TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
VIOLA HERRERA, RESPONDENT	§	TEXAS ETHICS COMMISSION
	§	
SC-93003	§	

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission ("commission") met on September 2, 1993, to consider sworn complaint SC-93003 filed against VIOLA HERRERA (the "Respondent"). A quorum of the commission was present. Based on the investigation conducted by commission staff to date, the commission determined there was credible evidence of a violation of § 255.001, Texas 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 Respondent.

II. Facts Supported by Credible Evidence

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

- 1. In the May 1, 1993, Victoria Independent School District, Victoria, Texas, Respondent was a candidate for a position as a school board trustee.
- 2. On March 7, 1993, Respondent, in furtherance of her candidacy for school board trustee, placed an advertisement in the local newspaper, *The Victoria Times*. The advertisement consisted of a photograph of Respondent together with a caption entitled, "JOIN US IN ELECTING VIOLA HERRERA V.I.S.D. TRUSTEE SUPER DIST. 6 May 1, 1993." The advertisement then listed the names several supporters.
- 3. The advertisement did not identify the name and address of the person who contracted with the newspaper to publish the advertisement.
- 4. On April 22, 1993, Respondent filed an affidavit with the commission stating that she assumed full responsibility for the mistake that inadvertently left off the required political disclosure. Respondent stated she was a first time candidate, that she made a mistake that will not happen again, and that she is still learning the rules and regulations of campaigning.

III. Conclusions of Law

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

- 1. The subject advertisement published in the local newspaper by Respondent was political advertising.
- 2. The political advertisement did not include the disclosure statement required by *Texas Election Code*, *§ 255.001*.political disclaimer.

IV. Representations and Agreement by Respondent

By signing this ORDER and AGREED RESOLUTION and returning it to the commission:

- 1. Respondent neither admits nor denies the facts detailed under Section II and the commission's findings and conclusions of law detailed under Section III, and consents to the entry of this ORDER and AGREED RESOLUTION solely for the purpose of resolving and settling this sworn complaint.
- 2. 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. 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. Respondent acknowledges that § 255.001, Texas Election Code, requires a political disclaimer to be included on political advertising." Respondent agrees to fully and strictly comply with this requirement of the law.
- 4. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, Respondent understands and agrees that the commission will consider the Respondent to have committed the violation detailed in Section III if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the Respondent.

V. Confidentiality

This ORDER and AGREED RESOLUTION describes an alleged violation that the commission has determined would be neither technical nor *de minimis*. Accordingly, this ORDER and AGREED RESOLUTION is not confidential under Texas Government Code, § 571.140(b), and may be disclosed by members and staff of the Texas Ethics Commission.

VI. No Sanction

After considering the seriousness of the alleged violation described under Sections II and III, including the nature, circumstances, consequences, extent, and gravity of the violation; that no previous violations by this Respondent are known to the commission; that Respondent acknowledges that she made a mistake and has taken steps to see that she is in full compliance with laws, rules, and regulations enforced by the commission, the commission does not impose a sanction for the alleged violation described under Section III.

VII. Order

The Texas Ethics Commission hereby ORDERS:

- (1) that this proposed AGREED RESOLUTION be presented to Respondent;
- that if Respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete disposition of SC-93003;
- that 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 October 26, 1993;
- (4) that the executive director shall promptly refer SC-93003 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

proposed in this ORDER and A		TTION.
AGREED to by Respondent on this	day of	, 1993.
		VIOLA HERRERA, RESPONDENT
EXECUTED ORIGINAL received by the commission	commission on:	 DATE
		JOHN STEINER
		EXECUTIVE DIRECTOR TEXAS ETHICS COMMISSION