre-election report for the November 8, 2022 election, which was due by October 9, 2022.
15. The information submitted with the complaint shows that as of October 13, 2022, the respondent had not filed his 30-day pre-election report.
16. In response to the complaint, the respondent filed his 30-day pre-election report on October 19, 2022. The report disclosed \$0 in total political contributions, \$2,582.15 in total political expenditures, and \$0 in total political contributions maintained.
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 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).
18. The respondent did not elect to file campaign finance reports on the modified reporting schedule. The respondent had an opponent whose name appeared on the ballot in the November 2022 general election, and therefore the respondent was required to file a 30-day pre-election report by October 9, 2022. The respondent filed his 30-day pre-election report late on October 19, 2022. Therefore, there is credible evidence of a violation of Section 254.064 of the Election Code.

Political Expenditures Without a Campaign Treasurer Appointment on File

19. The complaint alleged that the respondent accepted campaign contributions and/or made or authorized campaign expenditures without a campaign treasurer appointment on file.
20. The information submitted with the complaint showed that the respondent had posted political advertising banners, alleging that the respondent made or authorized political expenditures for the creation of the banners without a campaign treasurer appointment on file.

21. In response to the complaint, the respondent filed his campaign treasurer appointment and campaign finance reports on October 19, 2022. The campaign finance reports disclosed that the respondent made or authorized \$3,620.22 in campaign expenditures from his personal funds between December 17, 2021 and October 10, 2022.
22. A candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. Tex. Elec. Code § 253.031(a).
23. Credible evidence indicates that the respondent made or authorized campaign expenditures before he filed his campaign treasurer appointment on October 19, 2022. Therefore, there is credible evidence of a violation of Section 253.031(a) 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 the filing requirements and restrictions prescribed by Sections 252.001, 253.031, 254.063, and 254.064 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, and consequences of the violations described under Section III, and after considering the sanction necessary to deter future violations, 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-32210372

AGREED to by the respondent on this _____ day of _____, 2023.

Caryl Ray Cochran, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
J.R. Johnson, Executive Director