

TEXAS ETHICS COMMISSION

IN THE MATTER OF
TIME-OUT SPORTS, INC.,
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-31604113

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (Commission) met on August 15, 2016, to consider sworn complaint SC-31604113. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 253.003, 253.094 and 253.103 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. Allegations

The complaint alleged that the respondent made a prohibited corporate political contribution and a prohibited corporate loan to a candidate.

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 and was a corporation in good standing at the time of the events alleged in the complaint.
2. The complaint alleged that the respondent made a political contribution and a loan to a candidate for the Farmers Branch City Council for the May 7, 2016, election.
3. According to records at the Texas Secretary of State's (SOS) office, Time-Out Sports, Inc. is a domestic for-profit corporation that was active at the time the contribution and loan at issue were made. Terry Lynne is the President and sole shareholder of the for-profit corporation. Terry Lynne was the candidate to whom the contribution and loan were made by the respondent.

4. The contribution at issue was for \$500 and was made and accepted on February 8, 2016. The loan at issue was for \$5,000 and was made and accepted on March 23, 2016. The contribution was disclosed on Schedule A (used to disclose political contributions) of the candidate's 30-day pre-election report for the May 7, 2016, election. The loan was disclosed by the candidate on Schedule E (used to report loans) on the same report.
5. In response to the complaint, Terry Lynne, the President of the respondent admitted to making the contribution to himself as a candidate for the Farmers Branch City Council. Terry Lynne, as the candidate, returned the \$500 contribution and the \$5,000 loan to the respondent on April 20, 2016, and submitted with his supplemental response copies of the checks he remitted to the corporation.
6. Terry Lynne, the President of the respondent, swore that the respondent was not engaged in the business of lending money.

IV. Findings and Conclusions of Law

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

1. A corporation or labor organization may not make a political contribution that is not authorized by Chapter 253, Subchapter D, Election Code. ELEC. CODE § 253.094(a). Subchapter D does not authorize a corporation to make a political contribution to a candidate or officeholder.
2. 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.
3. A corporation may not make a loan to a candidate, officeholder or political committee for campaign or officeholder purposes unless the corporation has been legally and continuously engaged in the business of lending money for at least one year before the loan is made and the loan is made in the due course of business. *Id.* § 253.103(a).
4. "Contribution" means 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. The term includes a loan or extension of credit, other than those expressly excluded by this subdivision, and a guarantee of a loan or extension of credit, including a loan described by this subdivision. The term does not include a loan made in the due course of business by a corporation that is legally engaged in the business of lending money and that has conducted the business continuously for more than one year

before the loan is made; or an expenditure required to be reported under Section 305.006(b), Government Code. *Id.* § 251.001(2).

5. “Political contribution” means a campaign contribution or an officeholder contribution. *Id.* § 251.001(5).
6. “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. *Id.* § 251.001(3).
7. Credible evidence indicates that the respondent made a direct transfer of money to a candidate to be used in connection with a campaign for an executive office. The contribution at issue was made by a prohibited corporation and was disclosed by the candidate as a political contribution. Therefore, there is credible evidence of a violation of sections 253.003(a) and 253.094(a) of the Election Code. Credible evidence indicates that the respondent made a loan to a candidate for campaign purposes when the respondent was not a corporation that engaged in the business of lending money. Therefore, there is credible evidence of a violation of section 253.103(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 a corporation or labor organization may not make a political contribution that is not authorized by law. The respondent further acknowledges that a corporation cannot make a loan to a candidate, officeholder or political committee for campaign or officeholder purposes unless the corporation has been legally and continuously engaged in the business of lending money for at least one year before the loan is made and the loan is made in the due course of business. 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 nature, circumstances, and consequences of the violations described under Sections III and IV, and after considering the sanction necessary to deter future violations, the Commission imposes a \$550 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-31604113.

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

Terry Lynne, President of the Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director