

TEXAS ETHICS COMMISSION

IN THE MATTER OF
PINE FOREST LTD.,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31109213

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on January 31, 2013, to consider sworn complaint SC-31109213. 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, as a limited partnership with an incorporated general partner, the respondent made a political contribution in violation of sections 253.003 and 253.094 of the Election Code.

III. Facts Supported by Credible Evidence

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

1. The complaint alleged that the respondent, a domestic limited partnership, made an unlawful political contribution to a county commissioner.
2. Texas Secretary of State (SOS) records show that Pine Forest, Ltd. is a domestic limited partnership. SOS records show that The Gustafson Group, Inc. is a general partner of Pine Forest, Ltd. The Gustafson Group, Inc. is a domestic for-profit corporation.
3. In response to the complaint, the president of The Gustafson Group, Inc., swore that until the complaint was filed, the company was unaware that a partnership with a corporate general partner could not make a political contribution.
4. The evidence showed that the respondent requested and received the \$100 political contribution at issue back from the county commissioner at issue. The evidence also showed

that the respondent deposited the funds back into an account that the limited partnership maintained.

IV. Findings and Conclusions of Law

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

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 person may not knowingly make a political contribution in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003(a).
3. A partnership that has corporate partners is subject to the same restrictions on political activity that apply to corporations. Ethics Advisory Opinion Nos. 215 (1994), 221 (1994).
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. The respondent is Pine Forest, Ltd., a domestic limited partnership whose general partner is incorporated. Because Pine Forest, Ltd., is a partnership that has a corporate partner, it is subject to the same restrictions on political activity that apply to corporations. Thus, the respondent could not legally make a political contribution to a candidate or officeholder in Texas. The evidence shows that the respondent made a \$100 political contribution to an elected officeholder in Texas. Therefore, there is credible evidence of a violation of sections 253.003 and 253.094 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 or political expenditure that is not authorized by subchapter D, Chapter 253, Election Code and that subchapter does not authorize a political contribution to a candidate from a corporation, and that a partnership including one or more corporate partners is subject to the same restrictions on political activity that apply to corporations.

The respondent agrees to comply with these requirements 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 nature, circumstances, and consequences of the violation described under Sections III and IV, and the sanction necessary to deter future violations, the commission imposes a \$100 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-31109213.

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

Pine Forest, Ltd., Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director