

TEXAS ETHICS COMMISSION

IN THE MATTER OF

CHRIS GREEN,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31205125

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 21, 2014, to consider sworn complaint SC-31205125. 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 the respondent accepted a political contribution from a corporation.

III. Facts Supported by Credible Evidence

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

1. The respondent was an unsuccessful candidate for Smith County Sheriff in the 2012 primary and runoff election.
2. The complaint alleged that the respondent accepted a political contribution of \$375 from a corporation.
3. The respondent disclosed on his January 2012 semiannual report an in-kind contribution, described as a discount for webhosting, from "Group M7."
4. Records from the Secretary of State show that Group M7, Inc., was a registered domestic for-profit corporation.
5. On September 1, 2011, the respondent filed a campaign treasurer appointment with Smith County. On his campaign treasurer appointment, the respondent signed a statement

stating that he was aware of the restrictions in Title 15 of the Election Code on contributions from corporations and labor organizations.

6. In response to the complaint, the respondent swore, “[w]e were given a standard political rate for our webhosting.”
7. The owners of Group M7, Inc., also provided a statement that read, in relevant part:

[We] offered a standard *political* webhosting discount of \$350.00 [sic] to the Chris Green Campaign. Any political donations are extended from [us] personally and not by the GroupM7 corporation.

(emphasis added).

8. A copy of the work order for the web design and hosting received by the respondent from Group M7, Inc., had the words “Group M7, Inc.” printed on the top. The work order, which also served as an itemized invoice, contained a \$375 credit for hosting services. It also contained a line item described as “contributions by [the owners of Group M7, Inc.,]” that served as a \$1,000 credit. With the discounts, the bill totaled \$3,200.67.
9. The respondent disclosed the \$1,000 credit as a \$500 in-kind contribution from the owners of Group M7, Inc., on his January 2012 semiannual report. The respondent’s designated agent and campaign manager stated that she mistakenly disclosed it as a \$500 contribution rather than a \$1,000 contribution.
10. Campaign finance reports filed by other candidates in the election showed that two candidates also disclosed in-kind contributions in varying amounts from Group M7, Inc.

IV. Findings and Conclusions of Law

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

Discount

1. A person may not knowingly accept a political contribution that the person knows was made in violation of chapter 253 of the Election Code. ELEC. CODE § 253.003(b). In order to show a violation of section 253.003(b) of the Election Code, the evidence must show that the contributor was a corporation or labor organization, that at the time the respondent accepted the contribution he knew that corporate contributions were illegal, and that the respondent knew the particular contribution at issue was from a corporation or labor organization.
2. A corporation or labor organization may not make a political contribution or political expenditure that is not authorized by subchapter D, chapter 253, of the Election Code. *Id.* § 253.094.

3. 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.
4. A “contribution” is 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. A “campaign contribution” is defined as “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).
6. A “political contribution” means a campaign contribution or an officeholder contribution. *Id.* § 251.001(5).
7. A “contribution” does not include a transfer for consideration of any thing of value pursuant to a contract that reflects the usual and normal business practice of the vendor. Ethics Commission Rules § 20.1(3).
8. In Ethics Advisory Opinion No. 398, the commission stated that, as a general rule, a discount to a candidate is a campaign contribution. Ethics Advisory Opinion No. 398 (1998). To avoid the prohibition on corporate campaign contributions it is critical that the terms of a contract between a corporation and a candidate be typical of the terms the corporation offers to political and non-political customers. *Id.*
9. An exchange of consideration between a candidate and a corporation will not by itself change the character of the transfer from a prohibited political contribution to a permissible commercial transaction. It is critical that the terms of the transaction reflect the usual and normal practice of the industry, and be typical of the terms the commercial party offers to political and non-political entities alike. Ethics Advisory Opinion No. 143 (1993).
10. Credible evidence indicates that the terms of the discount for webhosting offered to and accepted by the respondent were not typical of the terms offered to political and non-political customers alike and the discount was made with the intent that it be used in connection with a campaign for elective office. Therefore, the discount was a campaign contribution.
11. The respondent’s campaign treasurer appointment indicates that the respondent was aware of the restrictions in Title 15 of the Election Code on political contributions from corporations.

12. There is credible evidence that the respondent knew the \$375 contribution was made by a corporation and that candidates are prohibited from accepting corporate political contributions. Therefore, there is credible evidence of a violation of sections 253.003 and 253.094 of the Election Code as to the \$375 contribution.

\$1,000 Contribution

13. The \$1,000 contribution was listed on the Group M7, Inc., invoice as coming from the corporation's owners personally. There is insufficient evidence of a violation of sections 253.003 and 253.094 of the Election Code as to the \$1,000 contribution.

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 candidate may not accept a political contribution made by a corporation or labor organization. The respondent agrees to comply with this requirement 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 \$375 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-31205125.

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

Chris Green, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Natalia Luna Ashley, Executive Director