

TEXAS ETHICS COMMISSION

IN THE MATTER OF

WASHINGTON COUNTY
SHOOTING CLUB, INC.,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-3110223

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 21, 2011, to consider sworn complaint SC-3110223. 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 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 business entity located in Brenham, Texas. According to a certificate of formation filed with the Texas Secretary of State, the respondent formed as a domestic nonprofit corporation on August 1, 2007, with the name "Washington County Shooting Club, Inc." The respondent forfeited its status as a nonprofit corporation on May 21, 2010.
2. The complaint alleged that the respondent made an unlawful political contribution to an incumbent candidate for state representative. The candidate disclosed a \$200 political contribution from "Washington County Shooting Club" in Brenham on August 4, 2009, in a January 2010 semiannual campaign finance report.
3. In response to the allegations, the respondent's secretary and former registered agent and director submitted an affidavit, in which he swore:

In 2006 the Club Officers ask [sic] [an individual] to help get a 501c3 status from the IRS. One of the requirements was to apply for a Non-Profit corporation with the Secretary of State of Texas. We filed the paperwork with the IRS and state. The IRS sent the application back with many questions and because the IRS had not granted us the Non-Profit status we thought that the state would hold up granting us a Non-Profit Corporation until the IRS status was granted. The club has never held a formation meeting, we never conducted business as a corporation and never used the INC after our name.

In July of 2009 we did give [the candidate] a \$200.00 donation to her reelection campaign. [The candidate] has returned the money. Since the Club was still a private club I don't think this was wrong to send the check. The Secretary of State did make us a Non-Profit Corporation on the 1st of August 2007 even though the IRS has never given us the 501c3 status.

I don't know where this leaves us, the State of Texas says we are a Non-Profit Corporation but the IRS refused to give us the 501c3 status.

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 does not authorize a corporation to make a political contribution to a candidate or officeholder.
3. "Corporation" means a corporation that is organized under the Texas Business Corporation Act, the Texas Non-Profit 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 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 candidate 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, in pertinent part, a contribution to an officeholder 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. The respondent made a \$200 political contribution to a candidate at a time when it was a non-profit corporation. 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 a corporation may not make a political contribution to a candidate or officeholder. 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 seriousness of the violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, 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-3110223.

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

Washington County Shooting Club, Inc.,
Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director