

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JOHN R. SCOTT,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31006176

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on October 21, 2010, to consider sworn complaint SC-31006176. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 255.007 of the Election Code and credible evidence of *de minimis* violations of section 254.031 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. Allegations

The complaint alleged that the respondent failed to include a highway right-of-way notice on his political advertising signs, and failed to include required information on his 8-day pre-election report for the May 2010 election.

III. Facts Supported by Credible Evidence

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

1. During the time in question, the respondent was a candidate for Woodlands Township Director.
2. The complaint alleged that the respondent failed to include a highway right-of-way notice on his political advertising signs, failed to fully disclose the address of two contributors on his 8-day pre-election report for the May 2010 election and failed to disclose the address for eight political expenditures on his 8-day pre-election report for the May 2010 election.
3. Neither the face nor the reverse side of the sign at issue contained a highway right-of-way notice.
4. On April 30, 2010, the respondent filed an 8-day pre-election report for the May 2010 election. The report disclosed \$196.80 in total political contributions, \$9,190.82 in total political expenditures and \$70.03 in total political contributions maintained. The report

itemized two political contributions and 15 political expenditures. The two itemized contributions did not disclose a street address for the contributors although the city and zip code were included. All of the expenditures included the city, and all but two of the itemized expenditures included a zip code. None of the 15 itemized expenditures disclosed a payee street address.

5. On July 13, 2010, the respondent filed corrections to his 8-day pre-election report adding complete street addresses and zip codes for the two political contributions and 15 political expenditures disclosed on the original report.

IV. Findings and Conclusions of Law

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

1. “Political advertising” is defined, in relevant part, as a communication supporting or opposing a candidate for nomination or election to a public office that in return for consideration, is published in a newspaper, magazine, or other periodical. ELEC. CODE § 251.001(16). The definition of political advertising also includes a communication supporting a candidate for election to a public office that appears on a sign. *Id.*
2. The following notice must be written on each political advertising sign: “NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE), TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY.” A person commits an offense if the person knowingly enters into a contract to print or make a political advertising sign that does not contain the required notice or instructs another person to place a political advertising sign that does not contain the required notice. ELEC. CODE § 255.007.
3. The complaint alleged that the respondent failed to include the highway right-of-way notice on his political advertising signs. There is credible evidence that the respondent violated section 255.007 of the Election Code.
4. Each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions. ELEC. CODE § 254.031(a)(1). The report must also include the amount of political expenditures that in the aggregate exceed \$50 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures. ELEC. CODE § 254.031(a)(3).
5. The respondent’s 8-day pre-election report for the November 2010 election did not include complete addresses for two political contributions and 15 political expenditures. The reports disclosed the names, dates, amounts, cities, and in most cases zip codes for the contributors and payees at issue. In context, the omissions did not substantially affect disclosure.

Therefore, there is credible evidence of technical or *de minimis* violations of sections 254.031(a)(1) and 254.031(a)(3) 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 the following notice must be written on each political advertising sign: "NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE), TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY." A person commits an offense if the person knowingly enters into a contract to print or make a political advertising sign that does not contain the required notice or instructs another person to place a political advertising sign that does not contain the required notice.

The respondent also acknowledges that each campaign finance report must include the amount of political contributions from each person that in the aggregate exceed \$50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions. The respondent also acknowledges that the report must also include the amount of political expenditures that in the aggregate exceed \$50 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures.

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. No Sanction

After considering 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 no 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-31006176.

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

John R. Scott, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director