TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	**BEFORE THE**
	§	
TERRY COX,	§	**TEXAS ETHICS COMMISSION**
	§	
RESPONDENT	§	**SC-980210**

ORDER
and
AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on July 10, 1998, to consider sworn com-plaint SC-980210 filed against Terry Cox (the respondent). A quorum of the commission was present. The commission voted to accept jurisdiction of this complaint. Based on the investigation conducted by commission staff, the commission determined there was credible evidence of a violation of Section 255.006, 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. Facts Supported by Credible Evidence

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

1. The respondent was a candidate for criminal district attorney in the March 1998 primary election. The respondent was not the incumbent.

2. The complainant alleges that the respondent violated Section 255.006, Election Code, by failing to comply with the new law requiring a nonincumbent to use the word "for" in political advertising and in campaign communications to clarify that the nonincumbent does not hold the public office sought.

3. The respondent's political advertising appeared in billboards, yard signs, and business cards. It included the respondent's name, political party affiliation, and public office sought, but omitted the word "for" preceding the office.

III. Conclusions of Law

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

1. A person may not knowingly represent in political advertising that a candidate holds a public office the candidate does not hold at the time the representation is made. A person represents that a candidate holds a public office the candidate does not hold if the candidate does not hold the public office that the candidate seeks and the political advertising or campaign communication states the public office sought but does not use the word "for" to clarify that the candidate does not hold that office. Section 255.006, Election Code.

2. Political advertising is defined in pertinent part as a communication that supports or opposes a candidate for election to public office and that appears in a billboard or other sign or in a similar form of written communication. Section 251.001(16), Election Code. The communications at issue constitute political advertising because they support the respondent's candidacy for criminal district attorney and appear in billboards, yard signs, and business cards.

3. Because the respondent did not hold the public office that he was seeking and because the respondent's political advertising stated the office sought but did not include the word "for" preceding that office, there is credible evidence that the respondent violated Section 255.006, Election Code.

IV. Representations and Agreement by the Respondent

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

1. The 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. 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 appointed by the commission, and further waives any right to a post-hearing procedure established or provided by law.

3. 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 violation detailed in Section III, Paragraph 3, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

V. Confidentiality

This ORDER and AGREED RESOLUTION describes an alleged violation that the commission has determined is neither 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 Texas Ethics Commission.

VI. Sanction

After considering the seriousness of the violation described under Sections II and III, including the nature, circumstances, consequences, extent, and gravity of the violation; that no previous violation by this respondent is known to the commission; and after considering the sanction deemed necessary to deter future violations, the commission imposes no civil penalty for the violation described under Section III, Paragraph 3.

VII. Order

The Texas Ethics 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-980210;

3.   that the 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 August 7, 1998; and

4.   that the executive director shall promptly refer SC-980210 either to 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-980210 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____day of _____, 1999.

_____
Terry Cox, Respondent

EXECUTED ORIGINAL received by the commission on: _____.
                                                                        DATE

                                                  Texas Ethics Commission

                                        By: _____
                                                   Tom Harrison, Executive Director