

Court.” The push card did not include a political advertising disclosure statement but it did include the telephone number of the respondent’s law office.

4. The respondent filed a sworn response in which he swears to the following:

The push-card or campaign material made the basis of this complaint is no bigger than a business card. It is simply to [*sic*] small to make a disclaimer as to who paid for the material, the name and address of the campaign treasurer . . . I was unaware that such campaign card was a violation of any statute.

Sometime in the early part of the campaign, I received a telephone call from an assistant district attorney of the Harris County District Attorney’s Office. I was informed that the judge had complained that the word “for” was not included on the push-card. At this time I had distributed only about 15 or 20 cards and thereafter the word “for” was written on the card.

It is most obvious from the words “vote Lloyd Oliver Judge” that I am not the judge, but requesting your vote. No one would conclude otherwise, and common sense would dictate, that there is no intentional violation of any statute.

IV. Findings and Conclusions of Law

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

1. A person may not enter into a contract or other agreement to print political advertising that does not indicate that it is political advertising and that does not contain the full name and address of the individual who entered into the contract or agreement with the printer or the full name and address of the person that individual represents. Section 255.001(a), Election Code.
2. Additionally, judicial candidates subject to the Judicial Campaign Fairness Act who file a declaration to exceed the applicable expenditure limits must include a statement indicating that they rejected the voluntary limits. Section 255.008, Election Code. This provision does not apply to candidates who file a declaration of intent to comply with the expenditure limits.
3. Political advertising is defined in relevant part as a communication supporting a candidate for election to a public office that appears in a circular, flier, or similar form of written communication. Section 251.001 (16), Election Code.

4. The push card at issue constitutes political advertising because it is a communication supporting a candidate for election to a public office that appears in a circular or flier. The communication does not include the disclosure statement. The respondent states that the push card is no bigger than a business card and simply too small to include a disclosure statement. However, in Ethics Advisory Opinion No. 435 (2001), the commission determined that a political advertising disclosure is required on business cards that include political advertising. Therefore, there is credible evidence that the respondent violated Section 255.001, Election Code.
5. Because the respondent filed a judicial declaration of intent stating his intent to comply with the expenditure limits, he was not required to include on his political advertising a statement indicating that he rejected the voluntary expenditure limits. Thus, there is credible evidence that the respondent did not violate Section 255.008, Election Code.
6. A person may not represent in a campaign communication that a candidate holds a public office the candidate does not hold at the time the representation is made. Section 255.006(b), Election Code. Under this provision, a person represents that a candidate holds a public office the candidate does not hold if: (1) the candidate does not hold the office that the candidate seeks; and (2) 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 sought. Section 255.006(c), Election Code.
7. A campaign communication is defined, in relevant part, as a written communication relating to a campaign for election to public office. Section 251.001(17), Election Code. The push card at issue constitutes a campaign communication because it is a written communication relating to the respondent’s campaign for election to district judge.
8. The respondent’s flier states in part, “Vote Lloyd Wayne Oliver Judge 263rd Criminal District Court” but does not include the word “for.” Therefore, there is credible evidence that the respondent violated Section 255.006, Election Code.
9. A person may not misrepresent his or her identity in a campaign communication with the intent to injure a candidate or to influence the result of an election. Section 255.005, Election Code. The push card originated from the respondent and clearly bears his name. Although a person who misrepresents that they hold an office they do not hold may also misrepresent his or her identity, the respondent violated Section 255.006, Election Code, which is the more specific statute. Thus, there is credible evidence that the respondent did not violate Section 255.005, 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 and 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 and settling this sworn complaint.
2. The 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. The respondent waives any right to a hearing before the commission or an administrative law judge, and further waives any right to a post-hearing procedure established or provided by law.
3. The respondent acknowledges that a person may not enter into a contract or other agreement to print political advertising that does not indicate that it is political advertising and that does not contain the full name and address of the individual who entered into the contract or agreement with the printer or the full name and address of the person that individual represents.
4. The respondent also acknowledges that 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 states the public office sought, but does not include 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. The respondent agrees to fully and strictly comply with this requirement of the law.
5. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, the respondent understands and agrees that the commission will consider the respondent to have committed the violations described under Section IV, Paragraphs 4 and 8, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

VI. Confidentiality

This ORDER and AGREED RESOLUTION describes violations that the commission has determined is neither technical nor *de minimis*. Accordingly, this ORDER and AGREED RESOLUTION is not confidential under Section 571.140, 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, consequences, extent, and gravity of the violations, after considering the fact that no previous violations by this respondent are known to the commission, and after considering the sanction necessary to deter future violations, the commission imposes a \$100 civil penalty for the violation described under Section IV, Paragraph 4.

VIII. Order

The commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to the respondent;
2. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-211275;
3. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original and the \$100 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than August 9, 2002; and
4. that the executive director shall promptly refer SC-211275 to either the commission or 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 the respondent does not agree to the resolution of SC-211275 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 20____.

Lloyd Wayne Oliver, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director