

TEXAS ETHICS COMMISSION

IN THE MATTER OF
BILL R. MARTINEZ, SR.,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2905131

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 2, 2009, to consider sworn complaint SC-2905131. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of sections 253.003 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 made a corporate political contribution.

III. Facts Supported by Credible Evidence

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

1. The respondent is director of Champion Dirt, Inc., which, according to Texas Secretary of State (SOS) records is a domestic for-profit corporation.
2. The complaint alleged that the respondent, as director of Champion Dirt, Inc. made a prohibited political contribution of \$1,130 on October 8, 2007, to a justice of the peace in Montgomery County.
3. On January 15, 2008, the justice of the peace filed a January 2008 semiannual report that disclosed a \$1,130 political contribution on October 8, 2007, from Champion Dirt.
4. According to SOS records, Champion Dirt, Inc. was an active for-profit corporation at the time of the political contribution at issue.
5. In response to the sworn complaint, the respondent submitted an affidavit in which he admitted that he made a political contribution of \$1,130 to an officeholder on October 8, 2007. The respondent swore the check was written on Champion Dirt's company account.

The respondent also swore that the officeholder returned the money.

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 this chapter. ELEC. CODE § 253.003. A corporation or labor organization may not make a political contribution or political expenditure that is not authorized by this subchapter. *Id.* § 253.094. An officer, director, or other agent of a corporation or labor organization who commits an offense under this subchapter is punishable for the grade of offense applicable to the corporation or labor organization. *Id.* § 253.095.
2. The respondent, as director of a corporation, knowingly made a political contribution of \$1,130 from corporate funds to an officeholder. Therefore, there is credible evidence of a violation of sections 253.003 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 corporation or labor organization may not make a political contribution or political expenditure that is not authorized by subchapter D of Title 15 of the Election Code, and that subchapter does not authorize a political contribution by a corporation to a candidate. The respondent agrees to comply with this requirement of the law.

VI. 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.

VII. Sanction

After considering the seriousness of 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 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-2905131

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

Bill R. Martinez, Sr., Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director