

TEXAS ETHICS COMMISSION

IN THE MATTER OF

JOHN REYNA,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-280240

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 10, 2008, to consider sworn complaint SC-280240. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 255.006 of the Election Code, a law administered and enforced by the commission. To resolve this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaint alleges that the respondent represented in a campaign communication that he held a public office that he did not hold. The complaint also alleges that the respondent failed to include a disclosure statement and a highway right-of-way notice on his political advertising signs.

III. Facts Supported by Credible Evidence

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

1. The respondent was an unsuccessful non-incumbent candidate for Refugio County Commissioner, Precinct 4, a position he previously held.
2. The evidence indicates that some of the respondent's signs read "Re-elect John Reyna, County Commissioner Precinct 4."
3. The evidence indicates that the respondent's signs did not include the word "for" prior to the name of the office sought.
4. The evidence indicates that the respondent has corrected his signs to state "Elect" and to include the word "for" immediately before the name of the office sought.

5. The evidence indicates that the respondent's signs included a highway right-of-way notice.
6. The evidence indicates that the respondent's signs included a disclosure statement.

IV. Findings and Conclusions of Law

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

1. The definition of political advertising includes a communication in the form of a sign that supports a candidate for election to a public office. ELEC. CODE § 251.001.
2. A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising that it is political advertising and the full name of the person who paid for the political advertising, the political committee authorizing the political advertising or the candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate. ELEC. CODE § 255.001.
3. The evidence indicates that the respondent's political advertising signs included a disclosure statement. Therefore, there is credible evidence of no violation of section 255.001 of the Election Code.
4. Campaign communication means, in pertinent part, a written or oral communication relating to a campaign for nomination or election to public office. ELEC. CODE § 251.001(17). 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. 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 or campaign communication 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. ELEC. CODE § 255.006(c).
6. The evidence indicates that the respondent's signs used the word "re-elect" in such a way as to represent that the respondent held the office of Refugio County Commissioner, Precinct 4, at a time when he did not hold that office. In addition, the respondent did not place the word "for" prior to the name of the office he sought. Thus, the respondent represented in campaign communications that he held a public office that he did not hold. Therefore, there is credible evidence of violations of section 255.006 of the Election Code.
7. Each political advertising sign must include the highway right-of-way notice. ELEC. CODE § 255.007.

8. The evidence indicates that the respondent included the required highway right-of-way notice on his signs. Therefore, there is credible evidence of no violation of section 255.007 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 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. 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 or campaign communication 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 comply with these requirements of the law.

VI. Confidentiality

This order and agreed resolution describes a violation that the commission has determined is 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 seriousness of the violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$200 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-280240.

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

John Reyna, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director