

# TEXAS ETHICS COMMISSION

IN THE MATTER OF

DAVID TORRES,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31410222

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (Commission) met on February 12, 2015, to consider sworn complaint SC-31410222. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 253.003 and 253.094 of the Election Code, a law 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 accepted prohibited corporate political contributions.

### III. Facts Supported by Credible Evidence

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

1. The respondent was an unsuccessful candidate for Nueces County Commissioner, Precinct 1, in the November 2012 joint election.
2. The complaint alleged that the respondent accepted three political contributions from three corporations.
3. The first contribution at issue was for \$500 from “Ruben’s Fleet Service” and was accepted on September 20, 2012. The second contribution at issue was for \$200 from “Madfish Auto Sales” and was accepted on September 20, 2012. The third contribution at issue was for \$2,000 from “C.C. Distributors” and was accepted on September 21, 2012. All three contributions were disclosed on Schedule A (used to disclose political contributions) of the respondent’s 30-day pre-election report, which was filed after the respondent exceeded the \$500 limit for modified reporting.

4. According to records at the Texas Secretary of State's (SOS) office, C C Distributors, Inc. (C C), Rubens Fleet Service, Inc. (Rubens), and Madfish Auto Sales, Inc. (Madfish) are domestic for-profit corporations based in Corpus Christi, Texas, and were active when the contributions at issue were accepted.
5. On March 8, 2012, the respondent filed a campaign treasurer appointment on which he signed a statement acknowledging: "I am aware of the restrictions in title 15 of the Election Code on contributions from corporations and labor organizations."
6. In response to the complaint, the respondent admitted accepting contributions from two of the corporations, Rubens and Madfish. The respondent returned the \$700 in contributions to the two corporations on December 9, 2014, and submitted with his response copies of the checks he remitted to the two corporations.
7. In reference to the third contribution from C C, the respondent swore that he received the contribution from the owner, as an individual, and not the corporation. The respondent also swore that he listed "C C Distributors" as the contributor by mistake on his 30-day pre-election report. The respondent submitted copies of a personal check and a cashier's check from the contributor and both show the remitter as "George A. Finley III." Neither check displays the corporation's name or address.

#### **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 accept a political contribution that the person knows was made in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003(b).
2. A corporation may not make a political contribution to a candidate or officeholder. *Id.* § 253.094(a).
3. 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. *Id.* § 253.091.
4. To establish a violation of section 253.003 of the Election Code, the evidence must show that the contributor was a corporation, that at the time the respondent accepted the contribution he knew that corporate contributions were illegal, and that the respondent knew the particular contribution at issue was from a corporation.

5. Credible evidence establishes that Rubens, Madfish, and C C are corporations incorporated with the Texas SOS. The respondent signed his campaign treasurer appointment on March 8, 2012, acknowledging the restrictions on corporate contributions. The contributions from Ruben and Madfish were written on corporate checks. Thus, there is credible evidence establishing the respondent knowingly accepted a political contribution from prohibited corporations in violation of sections 253.003 and 253.094 of the Election Code.
6. In regard to the third corporation, however, credible evidence shows that the checks given to the respondent were personal checks from the owner of the corporation, as an individual and not the corporation. The respondent listed C C as the contributor by mistake on his pre-election report. Therefore, there is credible evidence of no 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 person may not knowingly accept a political contribution from a corporation. The respondent agrees to comply with this requirement 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 \$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-31410222.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
David Torres, Respondent

EXECUTED ORIGINAL received by the Commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
Natalia Luna Ashley, Executive Director