TEXAS ETHICS COMMISSION

IN THE MATTER OF	§	BEFORE THE
	§	
GIB WEAVER, RESPONDENT	§	TEXAS ETHICS COMMISSION
	§	
SC-93029	§	

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission ("commission") met on September 2, 1993, to consider sworn complaint SC-93029 filed against GIB WEAVER, (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 § 255.003, 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. Respondent is the superintendent of the Greenville Independent School District ("GISD"), Greenville, Texas.
- 2. On or about March 26, 1993, Respondent distributed a copy of campaign material for candidates for GISD school board with a cover memo that stated: "BE AWARE! BEWARE! SHARE!," through normal school distribution channels to the GISD administrative council, school principals, and assistant school principals. Stapled to the memorandum was a political advertisement distributed by the candidates.
- 3. On September 1, 1993, Respondent filed an affidavit with the commission stating among other things that it is his custom to distribute items of information to members of his immediate staff at least once a week. The memorandum was one of those items distributed. He further stated that it was not his intention to make a political statement, and he did not see the coversheet attached to the political advertisement before it was circulated. When informed by a member of the school board that he had made a mistake he immediately apologized to each person represented in the advertisement.

III. Conclusions of Law

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

- 1. The memorandum prepared under Respondent's direction was political advertising.
- 2. Respondent violated § 255.003, Texas Election Code, which provides that an officer or employee of a political subdivision may not spend or authorize the spending of public funds for political advertising by instructing GISD employees to prepare, copy, and distribute political advertising using GISD equipment and on GISD time.

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 § 255.003, Texas Election Code, prohibits an officer or an employee of a political subdivision from spending or authorizing the spending of public funds for political advertising.
- 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; and that Respondent has acknowledged his bad judgment, the commission does not impose a sanction for the 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-93029;
- 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 November 15, 1993;
- (4) that the executive director shall promptly refer SC-93029 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 commission in accordance with law if Respondent does not agree to the disposition of SC-93029 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by Respondent on this day of	, 1993.
	GIB WEAVER, RESPONDENT
EXECUTED ORIGINAL received by the commission on: _	DATE
	JOHN STEINER EXECUTIVE DIRECTOR TEYAS ETHICS COMMISSION