

TEXAS ETHICS COMMISSION

IN THE MATTER OF

JAY BROWN,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-200423

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 16, 2000, and voted to accept jurisdiction of Sworn Complaint SC-20423, filed against Jay Brown, Respondent. The commission met again on January 12, 2001, to consider Sworn Complaint SC-200423. A quorum of the commission was present at both meetings. Based on the investigation conducted by commission staff, the commission determined that there is credible evidence of violations of Sections 253.003 and 253.094, Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this agreed resolution to the respondent.

II. Allegations

The complainant alleged that the respondent accepted political contributions from prohibited sources. The complainant alleged that the respondent accepted contributions from three corporations, and alleged that the respondent accepted contributions from three other businesses that she believed to be incorporated. The complainant also alleged that the respondent accepted contributions from two individuals who are corporate officers of one of the corporations.

III. Facts Supported by Credible Evidence

Credible evidence available to the commission supports the following findings of fact:

1. The respondent is a sheriff who was re-elected in the November 7, 2000, general election.
2. The respondent's January 2000 semiannual campaign finance report disclosed that he accepted \$5,600 in contributions from three businesses. All three businesses are incorporated according to the Secretary of State's Corporations Division. The report disclosed that the respondent accepted a \$100 contribution from Calvin Allen Saddlery, Inc., on January 7, 2000, a \$500 contribution from Williams Cleaners on January 7, 2000, and a \$5,000 contribution from LAB, Land & Cattle, Inc., on January 8, 2000. The

respondent's July 2000 semiannual report disclosed that the respondent returned those contributions to the corporations on May 12, 2000.

3. The respondent swore that when he learned of the corporate political contributions, he refunded the contributions to the donor corporations. The respondent included copies of the refund checks issued by his campaign with his sworn statement.
4. The respondent's January 2000 semiannual report disclosed that he accepted three contributions from two individuals who are officers of one of the corporations that allegedly made a contribution. In his sworn response, the respondent swore that the corporate officers made political contributions in their individual capacity.
5. The respondent's January 2000 semiannual report disclosed that he accepted four contributions from three other businesses. Those businesses are not incorporated according to the Secretary of State's Corporations Division.

IV. Findings and Conclusions of Law

The facts described in Section III support the following findings and conclusions of law:

1. A corporation is prohibited from making a political contribution to a candidate or officeholder. Section 253.094, Election Code. A person may not knowingly accept a political contribution the person knows to have been made in violation of Chapter 253, Election Code. Section 253.003(b), Election Code.
2. Based on the respondent's January 2000 semiannual campaign finance report and information from the Secretary of State's Corporations Division, there is credible evidence that the respondent accepted \$5,600 in political contributions from three corporations. Although the respondent swore that he returned those contributions on May 12, 2000, and his July 2000 semiannual report disclosed this fact, the offense occurred when the contributions were accepted. Thus, there is credible evidence that the respondent violated Section 253.003, Election Code.
3. The respondent's campaign finance reports disclosed that the respondent accepted political contributions from two individuals who were officers of one of the corporations that made a political contribution to the respondent. The respondent swore that these contributions were made by the officers in their individual capacity. The other three businesses are not incorporated. Thus, there is credible evidence of no violation of Sections 253.003, Election Code, regarding these contributions.

V. 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 facts described under Section III and the commission's findings and conclusions of law described under Section IV, and consents to the entry of this ORDER and AGREED RESOLUTION solely for the purpose of resolving and settling this sworn complaint.
2. The respondent consents to the entry of this Order before any adversarial evidentiary hearings or argument before the commission, and before any formal adjudication of law or fact by the commission. The respondent waives any right to a hearing before the commission or an administrative law judge, and further waives any right to a post-hearing procedure established or provided by law.
3. The respondent acknowledges that a candidate may not accept political contributions from corporations. The respondent agrees to fully and strictly comply with this requirement of the law.
4. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, the respondent understands and agrees that the commission will consider the respondent to have committed the violation described under Section IV, Paragraph 2, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

VI. Confidentiality

This ORDER and AGREED RESOLUTION describes a violation that the commission has determined is 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.

VII. Sanction

After considering the seriousness of the violation described under Sections III and IV, including the nature, circumstances, consequences, extent, and gravity of the violation, after considering the fact that no previous violations by this respondent are known to the commission, and after considering the sanction necessary to deter future violations, the commission imposes a \$500 civil penalty for the violation described under Section IV, Paragraph 2.

VIII. Order

The commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to the respondent;
2. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-200423;
3. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original and the \$500 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than February 9, 2001; and
4. that the executive director shall promptly refer SC-200423 to either the commission or to an administrative law judge to conduct hearings on the commission's behalf and to propose findings of fact and conclusions of law to the commission in accordance with law if the respondent does not agree to the resolution of SC-200423 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 20__.

Jay Brown, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director