TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	**BEFORE THE**
	§	
LEWIS POWERS,	§	**TEXAS ETHICS COMMISSION**
	§	
RESPONDENT	§	**SC-980551**

ORDER
and
AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 14, 1998, to consider sworn complaint SC-980551 filed against Lewis Powers (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 is credible evidence of a violation of Section 255.001, 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. Allegation

The complainant alleges that the respondent violated Section 255.001, Election Code, by entering into an agreement to print, publish, or broadcast political advertising that did not contain the required political advertising disclosure statement.

III. Facts Supported by Credible Evidence

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

1.   The respondent was a successful candidate for nomination for county judge in the March 10, 1998, primary election.

2.   The respondent contracted to have advertisements printed in several newspapers. The advertisements supported the respondent's candidacy for county judge but did not include the political advertising disclosure statement.

IV. Conclusions of Law

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

1.   Political advertising is defined in pertinent part as a communication that supports or opposes a candidate for election to public office and that, in return for consideration, is published in a

newspaper. Section 251.001(16), Election Code. The advertisement at issue constitutes political advertising because it supports the respondent's candidacy for county judge and because the respondent contracted to have it printed in the newspaper.

2. A person may not knowingly enter into a contract or agreement to print political advertising that does not contain a political advertising disclosure statement. The disclosure statement must identify the advertising as political advertising. It must also reveal the name—and in the case of advertising that is printed or published, the address—of the individual who personally entered into the contract or agreement for the advertising or the person that individual represents. Section 255.001, Election Code.

3. The advertisement at issue gives the name of the respondent but does not include the respondent's address or state that it is political advertising, and there is no evidence that the respondent requested that this information be printed in his political advertising. Therefore, there is credible evidence that the respondent violated Section 255.001, Election Code.

V. 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 III and the commission's findings and conclusions of law detailed 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 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 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 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.

VII. Sanction

After considering the seriousness of the violation described under Sections III and IV, 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 IV, Paragraph 3.

VIII. 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-980551;

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 September 11, 1998; and

4.   that the executive director shall promptly refer SC-980551 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-980551 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____day of _____, 1998.

_____
Lewis Powers, Respondent

EXECUTED ORIGINAL received by the commission on: _____.
                                                                        DATE

                                                Texas Ethics Commission

                        By: _____
                                                Tom Harrison, Executive Director