

Ck# 1334
Amt. \$400.00
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Pymt Rec'd 12-19-2023

TEXAS ETHICS COMMISSION **JTH**

IN THE MATTER OF	§	BEFORE THE
DEWEY HALL,	§	TEXAS ETHICS COMMISSION
RESPONDENT	§	SC-32306197



**ORDER
and
AGREED RESOLUTION**

I. Recitals

The Texas Ethics Commission (Commission) met on December 18, 2023, to consider sworn complaint SC-32306197. A quorum of the Commission was present. The Commission determined that there is credible evidence of a violation of Sections 253.003(a) and 253.094(a) of the Election Code, laws administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the Commission adopted this resolution.

II. Allegation

The complaint alleged that, on behalf of his church, Fountaingate Merkel Church, a Texas nonprofit corporation, the respondent made a monetary political contribution from corporate funds to Scott Beard, a candidate for Abilene’s city council, in violation of Sections 253.003(a) and 253.094(a) of the Election Code.

III. Findings of Fact and Conclusions of Law

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

1. At all times relevant to the complaint, the respondent was the pastor of Fountaingate Merkel Church. Fountaingate Merkel Church is a Texas nonprofit corporation. According to Fountaingate Merkel Church’s certificate of formation, the respondent is also a director of Fountaingate Merkel Church.
2. Scott Beard is the senior pastor of Fountaingate Church in Abilene, which despite the similar name is not affiliated with Fountaingate Merkel Church. Beard was an unsuccessful candidate for Abilene’s city council in the May 6, 2023 election. On his 8-day pre-election report, Beard disclosed accepting a \$200 monetary contribution from “Fountain Gate Merkel.” On the report, Beard dated the contribution March 28, 2023.
3. The sworn complaint linked this \$200 political contribution to a fundraising dinner for Scott Beard’s campaign. The complaint included a flyer promoting the event, which noted that the price to attend the fundraiser was \$50 per ticket, or \$400 to reserve a table.

4. In his sworn response to the complaint, the respondent denied the allegation on the ground that he “was unaware that making a political contribution from [his] church, a nonprofit corporation, was in violation” The respondent included a copy of the check by which he had donated \$200 to Beard’s campaign. The check is from Fountaingate Merkel Church, is dated March 22, 2023, and is signed by the respondent.
5. A corporation or labor organization may not make a political contribution that is not authorized by Subchapter D of Chapter 253 of the Texas Election Code. Tex. Elec. Code § 253.094(a). Section 253.094 of the Texas Election Code applies to corporations that are organized under the Texas Non-Profit Corporation Act, among other statutes. *Id.* § 253.091. A person may not knowingly make a political contribution in violation of Chapter 253 of the Texas Election Code, which includes Section 253.094(a) of the Texas Election Code. *Id.* § 253.003(a).
6. As a director of Fountaingate Merkel Church, a nonprofit corporation, the respondent made a \$200 political contribution to Scott Beard’s campaign. There is therefore credible evidence of a violation of Section 253.094(a) of the Election Code.
7. The respondent denies that he has violated Section 253.003(a) because he was unaware that making a political contribution from nonprofit corporate church funds violated the statute. However, the statute does not require that an individual know that his activity violates the statute for a violation to exist. *Compare* Tex. Elec. Code § 253.003(a) *with* §§ 253.003(b) (“A person may not knowingly accept a political contribution the person *knows to have been made in violation of this chapter*”) and 253.005(a) (“A person may not knowingly make or authorize a political expenditure wholly or partly from a political contribution the person *knows to have been made in violation of this chapter*”) (emphasis added); *see also Osterberg v. Peca* 12 S.W.3d 31, 38 (Tex. 2000) (holding that a similarly phrased section of Title 15 did not require knowledge of illegality for a violation to exist, relying on “the general proposition that ignorance of the law is not a defense” and comparison with Sections 253.003(b) and 253.005(a) of the Election Code, also cited here). The respondent signed the church’s certificate of formation, which it filed with the Texas Secretary of State to claim status as a nonprofit corporation, and signed the check by which the church made its contribution to Beard. There is therefore credible evidence of a violation of Section 253.003(a) of the Election Code.
8. By a check dated May 2, 2023, before this sworn complaint was filed and before the May 6, 2023 election, Scott Beard’s campaign returned the \$200 political contribution to Fountaingate Merkel Church.

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 a corporation or labor organization may not make a political contribution that is not specifically authorized by the Texas Election Code. The respondent further acknowledges that nonprofit corporations are subject to this restriction, and that Fountaingate Merkel Church is organized as a nonprofit corporation.
4. The respondent further acknowledges that a person may not knowingly make a political contribution in violation of the prohibitions contained in Chapter 253 of the Texas Election Code.

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 \$400 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-32306197.

AGREED to by the respondent on this 24 day of NOV., 2023.



Dewey Hall, Respondent

EXECUTED by the Commission on: December 21, 2023.

Texas Ethics Commission

By: J.R. Johnson

J.R. Johnson, Executive Director