

TEXAS ETHICS COMMISSION

IN THE MATTER OF
GLEN JOHNSON,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3210482

FINAL ORDER

I. Recitals

The Texas Ethics Commission (Commission) held a preliminary review hearing on August 31, 2021, to consider sworn complaint SC-3210482. A quorum of the Commission was present. The respondent received legally sufficient notice of the hearing but did not appear at the hearing. The Commission proceeded with the hearing in the respondent's absence and found credible evidence of violations of Sections 255.001 and 255.006 of the Election Code. The Commission voted to issue this final order.

II. Findings of Fact and Conclusions of Law

Credible evidence available to the Commission supports the following findings of fact and conclusions of law:

1. The respondent is Glen Johnson, who was an unsuccessful candidate for mayor, City of Anna, Texas, in the May 1, 2021 election. The sworn complaint was filed against the respondent on April 15, 2021.
2. The complaint alleged that the respondent: 1) failed to include a political advertising disclosure statement on political advertising, in violation of Section 255.001 of the Election Code; and 2) represented he held a public office that he did not hold by failing to include the word "for" on political advertising, in violation of Section 255.006 of the Election Code.

Political Advertising Disclosure Statement

3. The complaint alleged that the respondent's political advertising was missing a political advertising disclosure statement. The complaint included a picture of the respondent's political advertising yard signs, as well as pictures of the respondent's political advertising cards. None of the political advertising had a disclosure statement.

4. The respondent stated in his initial response that he had not been informed of the political advertising requirements by the local filing authority. During a subsequent telephone call with Commission staff on May 19, 2021, the respondent stated that all of the signs were removed after the election.
5. A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising: 1) that it is political advertising; and 2) the full name of either the person who paid for the political advertising, the political committee authorizing the political advertising, or the candidate if the political advertising is authorized by the candidate. Tex. Elec. Code § 255.001(a).
6. Credible evidence indicates the respondent did not include a political advertising disclosure statement on his political advertising. Therefore, there is credible evidence of violations of Section 255.001 of the Election Code.

Misleading Use of Office Title

7. The complaint also alleged that the respondent represented he held a public office that he did not hold by failing to include the word “for” on political advertising. The complaint included pictures of the respondent’s political advertising yard signs and political advertising cards. The political advertising yard signs read “Elect Glen Johnson – Anna City Mayor – Stick With Glen We All Win” and was missing the word “for.” The political advertising cards read “Vote Glen Johnson 2021 – Your Mayor Anna – Stick With Glen and We All Win” and were missing the word “for.”
8. The respondent stated in his response that he had not been informed of the political advertising requirements by the local filing authority. During a subsequent telephone call with Commission staff on May 19, 2021, the respondent stated that all of the signs were removed after the election.
9. A person commits an offense if the person knowingly enters into a contract or other agreement to print, publish, or broadcast political advertising with the intent to represent to an ordinary and prudent person that a candidate holds a public office that the candidate does not hold at the time the agreement is made. Tex. Elec. Code § 255.006(a). 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 the office. *Id.* § 255.006(c).
10. Credible evidence indicates the respondent was not the incumbent candidate and failed to include the word “for” on political advertising. In addition, the slogans “Stick With Glen We

All Win” and “Your Mayor Anna,” in conjunction with the failure to include the word “for,” were misleading and could be interpreted that the respondent held the office of mayor. Therefore, there is credible evidence of violations of Section 255.006 of the Election Code.

III. Default Judgment

1. The preliminary review hearing was held both in person in Austin, Texas, and remotely by video teleconference on August 31, 2021, at 1:15 p.m.
2. A notice required to be sent to a respondent under Chapter 571 of the Government Code shall be sent to the address provided by the Complainant or to the address most recently provided by the respondent. 1 Tex. Admin. Code § 12.21(b).
3. If a respondent fails to appear at a hearing, the Commission may proceed in the respondent’s absence and may find credible evidence of the violations alleged in the complaint and may issue a final order imposing a civil penalty. *Id.* § 12.23.
4. The first notice of hearing was sent to the respondent on July 14, 2021, by email and United States Postal Service (USPS) certified mail, return receipt requested, and delivery confirmation. The notice stated that the hearing would be held on August 31, 2021, at 1:15 p.m., in the State Capitol Extension, Room E1.014, Austin, Texas. The notice also stated that if the respondent failed to appear at the hearing, then the allegations may be deemed admitted as true and the relief sought may be granted by default. A second notice of hearing was sent to the respondent on July 30, 2021, by email and USPS delivery confirmation. The notice stated that the hearing would be held on August 31, 2021, at 1:15 p.m., in the State Capitol Extension, Room E1.014, Austin, Texas. The respondent was notified by email on August 12, 2021, that should he wish, he could appear at the hearing remotely by video teleconference. All notices were sent to the email and mailing addresses provided to the Commission by the respondent. The respondent’s last known mailing address is 113 Mills Drive, Anna, Texas 75409-5512.
5. The Commission finds that the respondent received legally sufficient notice of the sworn complaint and the August 31, 2021, preliminary review hearing in this case. The respondent did not respond to the notices of hearing or appear at the hearing, despite multiple notices from the Commission and attempts by Commission staff to communicate with the respondent and resolve the complaint. The Commission proceeded in the respondent’s absence and issued this final order in accordance with Section 12.23 of the Texas Administrative Code. By failing to appear at the preliminary review hearing, the respondent forfeited his right to further proceedings before the Commission in this matter. This final order is a final and complete resolution of this complaint before the Commission, except for the issue of collection of the civil penalty.

6. The Commission finds credible evidence of violations of Sections 255.001 and 255.006 of the Election Code.

IV. Sanction

1. The Commission may impose a civil penalty of not more than \$5,000 or triple the amount at issue under a law administered and enforced by the Commission, whichever amount is more, for a delay in complying with a Commission order or for violation of a law administered and enforced by the Commission. Tex. Gov't Code § 571.173.
2. The Commission shall consider the following factors in assessing a sanction: 1) the seriousness of the violation, including the nature, circumstances, consequences, extent and gravity of the violation; 2) the history and extent of previous violations; 3) the demonstrated good faith of the violator, including actions taken to rectify the consequences of the violation; 4) the penalty necessary to deter future violations, and 5) any other matters that justice may require. *Id.* § 571.177.
3. The respondent's lack of good faith is relevant to the appropriate penalty for this sworn complaint. In particular, the respondent's failure to participate in the preliminary review hearing, and failure to promptly remove the signs at issue are appropriate factors to consider in assessing sanctions. The Commission also considers the facts that the respondent has no prior violations and initially responded to the complaint. *See Id.*
4. Therefore, the Texas Ethics Commission orders that the respondent pay to the Commission, within 30 days of the date of this order, a civil penalty in the amount of \$250. If the respondent does not pay the \$250 civil penalty within 30 days of the date of this order, then the civil penalty is increased to \$2,500 and the matter of the collection of the civil penalty will be referred to the Office of the Attorney General of Texas.

Order Date: _____

FOR THE COMMISSION

Anne Temple Peters
Executive Director
Texas Ethics Commission