

TEXAS ETHICS COMMISSION

IN THE MATTER OF

CY-FAIR PROFESSIONAL
GROUP, INC.,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-3110343

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 18, 2012, to consider sworn complaint SC-3110343. 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 and section 571.1242 of the Government 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 to a candidate.

III. Facts Supported by Credible Evidence

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

1. The complaint alleged that the respondent, a domestic for-profit corporation, made an unlawful political contribution to a candidate for state representative during calendar year 2008.
2. Texas Secretary of State (SOS) records show that Cy-Fair Professional Group Inc. is a domestic for-profit corporation.
3. The candidate's July 2008 semiannual report disclosed that on May 5, 2008, he accepted a \$200 political contribution from the respondent. In the affidavit that accompanied the report, the candidate swore that the information contained in the report was true and correct and that it included all information required to be reported under Title 15 of the Election Code.

4. United States Postal Service records show that the sworn complaint notice letter was delivered to the respondent's address on May 21, 2011. The commission received a written response to this complaint on March 1, 2012.

IV. Findings and Conclusions of Law

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

Corporate Contribution to a Candidate

1. 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(a). Subchapter D, chapter 253, Election Code, does not authorize a corporation to make a political contribution to a candidate or to make a political expenditure to support a candidate by providing assets or resources to a candidate for campaign purposes.
2. A person may not knowingly make a political contribution in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003(a).
3. A contribution means, in pertinent part, a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. *Id.* § 251.001(2).
4. On or about May 5, 2008, the respondent made a \$200 political contribution to a candidate for state representative. Therefore, there is credible evidence of a violation of sections 253.003 and 253.094 of the Election Code.

Response to Sworn Complaint

5. If an alleged violation in a sworn complaint is a Category Two violation, the respondent must respond to the notice required by section 571.123(b) not later than the 25th business day after the date the respondent receives the notice. GOV'T CODE § 571.1242(b)(1). A respondent's failure to timely respond to a sworn complaint as required by subsection (a)(1) or (b)(1) is a Category One violation. *Id.* § 571.1242(c).
6. The violation alleged in this sworn complaint was a Category Two violation. The respondent was required to respond to this sworn complaint not later than the 25th business day after the date the respondent receives the notice. The respondent failed to do so. Therefore, there is credible evidence of a violation of section 571.1242(c) of the Government 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 may not make a political contribution to an officeholder or candidate for elected public office.

The respondent also acknowledges that if an alleged violation in a sworn complaint is a Category Two violation, the respondent must respond to the notice required by section 571.123(b) of the Government Code not later than the 25th business day after the date the respondent receives the notice, and that a respondent's failure to timely respond to a sworn complaint is a separate Category One violation.

The respondent agrees to comply with these requirements 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 \$200 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-3110343.

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

Cy-Fair Professional Group, Inc., Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director