

TEXAS ETHICS COMMISSION

IN THE MATTER OF

HIGHLAND PARK
COMMUNITY LEAGUE,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-3120489

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 30, 2012, to consider sworn complaint SC-3120489. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of sections 255.006 and 255.007 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 represented in campaign communications that: 1) a candidate held an elective public office that he did not hold at the time the representations were made; and 2) the respondent distributed political advertising signs that did not contain the highway right-of-way notice as required by section 255.007 of the Election Code.

III. Facts Supported by Credible Evidence

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

1. The respondent is a general-purpose political committee in Dallas, Texas.
2. The complaint alleged that the respondent represented in campaign communications that a candidate held an elective public office that he did not hold and did not include the highway right-of-way notice on political advertising.
3. The respondent distributed yard signs, which endorsed a slate of candidates for mayor and city council of Highland Park, Texas. The signs included the language “Highland Park Community League endorses Mayor: [an individual.]”

4. At the time the signs were displayed, the referenced individual was a non-incumbent candidate for mayor.
5. The signs at issue did not include the highway right-of-way notice.
6. In response to the complaint, the chair of the committee, acknowledged that the signs were missing the word “for” and the right-of-way notice when they were initially placed. She swore that in response to the complaint the League promptly took corrective action and modified or removed the non-conforming signs. In addition to her response, the chair provided photographs of the corrected signs.

IV. Findings and Conclusions of Law

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

1. A person commits an offense if the person knowingly represents in a campaign communication that a candidate holds a public office that the candidate does not hold at the time the representation is made. ELEC. CODE § 255.006(b). For purposes of this section, a person represents that a candidate holds a public office that the candidate does not hold if the candidate does not hold the office that the candidate seeks and the political advertising or campaign communication states the public office sought but does not include the word “for” in a type size that is at least one-half the type size used for the name of the office to clarify that the candidate does not hold that office. *Id.* § 255.006(c).
2. “Campaign communication” means, in pertinent part, a written communication relating to a campaign for election to public office or office. *Id.* § 251.001(17).
3. The mayoral candidate identified in the respondent’s advertising was not the mayor of Highland Park at the time the signs were printed or distributed. The signs were campaign communications that did not include the word “for” before the office sought to clarify that the candidate did not hold the office. Therefore, there is credible evidence of a violation of section 255.006 of the Election Code.
4. 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.
5. Political advertising means, in pertinent part, a communication supporting or opposing a candidate for election to a public office that appears in a pamphlet, circular, flier, billboard

or other sign, bumper sticker, or similar form of written communication, or on an Internet website. *Id.* § 251.001(16).

6. At the time that the complaint was filed, the right-of-way notice did not appear on the signs at issue. Therefore, there is credible evidence of a violation of section 255.007 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 person may not represent in a campaign communication that a candidate holds an elective public office that the candidate does not hold at the time the representation is made. If the candidate is not the incumbent in the office the candidate is seeking, the campaign communication must use the word "for" to clarify that the candidate does not hold the office sought. The word "for" must be at least one-half the type size as the name of the office and should appear immediately before the name of the office. The respondent also acknowledges that section 255.007 of the Election Code requires that the highway right-of-way notice must be written on each political advertising sign. 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. 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 a \$200 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-3120489.

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

Highland Park Community League,
Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director