

TEXAS ETHICS COMMISSION

IN THE MATTER OF
LES R. TARRANCE,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2905129

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 2, 2009, to consider sworn complaint SC-2905129. 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 and section 571.1242 of the Government 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, as the director of an incorporated entity, made an unlawful political contribution.

III. Facts Supported by Credible Evidence

Credible evidence available to the commission supports the following findings of fact:

1. The respondent is the Director of High Timbers Executive Plaza, Inc. (HTEP). Texas Secretary of State records show that HTEP is a domestic non-profit corporation and show the respondent as both Director and President of the entity.
2. The complaint alleged that the respondent as president of an incorporated entity made a contribution to Don Chumley, an incumbent candidate for constable of Precinct 1 of Montgomery County in the March 2008 primary election.
3. Mr. Chumley's July 2007 semiannual report disclosed a political contribution in the amount of \$120 from High Timbers Executive Plaza on July 3, 2007.

4. On May 20, 2009, the commission mailed notice of this sworn complaint by certified mail, restricted delivery, return receipt requested. The notice was delivered on May 26, 2009, to the respondent, who signed the delivery confirmation.
5. The commission has not received a response to the complaint.

IV. Findings and Conclusions of Law

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

Corporate Contribution to a Candidate

1. A corporation may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, Election Code. ELEC. CODE § 253.094(a). Subchapter D, chapter 253, Election Code, does not authorize a corporation to make a political contribution to a candidate or to make a political expenditure to support a candidate by providing assets or resources to a candidate for campaign purposes.
2. A political contribution means a campaign contribution or an officeholder contribution. *Id.* § 251.001(5).
3. A 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. *Id.* § 251.001(3).
4. A contribution means, in pertinent part, 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. An officer, director, or other agent of a corporation or labor organization who commits an offense under this subchapter is punishable for the grade of offense applicable to the corporation or labor organization. ELEC. CODE § 253.095.
6. High Timbers Executive Plaza, Inc. made a political contribution to a candidate. At the time of the contribution, the respondent was the Director and President of HTEP. Therefore, there is credible evidence of a violation of sections 253.003 and 253.094 of the Election Code.

Failure to Respond to Notice of a Sworn Complaint

7. A respondent must respond to the notice of a Category Two violation not later than the 25th business day after the date the respondent receives the notice. Failure to respond to a notice of sworn complaint within the time required is a separate Category One violation. GOV'T CODE § 571.1242(a)(c).

8. United State Postal Service records show that the notice of this complaint was delivered to the respondent on May 26, 2009. The notice stated that the respondent was required to respond within 25 business days from receipt of the notice. The respondent failed to respond. Therefore, there is credible evidence of a violation of section 571.1242 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 a respondent must respond to the notice of a Category Two violation not later than the 25th business day after the date the respondent receives the notice. The respondent acknowledges that a corporation may not make a political contribution to a candidate or officeholder. 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 seriousness of the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes a \$700 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-2905129.

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

Les. R. Tarrance, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director