

to disclose political contributions) of four monthly campaign finance reports filed by the committee. The committee's December 2010 report showed three contributions all made on November 9, 2010. The committee's November 2011 report showed one contribution made on October 24, 2011. The committee's December 2011 report showed a contribution on October 21, November 14, and November 18 of 2011. Finally, the committee's February 2012 report showed a contribution on December 27, 2011, and another contribution on January 9, 2012.

3. The committee's October 2012 report disclosed a \$1,500 expenditure to the respondent that was categorized as "accounting/banking" and described as "refund of contributions."
4. In response to the complaint, the respondent's vice president stated that the contributions at issue were made by the respondent on behalf of individual physicians employed by the respondent. The vice president explained that each employee physician has a corporate practice account that the physicians occasionally use for personal expenses. The employee physicians conduct their practices on a net revenue formula in which these expenses are deducted from revenues paid to the physicians. The respondent, through its attorney, reasoned that since the contributions were ultimately deducted from the net revenue paid to the individual physicians, the contributions were made by the individual physicians rather than by the respondent corporation.
5. The vice president further explained that the confusion was due, in part, to the incorporated association using forms that allowed physicians to renew their membership and make contributions to the committee at the same time. She also stated that the respondent implemented new accounting policies in 2014 to prevent further contributions from being made.
6. After the respondent's initial response, written questions were submitted to the respondent through its attorney pursuant to Section 571.1243 of the Texas Government Code. The respondent provided only a partial response to the written questions.
7. The respondent explained that the contributions were made from several different corporate accounts. Each physician employed by the respondent has a practice account from which the expenses of their practices are drawn. These accounts are controlled by the respondent. Physicians may only view monthly income and expense reports associated with these accounts and do not have access to the account proceeds. The accounts are managed by corporate practice managers and regional directors, and a third party vendor provides accounting, billing, and collection services.

8. The respondent identified only four of the nine physicians on whose behalf the contributions were made. The respondent did not respond to a question inquiring whether the contributions at issue were made with the same checks or instruments as those used to pay the incorporated association's membership dues.
9. The respondent also stated that after the contributions at issue were returned by the committee, they were credited back to the physicians' practice accounts. However, the respondent did not specify the individual physicians associated with the credited accounts, nor did the respondent respond to a written question inquiring of the total amount returned to each account.

Response to Sworn Complaint

10. Sworn complaint SC-31210294 was resubmitted on November 29, 2012, and jurisdiction was accepted by the Commission.
11. The Commission sent a notice of the sworn complaint to the respondent by delivery confirmation on December 6, 2012. According to the United States Postal Service's records, the notice of this complaint was delivered to the respondent on December 8, 2012. The notice informed the respondent that the alleged violation in the sworn complaint was a Category Two violation, and that a response was required not later than 25 business days from the date the notice was received and that failure to respond constituted a separate violation for which a separate civil penalty may be assessed.
12. Based on the date of delivery, the respondent was required to submit a written response by January 17, 2013. The respondent's response was received by the Commission on September 19, 2014.

IV. Findings and Conclusions of Law

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

Corporate Contributions

1. A person may not knowingly make a political contribution in violation of Chapter 253, Election Code. ELEC. CODE § 253.003(a). 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).

2. A corporation, acting alone or with one or more other corporations, may make one or more political expenditures to finance the establishment or administration of a general-purpose committee. *Id.* § 253.100.
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. The contributions at issue were disclosed on Schedule A of the reports rather than Schedule C-2 (used to disclose corporate contributions accepted solely for establishment or administrative purposes). The contributions at issue were not made solely to finance the establishment or administration of the committee, and therefore the contributions were not authorized by the Election Code.
5. The contributions at issue were made with corporate funds from accounts controlled by the respondent, regardless of whether the respondent eventually passed on the expenses to the individual physicians. The contributions were initially authorized by the respondent’s physician employees, and the accounts from which the contributions were drawn were overseen by the respondent’s employees. Additionally, the contributions were made over a 14 month period. Therefore, the contributions at issue were made knowingly.
6. Credible evidence indicates that the contributions at issue were made by a prohibited corporation. Therefore, there is credible evidence of violations of sections 253.003(a) and 253.094(a) of the Election Code.

Response to Sworn Complaint

7. If the 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 (b)(1) is a Category One violation. *Id.* § 571.1242(c).
8. The respondent was required to submit a written response by January 17, 2013. The respondent’s response was received by the Commission on September 19, 2014. Accordingly, the response was filed approximately 610 days after the deadline. 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: 1) a person may not knowingly make a political contribution in violation of Chapter 253, Election Code; 2) a corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, Chapter 253, Election Code; and 3) if the 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. A respondent's failure to timely respond to a sworn complaint as required by subsection (b)(1) is a 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 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 \$3,875 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-31210294.

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

Texas Health Physicians Group, Respondent

EXECUTED ORIGINAL received by the Commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director