

TEXAS ETHICS COMMISSION

IN THE MATTER OF

RICHARDSON RURAL HEALTH
CLINIC, INC.,

RESPONDENT

§
§
§
§
§
§

BEFORE THE

TEXAS ETHICS COMMISSION

SC-31210299

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 8, 2013, to consider sworn complaint SC-31210299. 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 prohibited corporate political contribution to a political committee.

III. Facts Supported by Credible Evidence

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

1. The respondent is a domestic for-profit corporation located in Cameron, Texas. The complaint alleged that the respondent made an unlawful political contribution of \$125 to a general-purpose political committee established by an incorporated association.
2. The political committee's March 2011 monthly campaign finance report disclosed a \$125 political contribution from "Richardson Rural Health Clinic" with a date of February 7, 2011. The contribution was disclosed on Schedule A of the report, which is used by a general-purpose committee to disclose political contributions from non-corporate sources. The report stated that the contributor was "Not a corporation." The report included one page for Schedule C-2, which is used by a general-purpose committee to disclose political contributions from corporations for the committee's administration or solicitation expenses.

The Schedule C-2 did not disclose any political contributions from the respondent. The political committee disclosed a political expenditure of \$125 to the respondent on September 25, 2012, with the description, "Refund of contribution."

3. In response to the complaint, the president and sole director ("the president") of the corporation, swore, in pertinent part:

I am a retired (8/31/09) physician in rural Texas ... after 52 years of General Practice. Also, I have been an active member of the Texas Medical Association since 1956 and have contributed to [the political committee] annually.

The last contribution of \$125.00 was made by check # 26472 on February 3, 2011, which included a \$10.00 donation to Physicians Benevolent Fund for a total of \$135.00.

This check was written inadvertently on a business account (Richardson Rural Health Clinic) instead of my personal account. It was treated as a "political contribution" and not declared as deductible on my 2011 income tax return.

[The political committee] refunded \$125.00 by check # 11136 on 9/25/12.

I apologize for this error and feel that the issue by the complainant should be now amicably settled. ...

See copy TMA notice for membership dues.

4. The respondent submitted a 2011 membership dues invoice from the association to the president of the corporation. The invoice was completed to designate payments of \$125 to the political committee and \$10 to a "Physicians Benevolent Fund."
5. The president of the corporation submitted the following:
- Check number 26472, drawn on the respondent's account at an address in Cameron, Texas. The check was payable to the association in the amount of \$135.00 and appeared to be signed by the president. The check included the name and logo of a bank in Cameron, Texas. The check also included an image of a staff entwined by two snakes or a caduceus (sometimes used as a symbol for medical practice). The check also included a grid on the left side with the heading, "This check is delivered for payment on the following

accounts,” under which was handwritten “Retired Membership, [the political committee] 125.00, Phys. Board 10.00.”

- Six checks drawn on the president’s personal account. The checks did not resemble the respondent’s checks in size, shape, or appearance.
6. The president also submitted a bank statement for the respondent’s corporate account covering February 2011 that indicated that the balance as of February 28, 2011, was \$4,419.04. During that month, there were no deposits to the account.
 7. The president stated that he learned after the complaint was filed that he “wasn’t supposed to” make the contribution at issue from the corporate account. He also stated that he was unaware of the prohibition at the time and that he had used the corporation’s leftover checks to keep his association membership active and was trying to get rid of the checks from the corporate account. He also stated that he sold the clinic in 2006 and that the new owners retained the name of the clinic and that he no longer conducts business through the corporate account.
 8. The political committee’s campaign finance reports also disclosed the following additional political contributions since January 1, 2001:
 - \$125 from the president on February 1, 2001
 - \$125 from the president on March 27, 2001
 - \$125 from the president on January 2, 2002
 - \$125 from the president on August 5, 2003
 - \$125 from the president on December 12, 2003
 - \$125 from the president on August 17, 2005
 - \$125 from the president on December 16, 2005
 - \$125 from the president on October 13, 2006
 - \$125 from Richardson Rural Health Clinic on December 11, 2007
 - \$125 from the president on October 16, 2008
 - \$125 from Richardson Rural Health Clinic on December 4, 2009
 - \$125 from the president on November 26, 2012
 9. Records of the Texas Secretary of State (SOS) indicated that, as of June 12, 2013, the respondent is an active for-profit corporation with the president as the sole director.

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, Election Code. ELEC. CODE § 253.003(a).
2. A corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, Chapter 253, Election Code. *Id.* § 253.094(a). That subchapter authorizes a corporation to make one or more political expenditures to finance the establishment or administration of a general-purpose committee. *Id.* § 253.100(a). A corporation may also make political expenditures to finance the solicitation of political contributions to a general-purpose committee it assists under section 253.100(a) of the Election Code from the stockholders, employees, or families of stockholders or employees of one or more corporations. *Id.* § 253.100(b). A corporation may also make campaign contributions from its own property in connection with an election on a measure only to a political committee for supporting or opposing measures exclusively. *Id.* § 253.096. Subchapter D does not authorize a corporation to make a political contribution to a general-purpose committee for any other purpose.
3. “Corporation” means a corporation that is 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. *Id.* § 253.091.
4. 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).
5. A political contribution means a campaign contribution or an officeholder contribution. *Id.* § 251.001(5).
6. A campaign contribution means, in pertinent part, a contribution to a political committee that is offered or given with the intent that it be used in connection with a campaign for elective office. *Id.* § 251.001(3).
7. An 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. *Id.* § 251.001(4).
8. On or about February 3, 2011, the respondent’s president and director used the respondent’s funds to make a payment of \$135 to the association. Of that amount, \$125 was intended as a political contribution to the political committee. The president swore that the check to the

association was “written inadvertently on a business account ... instead of my personal account.” The evidence indicates that the president, on behalf of the respondent, wrote and sent the check at issue to the association with the intent to make a political contribution to the political committee from the respondent’s corporate funds. There is no evidence that the political contribution was intended for the political committee’s administration or solicitation expenses or that the contribution was made in connection with an election on a measure only to a political committee for supporting or opposing measures exclusively. Therefore, there is credible evidence that the respondent violated sections 253.003(a) and 253.094(a) 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: 1) a corporation may not make a political contribution that is not specifically authorized by subchapter D, chapter 253 of the Election Code, 2) the law authorizes a corporation to make a political contribution only to a general-purpose committee to finance the establishment or administration of the committee, to a general-purpose committee to finance the solicitation of political contributions to the committee it assists from the stockholders, employees, or families of stockholders or employees of one or more corporations, or to a political committee in connection with an election on a measure only to a political committee for supporting or opposing measures exclusively, and 3) the political contribution at issue was not authorized by statute. 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 nature, circumstances, and consequences of the violation described under Sections III and IV, and after considering the sanction necessary to deter future violations, the commission imposes a \$100 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-31210299.

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

Richardson Rural Health Clinic, Inc.,
Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director