

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JAMES HICKS & B.C.K., INC.,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-250434

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission met on July 14, 2005, to consider sworn complaint SC-250434. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of sections 253.094 and 253.003 of the Election Code, laws administered and enforced by the commission. To resolve this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegation

The complaint alleges that the respondents made an illegal corporate campaign contribution to a candidate.

III. Facts Supported by Credible Evidence

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

1. On September 25, 2003, a candidate solicited a political contribution from Respondent Hicks.
2. Respondent Hicks is the president, director, and sole shareholder of B.C.K., Inc.
3. Respondent Hicks gave the individual a check written on the corporate account of B.C.K., Inc.
4. The check was intended as a political contribution.
5. In early March 2005 Respondent Hicks received a \$250 check from the person to whom he had made the contribution at issue accompanied by a letter that explained that the contribution was being returned because it may have been drawn on a corporate account.

6. Upon learning that there may be a problem with respect to the contribution Respondent Hicks filed a sworn complaint against himself and B.C.K., Inc.

IV. Findings and Conclusions of Law

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

1. A corporation may not make a political contribution to a candidate. ELEC. CODE § 253.094.
2. A person may not make a political contribution in violation of the restrictions in chapter 253 of the Election Code. ELEC. CODE § 253.003.
3. Respondent Hicks, who is president, a director, and sole shareholder of B.C.K., Inc, acknowledges that the corporation made an illegal political contribution.
4. Although the entity involved was incorporated, there is evidence that it was a closely held corporation with Respondent Hicks being the president and sole shareholder. As such, the evidence indicates that the ownership, operation and control of B.C.K., Inc. is similar to a sole proprietorship.
5. If the entity involved had been a sole proprietorship, no violation would have occurred. However, the statutes prohibiting corporate contributions apply to any corporation organized under the Texas Business Corporations Act. Therefore, there is credible evidence that respondent B.C.K., Inc., violated section 253.094 of the Election Code. Also, there is credible evidence that Respondent Hicks violated section 253.003 of the Election Code.

V. Representations and Agreement by Respondent

By signing this order and agreed resolution and returning it to the commission:

1. The respondents neither admit nor deny the facts described under Section III or the commission's findings and conclusions of law described under Section IV, and consent to the entry of this order and agreed resolution solely for the purpose of resolving this sworn complaint.
2. The respondents consent to this order and agreed resolution and waive any right to further proceedings in this matter.
3. The respondents acknowledge that a corporation may not make a political contribution to a candidate, and that a person may not make a political contribution in violation of that restriction. The respondents agree to comply with these requirements of the law.

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. No Sanction

After considering the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes no civil penalty for the violations described under Sections III and IV.

VIII. Order

The commission hereby orders that if the respondents consent to the proposed resolution, this order and agreed resolution is a final and complete resolution of SC-250434.

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

James Hicks, Respondent

B.C.K., Inc., Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director