

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
DENISE M. LEITCH,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-2604119

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on July 14, 2006, to consider sworn complaint SC-2604119. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 254.064 and 255.006(b) 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 complaint alleges that the respondent failed to timely file her 30-day pre-election campaign finance report, unlawfully used public funds for political advertising by placing her campaign sign at a public school, and represented on political advertising that she held a public office that she did not hold at the time the representation was made.

### III. Facts Supported by Credible Evidence

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

1. The respondent was an opposed candidate for city council. The respondent was not the incumbent in the election.
2. The respondent is an employee of a political subdivision of the state.
3. The respondent filed her 30-day pre-election campaign finance report on April 17, 2006. The deadline to file the report was April 13, 2006.
4. The respondent's campaign signs stated the office sought but did not include the word "for."

5. The respondent's campaign sign was placed at a public school. The respondent swears that she did not place her campaign sign at a public school or authorize the placement of her campaign sign at a public school, and there is no evidence to show that the respondent did so.

#### **IV. Findings and Conclusions of Law**

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

1. An opposed candidate must file a campaign finance report 30 days and 8 days before the election. ELEC. CODE § 254.064.
2. The respondent failed to timely file her 30-day pre-election campaign finance report. Therefore, there is credible evidence that the respondent violated section 254.064 of the Election Code.
3. A person may not knowingly represent 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).
4. The definition of a campaign communication includes written or oral communication relating to a campaign for nomination or election to public office. ELEC. CODE § 251.001(16). The campaign sign advocates the election of a candidate for public office and therefore qualifies as a campaign communication.
5. 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 the communication in a type size that is at least one-half the type size used for the name of the office. ELEC. CODE § 255.006(c).
6. The respondent did not use the word "for" on her campaign signs. Therefore, there is credible evidence of a violation of section 255.006 of the Election Code.
7. An officer or employee of a political subdivision may not spend or authorize the spending of public funds for political advertising. ELEC. CODE § 255.003(a).
8. There is no evidence that the respondent placed her campaign sign on school grounds or authorized the placement of the sign on school property. Therefore, there is no credible evidence that the respondent violated section 255.003 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 an opposed candidate for elective public office shall file a campaign finance report not later than the 30th day before election day. The respondent acknowledges that a person may not knowingly represent in a campaign communication that a candidate holds a public office the candidate does not hold at the time the representation is made. The respondent further acknowledges that under section 255.006 of the Election Code, a person represents that a candidate holds a public office the candidate does not hold if the candidate does not hold the office that the candidate seeks, and the campaign communication states the public office sought but does not use 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.
4. 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 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 for the violations described under Sections III and IV.

**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-2604119.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Denise M. Leitch, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
David A. Reisman, Executive Director