

TEXAS ETHICS COMMISSION

IN THE MATTER OF

§
§
§
§
§

BEFORE THE

DICK SWEEZY, RESPONDENT

TEXAS ETHICS COMMISSION

SC-92023

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission ("commission") met on September 1, 1993, to consider sworn complaint SC-92023 filed against DICK SWEEZY (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 § 255.001 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 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 sole owner of Sweezy Outdoor Advertising Inc., a corporation that owns a billboard. The billboard provides changeable text messages.
2. On days when the billboard is not rented to others, Respondent uses the billboard to communicate messages of his own composition.
3. On at least two days in 1992 when the billboard was not carrying a paid message, Respondent placed the following messages on the billboard:

"HH CITY EMPLOYEES URGE TO YOU TO VOTE FOR KITTY YOUNG"

and,

"RE-ELECT PETE HILLIARD.....NOT"

4. On those days when Respondent placed the above-quoted messages on the billboard, the billboard did not include any information that noted the message was political advertising or that identified the name and address of Respondent as the person who entered into the agreement with Sweezy Outdoor Advertising Inc. to place the message on the billboard.

III. Conclusions of Law

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

1. The messages quoted in Section II, paragraph 3, were political advertising, as the term “political advertising” is defined by § 251.001 of the Election Code.
2. The political advertising was produced pursuant to a contract or agreement between Sweezy Outdoor Advertising Inc. and Respondent. Respondent, as representative of the Sweezy Outdoor Advertising Inc., agreed to the use of the corporate-owned billboard for Respondent's personal political advertising.
3. Respondent violated § 255.001 of the Election Code by entering into an agreement to publish political advertising that did not include the disclosure required by that section.

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 § 255.001 of the Election Code requires a disclosure to be included on political advertising. The disclosure must state that the material is political advertising, and must identify the name and address of either (i) the individual who arranged to have the advertising printed or published, or (ii) the person represented by that individual. Respondent agrees to fully and strictly comply with this requirement of the law.
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. 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; that Respondent cooperated fully with the investigation of this complaint; and the sanction, if any, deemed necessary to deter future violations, the commission imposes a \$100 civil penalty 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;
2. that the executive director shall promptly refer SC-92023 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-92023 as proposed in this ORDER and AGREED RESOLUTION;
3. that if Respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete disposition of SC-92023; and
4. that Respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original together with payment of the \$100.00 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than November 15, 1993.

AGREED to by DICK SWEEZY on _____, 1993.

Respondent

EXECUTED ORIGINAL received by the commission on _____, 1993.

John Steiner, Executive Director
Texas Ethics Commission