

TEXAS ETHICS COMMISSION

IN THE MATTER OF
BETH VILLAREAL,
RESPONDENT

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§
BEFORE THE
TEXAS ETHICS COMMISSION
SC-2803112

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on April 3, 2008, to consider sworn complaint SC-2803112. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 255.006(d) of the Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegation

The complaint alleges that the respondent improperly used a representation of the state seal in political advertising.

III. Facts Supported by Credible Evidence

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

1. The respondent was a non-incumbent candidate for Dallas County Constable Precinct 5 in the 2008 primary election.
2. The respondent's website listed the respondent's qualifications for the office of constable and urged voters to vote for the respondent in the 2008 primary election. The website also included a photograph of the respondent standing in front of a Texas state flag and the Texas state seal.
3. In response to the sworn complaint, the respondent submitted a statement in which she acknowledges using a photograph on her website that included the state seal in the background.

IV. Findings and Conclusions of Law

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

1. A person other than an officeholder commits an offense if the person knowingly uses a representation of the state seal in political advertising. ELEC. CODE § 255.006(d). For purposes of title 15 of the Election Code, an officeholder is a person who holds an elective public office or is the secretary of state. *Id.* § 251.002(a).
2. The respondent was not an officeholder at the time the communication at issue was made because she did not hold an elective public office.
3. Political advertising is defined, in pertinent part, as a communication supporting a candidate for election to a public office that appears on an Internet website. ELEC. CODE § 251.001(16).
4. The communication at issue supported the respondent for election to a public office and appeared on an Internet website. Therefore, the communication was political advertising.
5. The political advertising at issue contained a representation of the state seal. Therefore, there is credible evidence that the respondent violated section 255.006(d) 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 a person other than an officeholder commits an offense if the person knowingly uses a representation of the state seal in political advertising. The respondent agrees to comply with this requirement of the law.

VI. Confidentiality

This order and agreed resolution describes a 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 of the Government Code and may be disclosed by members and staff of the commission.

VII. Sanction

After considering the seriousness of the violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, 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-2803112.

AGREED to by the respondent on this _____ day of _____, 2008.

Beth Villareal, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director