

TEXAS ETHICS COMMISSION

IN THE MATTER OF § BEFORE
§
ED SCHULZE, BOB FIORINI, § THE
GEORGE HOLST, and ██████████ §
██████████ RESPONDENTS § TEXAS ETHICS COMMISSION
§
SC-93020 §

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission ("commission") met on September 2, 1993, to consider sworn complaint SC-93020 filed against ED SCHULZE, BOB FIORINI, and GEORGE HOLST (the "Co-Respondents"), and ██████████ (the "Respondent"). Respondent ██████████ is not a party to the allegations addressed by this Order, the allegations against Respondent having been dismissed by the commission in a separate order.

A quorum of the commission was present. Based on the investigation conducted by commission staff to date, the commission determined there was credible evidence of a violation of § 255.001, Texas Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this agreed resolution to Respondent.

II. Facts Supported by Credible Evidence

Credible evidence available to the commission would support the following findings of fact:

1. In the May 1, 1993, Palacios election, each Co-Respondent was a candidate for election to the Palacios City Council.
2. On April 9, 1993, and April 13, 1993, Co-Respondents, to support their respective candidacies, mailed a letter to potential voters requesting votes in the upcoming election.
3. The letter did not state that it was political advertising and did not identify the name and address of the person responsible for having the letter printed.
4. On June 3, 1993, Co-Respondents filed an affidavit with the commission stating that they assumed full responsibility for the failure to include the required political disclosure. Co-Respondents stated they included the required political disclosures on all advertisements published in a newspaper and on yard signs, but did not realize that the information should also have been included on the letters.

III. Conclusions of Law

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

1. The letters mailed by Co-Respondents were political advertising.
2. Respondents violated § 255.001 of the *Texas Election Code* by failing to include the required disclosure on the letters.

IV. Representations and Agreement by Respondent

By signing this ORDER and AGREED RESOLUTION and returning it to the commission:

1. Each undersigned Co-Respondent neither admits nor denies the facts detailed under Section II and the commission's findings and conclusions of law detailed under Section III, and consents to the entry of this ORDER and AGREED RESOLUTION solely for the purpose of resolving and settling this sworn complaint.
2. Each undersigned Co-Respondent consents to the entry of this Order before any adversarial evidentiary hearings or argument before the commission, and before any formal adjudication of law or fact by the commission. Respondent waives any right to a hearing before the commission or an administrative law judge appointed by the commission, and further waives any right to a post-hearing procedure established or provided by law.
3. Each undersigned Co-Respondent acknowledges that § 255.001, *Texas Election Code*, requires a disclosure to be included on political advertising. The disclosure must state that the material is political advertising, and must identify the name and address of either: (i) the person who arranged to have the advertising printed or published, or (ii) the person represented by the person who arranged to have the advertising printed or published. The Co-Respondents agree to fully and strictly comply with this requirement of the law.
4. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, Co-Respondent understands and agrees that the commission will consider the Co-Respondent to have committed the violation detailed in Section III if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against a Co-Respondent.

V. Confidentiality

This ORDER and AGREED RESOLUTION describes an alleged violation that the commission has determined would be neither technical nor *de minimis*. Accordingly, this ORDER and AGREED RESOLUTION is not confidential under *Texas Government Code*, § 571.140(b), and may be disclosed by members and staff of the Texas Ethics Commission.

VI. No Sanction

After considering the seriousness of the alleged violation described under Sections II and III, including the nature, circumstances, consequences, extent, and gravity of the violation; that no previous violations by these Co-Respondents are known to the commission; that Co-Respondents acknowledge their mistake; and the sanction, if any, deemed necessary to defer future violations; the commission does not impose a sanction for the alleged violation described under Section III.

VII. Order

The Texas Ethics Commission hereby ORDERS:

- (1) that this proposed AGREED RESOLUTION be presented to each Co-Respondent;
- (2) that if a Co-Respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete disposition of SC-93020 as to that Co-Respondent;
- (3) that a Co-Respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than November 15, 1993;
- (4) that the executive director shall promptly refer SC-93020 to an administrative law judge to conduct hearings on the commission's behalf and to propose findings of fact and conclusions of law to the commission in accordance with law for each Co-Respondent who does not agree to the disposition of SC-93020 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the undersigned Co-Respondent on this _____ day of _____, 1993.

ED SCHULZE, RESPONDENT

BOB FIORINI, RESPONDENT

GEORGE HOLST, RESPONDENT

EXECUTED ORIGINAL received by the commission on: _____ DATE

**JOHN STEINER
EXECUTIVE DIRECTOR
TEXAS ETHICS COMMISSION**