

TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
ALLEN POLICE ASSOCIATION,	§	TEXAS ETHICS COMMISSION
RESPONDENT	§	SC-31906115

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (“Commission”) met on June 18, 2020, to consider sworn complaint SC-31906115. 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 the complaint without further proceedings, the Commission adopted this resolution.

II. Allegations

The complaint alleged that the respondent, a corporation: 1) made a political contribution to a general-purpose committee, in violation of Sections 253.003 and 253.094 of the Election Code; 2) made political expenditures for brochures and/or direct mail supporting or opposing a candidate for a political committee, in violation of Sections 253.004 and 253.100(d)(3) of the Election Code; and 3) published, distributed, or broadcast political advertising that did not indicate in the advertising the full name of the actual person who paid for the political advertising, in violation of Section 255.001 of the Election Code.

III. Findings of Fact and Conclusions of Law

1. At all times relevant to the complaint, the respondent, Allen Police Association (“APA”), was a domestic non-profit corporation in Texas.

Corporate Contribution

2. The complaint alleged that, sometime between March 26, 2019, and April 24, 2019, the respondent “contributed \$2,500 to McKinney Political Action Committee, which is controlled by Professional Firefighters of McKinney, Local 2661.” The complaint further alleged that the contribution was in support of an identified candidate.

3. Records on file with the Commission show that McKinney Political Action Committee (“MPAC”) is a general-purpose committee.
4. In response to written questions from Commission staff, the treasurer of MPAC swore that Professional Firefighters of McKinney, Local 2661, established the committee. He also swore that MPAC is the same entity as Professional Firefighters of McKinney Political Action Committee (“PFFM PAC”) and the same entity as McKinney Firefighters Association for Responsible Government (“MFFARG”).
5. The treasurer of MPAC/PFFM PAC swore that “a check was received from Allen Police Association Check #1131 but, was refused and was never deposited into our General or PAC Account.” Bank records under the account named “PFFM PAC” show that the check from APA was not deposited. The treasurer of MPAC/PFFM PAC stated that the check was returned on or about May 24, 2019.
6. The treasurer of MPAC/PFFM PAC produced a copy of the above-referenced check, which was imprinted with “ALLEN POLICE ASSOCIATION.” The check was issued from APA to “PFFM PAC” in the amount of \$2,500 and was dated April 1, 2019. The image of the check shows it was not endorsed and there were no markings on the check to indicate that it was deposited or cashed.
7. Records on file with the Texas Secretary of State show that APA is a domestic non-profit corporation.
8. In response to the complaint, the president of APA, on behalf of the respondent, swore that “no expenditures or contributions were actually ever made” to any candidate or political committee. More specifically, he swore that the respondent did not make “any expenditures or contributions to the McKinney Political Action Committee.”
9. In response to written questions from Commission staff, the president of APA swore that he hand-delivered the above-referenced check to a representative of the Allen Firefighters Association, Local 3453 (“AFA”), on or about April 1, 2019. In response to written questions from Commission staff, the president of AFA swore that an agent of AFA delivered the check to MPAC/PFFM PAC on April 2, 2019.
10. In response to written questions from Commission staff, the president of APA swore that the treasurer of MPAC/PFFM PAC returned the check to him by hand-delivery “[s]ometime in May 2019.”
11. In response to written questions from Commission staff, the president of APA swore, “I believed that the [Allen Police] Association could make a donation to another PAC to be used as a political contribution, specifically to a candidate.” The sworn response identified the candidate. The respondent did not produce a contemporaneous written instruction or

other evidence that the check was restricted to the establishment, administration, maintenance, or operation of MPAC/PFFM PAC.

12. In response to written questions from Commission staff, the identified candidate produced a text message from the president of APA dated March 18, 2019, which stated:

The Police Association has voted to donate \$2500, and I think the Fire Association is going to donate the same amount. From my understanding, we are going to donate the money to McKinney's PAC, and they will cut you a check. We aren't able to, directly, donate to our own PAC, or we would already have you the money.

13. "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. Tex. Elec. Code § 251.001(2). "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). "Political contribution" means a campaign contribution or an officeholder contribution. *Id.* § 251.001(5).
14. 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). Subchapter D does not authorize a corporation to make a political contribution to a political committee. However, 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(a).
15. A person may not knowingly make a political contribution in violation of Chapter 253 of the Election Code. *Id.* § 253.003(a).
16. 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.
17. Credible evidence indicates that the respondent, a corporation, transferred a check for \$2,500 to MPAC/PFFM PAC with the intent that it be used in connection with the campaign of an identified candidate, and not as a political expenditure to finance the establishment or administration of MPAC/PFFM PAC. Credible evidence indicates that the respondent made a prohibited political contribution to a political committee. Therefore, there is credible evidence of a violation of Sections 253.003(a) and 253.094(a) of the Election Code.

Political Advertising Push Cards

18. The complaint alleged that, “[f]rom about April 11, 2019, to May 4, 2019, the respondent produced and distributed push cards that supported candidates.” The complaint also alleged that the “[p]ush cards carry the disclosure, ‘Political Ad paid for by APSRG PAC,’ a committee that did not file forms GTA or GPAC, or forms STA or SPAC.” The complaint included an image of political advertising that supported two candidates and displayed the disclosure statement identifying APSRG PAC (also known as Allen Public Safety for Responsible Government) as the source of the political advertising.
19. In response to the complaint, the president of APA swore that the respondent made no “expenditures or contributions for political advertising.” More specifically, he swore that the respondent made no expenditures “for brochures or direct mail supporting or opposing any candidate.”
20. In response to written questions from Commission staff, the president of APA swore that the respondent published or distributed the political advertising that was included in the complaint. However, he swore that the respondent posted the political advertising on its social media accounts, provided the political advertising to identified candidates in a digital format only, and did not publish or distribute the political advertising in any written communication. He further swore that the respondent made no expenditures for the political advertising.
21. In response to written questions from Commission staff, the president of APA swore that “both the Allen Police Association and the Allen Firefighter[s] Association agreed to form the APSRG PAC” prior to his term of office, which began in February 2018. He further swore that the president of AFA, who “was part of the group that participated in the agreement to form APSRG PAC,” provided the political advertising to the respondent. He also swore that the president of AFA was an agent of both APSRG PAC and AFA.
22. A corporation or labor organization may not make expenditures for brochures and direct mail supporting or opposing a candidate for a political committee. Tex. Elec. Code § 253.100(d)(3).
23. A person may not knowingly make or authorize a political expenditure in violation of Chapter 253 of the Election Code. *Id.* § 253.004(a).
24. A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising that it is political advertising and the full name of the person who paid for the political advertising, the political committee authorizing the political advertising, or the candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate. *Id.* § 255.001(a).

25. No credible evidence indicates that the respondent made expenditures to produce and distribute push cards or any other brochures or direct mail supporting or opposing a candidate. Moreover, no credible evidence indicates that APSRG PAC was not the full name of the entity that paid for or authorized the political advertising or that the respondent published or distributed push cards without a proper disclosure statement. Therefore, there is credible evidence of no violation of Sections 253.004(a), 253.100(d)(3), or 255.001(a) of the Election Code.

IV. 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 findings of fact and conclusions of law described under Section III, 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 or political expenditure that is not authorized by Subchapter D, Chapter 253, Election Code. Subchapter D does not authorize a corporation to make a political contribution to a political committee; and 2) a person may not knowingly make a political contribution in violation of Chapter 253, Election Code. The respondent agrees to fully and strictly comply with these requirements of the law.

V. 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.

VI. Sanction

After considering the nature, circumstances, and consequences of the violation described under Section III, and after considering the sanction necessary to deter future violations, the Commission imposes a \$500 civil penalty.

VII. 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-31906115.

AGREED to by the respondent on this _____ day of _____, 2020.

Allen Police Association, Respondent

By: _____
(Signature)

(Printed Name)

(Title)

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
Anne Temple Peters, Executive Director