

TEXAS ETHICS COMMISSION

IN THE MATTER OF
GLYNIS ROSAS,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-220323

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 12, 2002, and voted to accept jurisdiction of Sworn Complaint SC-220323 filed against Glynis Rosas, Respondent. The commission met again on July 12, 2002, to consider Sworn Complaint SC-220323. A quorum of the commission was present at both meetings. Based on the investigation conducted by commission staff, the commission determined that there is credible evidence of a violation of Section 255.003, 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 the respondent.

II. Allegations

The complainant alleges that the respondent, a school superintendent, authorized the spending of public funds for political advertising and failed to include a political advertising disclosure statement in the advertising.

III. Facts Supported by Credible Evidence

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

1. The respondent is the superintendent of the Groesbeck Independent School District in Limestone County.
2. On November 6, 2001, the school district held a tax rollback election. A vote "for" would have set the ad valorem tax rate at \$1.44 per \$100, as opposed to the rollback rate of \$1.335 per \$100.
3. The complainant submitted a brochure, a letter, and a sample ballot that the complainant alleges were distributed by the school district before the election to parents and students of the district.

4. The brochure submitted by the complainant is titled “EXPLANATORY FACTS ABOUT THE GROESBECK I.S.D. TAX ROLLBACK ELECTION.” The brochure, in a question-and-answer format, explains what a rollback election is, and what the difference is between the proposed rate as opposed to the rollback rate. One section of the brochure shows a sample ballot. The sample ballot is clearly marked “for.” The reader is instructed to contact the respondent for any questions or comments.
5. The letter, dated October 22, 2001, is addressed to the parents of district elementary school students. The respondent’s name and the name of a principal appear at the bottom. The letter asks for support for the tax rollback election, and stresses the election’s importance to the students and school district.
6. The letter was also sent with a sample ballot. The sample ballot is marked “for.” No political advertising disclosure statement appears on the brochure, letter, or sample ballot.
7. The respondent submitted a sworn response to the complaint. In her response, the respondent swears that she created the brochure, marked the “for” on the sample ballot at the suggestion of the board of trustees, used a school district employee to prepare the brochure, and copied the brochure on school district equipment. The respondent also swears that she handed out the brochures at open houses and various community meetings.
8. The respondent swears that the school district trustees personally reimbursed the school district for the public money spent on the two documents and the time spent by the district’s employee.

IV. Findings and Conclusions of Law

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

1. An officer or employee of a political subdivision may not spend or authorize the spending of public funds for political advertising. Section 255.003(a), Election Code. The prohibition does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure. Section 255.003(b), Election Code. “Political advertising” means, in pertinent part, a communication supporting or opposing a measure that appears in a pamphlet, circular, or flier. Section 251.001(16), Election Code.
2. The brochure, letter, and sample ballot constitute political advertising because they are communications supporting the passage of a measure. Although containing factual information concerning the tax rollback election, the brochure advocates passage of the measure by the use of the sample ballot and the check mark in the “for” box on the ballot. The letter from the respondent advocates passage of the measure by the use of the phrase “[i]t

is very important for your children and the school district that the Tax Rollback Election pass.” The sample ballot that was attached to the letter from the respondent also advocates passage of the measure by placing a check mark in the “for” box on the ballot.

3. In her sworn response, the respondent admits to checking the word “for” on the brochure and sample ballot, and admits to producing the letter using school district employees and resources. Therefore, there is credible evidence that the respondent violated Section 255.003(a), Election Code.
4. A person may not enter into a contract or other agreement to print political advertising that does not indicate that it is political advertising and that does not contain the full name and address of the individual who entered into the contract or agreement with the printer, or the full name and address of the person that individual represents. Section 255.001(a), Election Code.
5. Because the brochure, letter, and sample ballot advocate the passage of a measure, they constitute political advertising. They do not contain a political advertising disclosure statement. There is no evidence, however, that the respondent entered into a contract or agreement to have the materials printed. The respondent, in her sworn response, states that the brochure and letter were created by her and copies were made on district copiers. Section 255.001, Election Code, only requires the political advertising disclosure statement be placed on political advertising if there is a contract or agreement to have the advertising printed. In this case, there was no contract or agreement because the political advertisements were copied in-house. Therefore, there is credible evidence that the respondent did not violate Section 255.001, 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 and 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 and settling this sworn complaint.
2. The 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. The respondent waives any right to a hearing before the commission or an administrative law judge, and further waives any right to a post-hearing procedure established or provided by law.

3. The respondent acknowledges that an officer or employee of a political subdivision may not spend or authorize the spending of public funds for political advertising. The respondent agrees to fully and strictly comply with this requirement of the law.
4. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, the respondent understands and agrees that the commission will consider the respondent to have committed the violations described under Section IV, Paragraph 3, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

VI. Confidentiality

This ORDER and AGREED RESOLUTION describes a violation that the commission has determined is not technical nor *de minimis*. Accordingly, this ORDER and AGREED RESOLUTION is not confidential under Section 571.140, 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, consequences, extent, and gravity of the violations, after considering the fact that no previous violations by this respondent are known to the commission, and after considering the sanction necessary to deter future violations, the commission imposes a civil penalty of \$100 for the violations described under Section IV, Paragraph 3.

VIII. Order

The commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to the respondent;
2. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-220323;
3. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original and the \$100 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than August 9, 2002; and
4. that the executive director shall promptly refer SC-220323 to either the commission or 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 if the

respondent does not agree to the resolution of SC-220323 as proposed in this ORDER and AGREED RESOLUTION.

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

Glynis Rosas, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director