

TEXAS ETHICS COMMISSION

IN THE MATTER OF
RICK SCHNEIDER,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-2509163

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on March 23, 2006, and on September 21, 2006, to consider sworn complaint SC-2509163. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 255.003 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. Allegations

The complaint alleges that the respondent spent or authorized the spending of public funds for political advertising in the form of six different types of communications that advocated passage of a measure: a 16-page newsletter, a publication entitled "Growing Together," a website, a principal checklist, an e-mail, and a letter written on school board stationery.

III. Facts Supported by Credible Evidence

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

1. The complaint is against the superintendent of the Pasadena Independent School District (PISD).
2. The allegations relate to a November 2, 2004, school bond election in Pasadena, Texas.
3. The newsletter and publication were created by PISD. The PISD website was created by PISD.
4. The newsletter can be interpreted as advocating for passage of the bond.
5. The newsletter was also published on the PISD website.

6. The respondent states that although he was aware that the newsletter was being assembled, he did not read or review its contents before it was published.
7. The “Growing Together” publication has the same logo as the newsletter and a photograph of children holding up the world. The publication also includes information about population growth in the area, the development and the proposed plan, and what the plan would allow the school to accomplish, and what the district would do to address growth if the plan does not pass.
8. The complaint alleges that the principal checklist outlined instructions for distributing the “Growing Together” bond information.
9. The checklist was not created using PISD funds or resources. The respondent did not direct anyone to perform the tasks listed in the checklist.
10. The respondent sent a congratulatory e-mail after the passage of the bond election.
11. The e-mail at issue neither supports, nor opposes the school bond measure. It does congratulate school officials on their efforts to encourage people to vote.
12. The complaint alleges that PISD stationery was used for political advertising by a board member.
13. The respondent swears that he was not aware of the letter until after it was written.
14. There is no evidence to show that the respondent was responsible for the letter.

IV. Findings and Conclusions of Law

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

1. The law at issue in each allegation is section 255.003 of the Election Code. An officer or employee of a political subdivision may not spend or authorize the spending of public funds for political advertising. ELEC. CODE § 255.003(a). The prohibition does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure. ELEC. CODE § 255.003(b).
2. Political advertising means a communication supporting or opposing a measure that in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television or appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication or on an Internet website. ELEC. CODE § 251.001(16).

3. The respondent is an officer or employee of the school district. There is credible evidence that the respondent spent or authorized the spending of public funds for the communications.
4. The language in the newsletter does more than factually describe the purpose of the measure. The newsletter also includes statements that advocate passage of the measure. Therefore, there is credible evidence that the respondent violated section 255.003 of the Election Code with respect to the newsletter.
5. The PISD website contains statements that do more than factually describe the purpose of the measure. It also includes facts that advocate passage of the measure. Therefore, there is credible evidence that the respondent violated section 255.003 of the Election Code with respect to the website.
6. With respect to the “Growing Together” publication, the information contained in the “Growing Together” publication does not support passage of the measure. Therefore, there is credible evidence that the respondent did not violate section 255.003 of the Election Code with respect to the “Growing Together” publication.
7. Public funds were not used to prepare and distribute the checklist. Therefore, there is credible evidence of no violation of section 255.003 of the Election Code.
8. The e-mail does not meet the definition of political advertising. Thus, there is credible evidence of no violation of section 255.003 of the Election Code.
9. With respect to the letter, there is credible evidence of no violation of section 255.003 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 an officer or employee of a political subdivision may not spend or authorize the spending of public funds for political advertising. The respondent agrees to comply with this requirement 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. No Sanction

After considering the seriousness of the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes no civil penalty for the violations described under Sections III and IV.

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-2509163.

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

Rick Schneider, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director