

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JAMES A. ENGLAND,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2406108

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission met on July 16, 2004, to consider sworn complaint SC-2406108. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of sections 255.001, 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 proposes this resolution to the respondent.

II. Allegations

The complainant alleges that the respondent, a candidate for school board trustee, failed to include a disclosure statement on political advertising, failed to include a right-of-way notice on political advertising, and represented in political advertising that he held an office he did not hold by failing to use the word “for” as required by statute.

III. Facts Supported by Credible Evidence

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

1. The respondent was a candidate in the May 15, 2004, election for school board trustee of the Port Arthur Independent School District. The complainant opposed the respondent.
2. The complainant provided photographs of the respondent’s signs.
3. In his sworn response, the respondent acknowledges the violations.

IV. Findings and Conclusions of Law

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

1. A person may not knowingly cause to be published political advertising containing express advocacy that does not indicate in the advertising that it is political advertising and the full name of the person who paid for it. ELEC. CODE § 255.001.

2. The complainant provided photographs of signs that appear not to include a political advertising disclosure statement.
3. The respondent acknowledges that the statement was not put on his signs at the time they were printed. Therefore, there is credible evidence that the respondent violated section 255.001 of the Election Code.
4. A person may not represent in political advertising 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). Political advertising represents that a non-incumbent candidate holds an office he does not hold if the political advertising states the public office sought but does not include the word “for” to clarify that the candidate does not hold that office. ELEC. CODE § 255.006(c).
5. The photographs of the respondent’s signs do not include the word “for” as required. Therefore, there is credible evidence of a technical or *de minimis* violation of section 255.006 of the Election Code.
6. A person may not enter into a contract to print a political advertising sign and may not instruct another person to place a political advertising sign that does not include information about placing the sign in the right-of-way of a highway.
7. The photographs of the respondent’s signs appear not to include a right-of-way notice. Therefore, there is credible evidence that the respondent violated section 255.007 of the Election Code.

V. Representations and Agreement by Respondent

By signing this order and agreed 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: 1) that a person may not knowingly cause to be published political advertising containing express advocacy that does not indicate in the advertising that it is political advertising and the full name of the person who paid for it; 2) that a person may not represent in political advertising that a candidate holds a public office that the candidate does not hold at the time the representation is made, and that political advertising represents that a non-incumbent candidate holds an office he does not hold if the political advertising states the public office sought but does not include the word “for” to clarify that the candidate does not hold that office; and 3) that a person may not enter into a contract to

print a political advertising sign and may not instruct another person to place a political advertising sign that does not include information about placing the sign in the right-of-way of a highway. The respondent agrees to fully 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 seriousness of 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 \$100 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-2406108.

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

James A. England, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Sarah Woelk, Acting Executive Director