

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JAMES GRAHAM,
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-290346

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 21, 2010, to consider sworn complaint SC-290346. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of sections 253.003(a) and 253.094 of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

II. Allegation

The complaint alleged that the respondent used corporate funds to make a political contribution to a candidate or officeholder.

III. Facts Supported by Credible Evidence

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

1. The respondent is the president of Conroe Police Officers Association, Inc.
2. The campaign finance report of an incumbent candidate for constable disclosed that on June 8, 2007, the candidate accepted a \$500 political contribution from the Conroe Police Officers Association (CPOA) with the address PO Box 3324, Conroe, Texas, 77305. According to the Texas Secretary of State's records, Conroe Police Officers Association is a domestic nonprofit corporation. Its registered agent is listed as the respondent with an address of PO Box 3324, Conroe, Texas, 77305.
3. The contribution at issue was in the form of a check dated June 6, 2007, from the Conroe Police Officers Association to a candidate, in the amount of \$500 for "Hole & Team

Sponsorship” for the candidate’s annual political fundraising event. A sign was displayed at the event acknowledging CPOA’s sponsorship.

4. The respondent was president of CPOA at the time the expenditure was made.

IV. Findings and Conclusions of Law

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

1. A person may not knowingly make a political contribution in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003(a).
2. “Political contribution” means a campaign contribution or an officeholder contribution. ELEC. CODE § 251.001(5).
3. “Campaign contribution” means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on a measure. Whether a contribution is made before, during, or after an election does not affect its status as a campaign contribution. ELEC. CODE § 251.001(3).
4. “Officeholder contribution” means a contribution to an officeholder or political committee that is offered or given with the intent that it be used to defray expenses that: are incurred by the officeholder in performing a duty or engaging in an activity in connection with the office; and are not reimbursable with public money. ELEC. CODE § 251.001(4).
5. A corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, Election Code. ELEC. CODE § 253.094.
6. The prohibition applies to corporations that are organized under the Texas Business Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation Act, the Texas Nonprofit Corporation Law, federal law, or law of another state or nation. ELEC. CODE § 253.091.
7. The expenditure at issue made by CPOA was for the purpose of supporting an incumbent candidate. Therefore, the expenditure by CPOA was a political contribution.
8. The Conroe Police Officers Association was registered as a corporation with the Texas Secretary of State at the time the payment was made.
9. The incumbent candidate held a golf tournament to raise funds to support him as a candidate or officeholder during the time at issue. The respondent was president of CPOA at the time

that the political contribution was authorized and made. There is credible evidence that the payment was intended to benefit the incumbent candidate in his effort to raise political contributions. Therefore, there is credible evidence that the respondent violated sections 253.003(a) and 253.094 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 respondent neither admits nor denies the facts described under Section III or 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 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 a person may not knowingly make a political contribution in violation of chapter 253 of the Election Code and that a corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, Election Code. The respondent agrees 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. Sanction

After considering the seriousness of the violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$500 civil penalty.

VIII. 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-290346.

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

James Graham, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director