

# TEXAS ETHICS COMMISSION

IN THE MATTER OF

PATRICIA ANN GRIMES GRUBBS,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31410224

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (Commission) met on February 12, 2015, to consider sworn complaint SC-31410224. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 255.006(b) and 255.006(d) of the Election Code, laws administered and enforced by the Commission. To resolve and settle this complaint without further proceedings, the Commission proposed this resolution to the respondent.

### II. Allegations

The complaint alleged that the respondent: 1) misrepresented her identity in political advertising or campaign communications; 2) represented in campaign communications that she held a public office that she did not hold at the time the representations were made; and 3) misused the state seal in campaign communications.

### III. Facts Supported by Credible Evidence

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

1. At the time relevant to the complaint, the respondent was a candidate for Justice of the Peace, Precinct 3, for Angelina County in the November 4, 2014, general election.

#### Misrepresentation of Identity

2. The complaint alleged that the respondent misrepresented her identity by using a name other than her legal name, Patricia Ann Grubbs, on political advertising and campaign communications. The complaint also alleged that the respondent has never identified herself as "Pat 'Grimes' Grubbs" in the past 25 years.

3. The first communication at issue is a Facebook campaign web page (Facebook page) that the complaint alleged was maintained by the respondent. The Facebook page is entitled “Pat Grimes-Grubbs for PCT 3 JP.” The Facebook page contains posted comments that described the respondent’s experience and character, solicited votes, and reminded voters of election dates. The posted comments refer to the respondent as “Pat Grimes-Grubbs” or “Pat Grimes Grubbs.”
4. The second communication at issue was a push card distributed to the public by the respondent. The front of the card lists the respondent’s name as “PAT GRIMES GRUBBS.”
5. The last communication at issue is a campaign communication printed in *The Huntington Herald* in October of 2014. The respondent’s name is printed as “PAT GRIMES GRUBBS” in the communication.
6. In response to the complaint, the respondent denied misrepresenting her identity in her political advertising and campaign communications. The respondent swore that she is the daughter of J.O. Grimes, a retired Justice of the Peace, Precinct 4, of Angelina County and thus, Grimes is her maiden name. The respondent submitted her current and previous driver’s licenses, which listed her name as “Patricia Grimes Grubbs.” The respondent also submitted her application for placement on the Republican Party’s general primary ballot. The application was dated November 8, 2013. The respondent requested the use of the name “Pat Grimes Grubbs” on the ballot, and she signed an affidavit affirming that she has used that name for at least three years prior to the election.
7. In addition, the respondent submitted a Certificate of Number Identification Card issued by the Texas Parks and Wildlife Department in September of 2013, and the card listed the respondent as “Pat Grubbs.” Lastly, the respondent supplied copies of two voter identification cards that covered election periods of January 1, 2010, through December 31, 2011, and January 1, 2014, through December 31, 2015. Both voter identification cards listed the respondent’s name as “Patricia Grimes Grubbs.”

### **Misleading Use of Office Title**

8. The complaint alleged that beginning in December of 2013, the respondent circulated push cards, posted comments on her Facebook page, and paid for campaign communications in the local newspaper. Each political and campaign communication contained a representation that the respondent held a judicial office. The complaint also alleged that the respondent used the state seal on her Facebook page, although the respondent did not hold an elective public office at the time.

9. The first communication in question is the respondent's Facebook page that contained posted comments that described the respondent as having "served in the Precinct 3 office for well over 20 years" and displayed a picture of the seal of the State of Texas on September 20, 2014.
10. The second communication is the respondent's push card. The push card's reverse side reads:

Republican      Fair  
 Reliable          Available  
 Eager to Serve  
 Full Time Judge  
 Highly Qualified  
 Sixteen Years Experience  
 Vote November 4<sup>th</sup>

11. The respondent's final communication involved a campaign advertisement placed in a local newspaper, the *Huntington Herald*. The newspaper campaign advertisement reads:

Christian  
 Fair                      FULL  
 Honest                  TIME  
 Reliable                JUDGE  
 Available  
 Highly Qualified  
 Sixteen Years Experience  
 Eager to Serve  
 November 4, 2014  
 Early Voting October 20-October 31

12. At the time these communications were made, the respondent neither held a judicial office nor had ever held a judicial office. The complaint stated that the use of the phrases, "Full Time Judge," "Highly Qualified," "Sixteen Years of Experience," and "served in the Precinct 3 office for well over 20 years" represented that the respondent held a public office that she did not hold.
13. In response to the complaint, the respondent swore that she did not try to mislead the voters of her county. The respondent submitted a newspaper article that was published in the *Lufkin News* on October 19, 2014, that explained the context of the phrase "Full Time Judge" used in her political advertising and campaign communications. The article contained a quote from the respondent that read:

...Having worked for the justice of the peace office for over 16 years, working under four judges, side by side with the other JPs and clerks in other precincts, I am very qualified and very aware of the daily scheduling. I would be a full-time judge – Monday thru Friday 8 a.m. until 5 p.m. ...

14. The respondent also included a copy of the campaign communication that she submitted to the *Huntington Herald*. The respondent alleged that the newspaper staff changed the original formatting of her campaign communication, making it appear that she was stating she currently holds a judicial position and has held a judicial position for many years. The respondent did not address the allegation involving the use of the seal of the State of Texas on her Facebook page in her response.

#### IV. Findings and Conclusions of Law

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

##### Misrepresentation of Identity

1. A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person misrepresents the person's identity in political advertising or a campaign communication. ELEC. CODE § 255.005.
2. "Political advertising" means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that, in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television, or that appears in a pamphlet, circular, flyer, billboard or other sign, bumper sticker, or similar form of written communication, or on an Internet website. *Id.* § 251.001(16). "Campaign communication" includes a written communication relating to a campaign for nomination or election to public office. *Id.* § 251.001(17).
3. The complaint did not provide sufficient evidence that the respondent was not using her legal name on her political advertisements or campaign communications and there was no evidence that the respondent was not known in the community by the name of "Pat Grimes Grubbs." Therefore, there is credible evidence of no violation of section 255.005 of the Election Code.

##### Misleading Use of Office Title

4. A person commits an offense if the person knowingly represents 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).

5. As a general rule, it would not be a violation of section 255.006(b) of the Election Code for a person who is currently a judge to use the title “judge” in political advertising or campaign communications. Ethics Advisory Opinion No. 171 (1993).
6. “Political advertising” means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that, in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television, or that appears in a pamphlet, circular, flyer, billboard or other sign, bumper sticker, or similar form of written communication, or on an Internet website. ELEC. CODE § 251.001(16). “Campaign communication” includes a written communication relating to a campaign for nomination or election to public office. *Id.* § 251.001(17).
7. A person other than an officeholder commits an offense if the person knowingly uses a representation of the state seal in political advertising. *Id.* § 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).

#### Use of the Title “Judge”

8. The respondent’s Facebook page, push card, and newspaper communication are political advertising because they contain written communications that supported the respondent’s election to public office. In addition, the communication appearing on the newspaper was published in return for consideration. All of the respondent’s political advertising referred to her many years of experience and used the title “Judge.” The ordinary prudent person reading the respondent’s political advertising would believe that the respondent holds a judicial position and has held such a position for many years. Although the respondent explained her use of the phrase “full time judge” in a newspaper article, it is unreasonable to assume that every voting member of the community read the article. Therefore, the respondent should have used language in her political advertising and campaign communications to clarify that the phrase “Full Time Judge” was a characteristic of the type of judge she would be if elected.
9. Likewise, the respondent’s initial format of her political advertising given to the newspaper staff did not include language that showed her future intent to be a “full time judge,” and the modification of the respondent’s layout by newspaper staff did not create the misleading language. Therefore, there is credible evidence of a violation of section 255.006(b) of the Election Code.

#### Use of the State Seal

10. The respondent’s Facebook page is political advertising because it contains written communication that supports the respondent’s election to public office. A picture of the state

seal of Texas was posted on the respondent's Facebook page on September 20, 2014. The respondent neither held an elective office nor was the Secretary of State at the time the picture was posted on the web page. Therefore, there is credible evidence of a violation of 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 commits an offense if a person: 1) knowingly represents in a campaign communication that a candidate holds a public office that the candidate does not hold at the time the representation is made; and 2) knowingly uses a representation of the state seal in political advertising. 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 nature, circumstances, and consequences of the violations described under Sections III and IV, and after considering the sanction necessary to deter future violations, the Commission imposes a \$750 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-31410224.

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

\_\_\_\_\_  
Patricia Ann Grimes Grubbs, Respondent

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

Texas Ethics Commission

By: \_\_\_\_\_  
Natalia Luna Ashley, Executive Director