

TEXAS ETHICS COMMISSION

IN THE MATTER OF
LARRY FOWLER,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-32211438

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on June 27, 2023, to consider sworn complaint SC-32211438. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of Sections 254.154(b), 254.154(c), and 254.031 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, as campaign treasurer for the general-purpose committee, Vote Yes For A Strong Arlington: 1) failed to file a 30-day pre-election report for the November 8, 2022 election, in violation of Section 254.154(b) of the Election Code; 2) did not report political contributions accepted and/or political expenditures made or authorized in violation of Section 254.031 of the Election Code; and 3) covered the incorrect period of time on his 8-day pre-election report, in violation of Section 254.154(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. During the period at issue in the complaint, the respondent was the campaign treasurer for the general-purpose committee, Vote Yes for A Strong Arlington (the PAC). The PAC supported a City of Arlington ballot proposition in the November 8, 2022 special election.

Failure to File a 30-Day Pre-election Report

2. The complaint alleged that the respondent failed to file a 30-day pre-election report for the November 8, 2022 election.

3. The information submitted with the complaint showed that the domain name voteyesarlington.com was registered on September 3, 2022. The website includes information about the City of Arlington Proposition A and urges citizens to “vote yes” in the November 8, 2022 election. The website also includes a page where people can donate to the PAC. The bottom of the website includes the political advertising disclosure statement “Political ad paid for by Vote For A Strong Arlington.”
4. In response to the complaint, the respondent filed an amended 8-day pre-election report which covered the period from September 6, 2022, through October 29, 2022. The report disclosed \$450 in total political contributions, \$6,413.45 in total political expenditures, and \$431.10 in total political contributions maintained. The expenditure was an unpaid incurred obligation disclosed on Schedule F2, dated October 18, 2022. The purpose of the expenditure was listed as “Consulting Expense | Estimated printing, website.” The political contributions were all dated as being received in October.
5. In addition to other required reports, for each election in which a general-purpose committee is involved, the committee’s campaign treasurer shall file two reports. Tex. Elec. Code § 254.154(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 committee’s campaign treasurer appointment is filed or the first day after the period covered by the committee’s last required report, as applicable, and continuing through the 40th day before election day. *Id.* § 254.154(b).
6. If a deadline for a campaign finance report other than a special daily pre-election 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).
7. The 30-day pre-election report for the November 8, 2022 election was due by October 10, 2022,¹ and required to disclose activity occurring from September 6, 2022, when the PAC’s campaign treasurer appointment was filed, to September 29, 2022.
8. Credible evidence indicates that the respondent submitted his campaign treasurer appointment on September 6, 2022, and the PAC website was registered on September 3, 2022, all during the 30-day reporting period. Credible evidence shows the PAC was involved in the November 8, 2022 election and the respondent failed to file a 30-day pre-election report. Therefore, there is credible evidence of a violation of Section 254.154(b) of the Election Code.

¹ October 9, 2022 was a Sunday. Therefore, the 30-day pre-election report was due the following day, Monday, October 10, 2022. *See* 1 Tex. Admin. Code § 20.21(a).

Failure to Report Political Expenditures

9. The complaint alleged that the respondent did not disclose the political expenditures made or authorized by the PAC. Specifically, the complaint alleged that the respondent did not disclose the political expenditures for the website VoteYesArlington.com and for political advertising signs posted on or before October 14, 2022.
10. The complaint included pictures of the political advertising signs, which stated “VOTE YES! Smart Term Limits For A Strong Arlington,” and included a disclosure statement that read “Political ad paid for by Vote for a Strong Arlington.” There is no committee registered with the Commission by the name “Vote for a Strong Arlington,” however the political advertising disclosure statement on the website voteyesarlington.com read “Political ad paid for by Vote For A Strong Arlington.”
11. The respondent filed an appointment of a campaign treasurer by a general-purpose committee for the PAC on September 6, 2022. The name of the committee was designated as “Vote Yes For A Strong Arlington.”
12. The respondent filed an 8-day pre-election report for the PAC on October 31, 2022, which covered the period between September 30, 2022, and October 29, 2022, and disclosed \$450 in total political contributions, \$0 in total political expenditures, and \$431.10 in total political contributions maintained.
13. In response to the complaint, the respondent filed an amended 8-day pre-election report which covered the period from September 6, 2022, through October 29, 2022. The amended report disclosed an additional \$6,413.45 in unpaid incurred obligations dated October 18, 2022, which had not been disclosed on the original report. The respondent included invoices for these incurred obligations, all dated October 18, 2022, with his response to the complaint.
14. Except at otherwise provided, 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).
15. “Expenditure” means a payment of money or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a payment. *Id.* § 251.001(6).
16. An expenditure that is not paid during the reporting period in which the obligation to pay the expenditure is incurred shall be reported on the Unpaid Incurred Obligations Schedule for the reporting period in which the obligation to pay is incurred. 1 Tex. Admin. Code § 20.21(a).

17. Credible evidence indicates that the respondent initially failed to disclose \$6,413.45 in unpaid incurred obligations on the PAC's 8-day pre-election report for the November 8, 2022 election. Unpaid incurred obligations are expenditures and are required to be disclosed on the report for the period in which the obligation to pay was incurred. Therefore, there is credible evidence of a violation of Section 254.031(a)(3) of the Election Code.

Period Covered on 8-Day Pre-election Report

18. The complaint alleged that the respondent covered the incorrect reporting period on his 8-day pre-election report for the November 8, 2022 election.
19. The information submitted with the complaint showed that on October 31, 2022, the respondent filed an 8-day pre-election report that covered the period from September 30, 2022, through October 29, 2022.
20. The respondent filed an appointment of a campaign treasurer by a general-purpose committee for the PAC on September 6, 2022.
21. In response to the complaint, the respondent filed an amended 8-day pre-election report which covered the period from September 6, 2022, through October 29, 2022.
22. In addition to other required reports, for each election in which a general-purpose committee is involved, the committee's campaign treasurer shall file two reports. Tex. Elec. Code § 254.154(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.* § 254.154(c).
23. The 39th day before November 8, 2022, was September 30, 2022. The 10th day before November 8, 2022, was October 29, 2022. Therefore, the 8-day pre-election report properly covered the period from September 30, 2022, through October 29, 2022. Therefore, the evidence indicates no violation of Section 254.154(c) 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 and reporting requirements prescribed by Sections 254.031 and 254.154 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 seriousness of the violations described under Section III, including the nature, circumstances, consequences, extent, gravity of the violations, and after considering the sanction necessary to deter future violations, the Commission imposes a \$600 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-32211438.

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

Larry Fowler, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
J.R. Johnson, Executive Director