

TEXAS ETHICS COMMISSION

IN THE MATTER OF
ROY C. BROOKS,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-3180260

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 26, 2018, and voted to accept jurisdiction of Sworn Complaint SC-3180260. A quorum of the commission was present at the meeting. Based on the investigation conducted by commission staff, the commission determined that there is credible evidence of a violation of Section 255.003, 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 the respondent.

II. Allegations

The complainant alleges that the respondent, a county commissioner, violated Section 255.003, Election Code, by authorizing the use of public funds to publish political advertising.

III. Facts Supported by Credible Evidence

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

1. This case involves allegations that a county commissioner knowingly spent or authorized the spending of public funds when he rode in parades in a county-owned vehicle with campaign signs attached.
2. June 17, 2016, Roy Brooks was in a county-owned vehicle being used in a parade in Fort Worth, Texas. He was appearing in the parade in his capacity as Commissioner.
3. Signs affixed to the vehicle listed the respondent's name, title, and precinct number, and also included the words "Re-elect," "Democrat" and "www.RoyCharlesBrooks.com."
4. On January 16, 2018, Roy Brooks was in a county-owned vehicle being used in a parade in Fort Worth, Texas. He was appearing in the parade in his capacity as Commissioner.

5. Attached to the vehicle were signs on the driver's and front passenger's doors.
6. The sign affixed to the driver's side door listed the respondent's name, title, and precinct number, and also included the words "Re-elect," "Democrat" and "www.RoyCharlesBrooks.com."
7. The sign affixed to the passenger's side door listed the respondent's name, title, and precinct number. It did not include the words "Re-elect" or "Democrat;" those words are apparently taped over. It does, however, include the campaign website address "www.RoyCharlesBrooks.com."
8. The website www.RoyCharlesBrooks.com includes the same campaign sign that was used in the parades, and has links for potential contributors to donate by credit card or by Paypal.
9. In the respondent's sworn response, he provides proof that on January 18, 2018, before the complaint was filed, he reimbursed the county for the gas used in the January 16, 2018 parade. (The complaint was filed on February 16, 2018).

IV. Findings and Conclusions of Law

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

1. An officer or employee of a political subdivision may not spend or authorize the spending of public funds for political advertising. Section 255.003(a), Election Code.
2. "Political advertising" is defined in relevant part as a communication that supports a candidate for election to public office that appears in a sign or on an Internet website. Section 251.001(16)(B), Election Code.
3. Whether a violation of Section 255.003, Election Code, has occurred depends on an examination of the overall content of the advertising.
4. The prominent display of the word "Re-elect," and the campaign website address www.RoyCharlesBrooks.com on the signs in question support the Respondent as a candidate for election (or re-election) to public office, as such, the sign (and the website) are political advertising.
5. The respondent, as county commissioner, authorized the use of public funds (use of vehicle) for the political advertising. Therefore, there is credible evidence that the respondent violated Section 255.003, Election Code.

V. Representations and Agreement by Respondent

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

1. The respondent has taken responsibility for and admits 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, for the purpose of resolving and settling this sworn complaint in an expeditious manner.
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 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 fully and strictly comply with this requirement of the law.
4. 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 violation described under Section IV, Paragraph 5, 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 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. Sanction

After considering the seriousness of the violation described under Sections III and IV, including the nature, circumstances, consequences, extent, and gravity of the violation, after considering the fact that no previous violations by this respondent are known to the commission, that the respondent has taken responsibility for his actions, and after considering the sanction necessary to deter future violations, the commission imposes a \$200 civil penalty for the violation described under Section IV, Paragraph 5.

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-3180260;
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 \$200 civil penalty to the Texas Ethics Commission, P. O. Box 12070, Austin, Texas 78711, no later than May 10, 2018; and
4. that if the respondent does not agree to the resolution of SC-3180260, as proposed in this ORDER and AGREED RESOLUTION, the executive director shall promptly refer SC-3180260 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.

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

Roy Charles Brooks, Respondent

EXECUTED by the Commission on: _____.

Texas Ethics Commission

By: _____
Seana Willing, Executive Director