

TEXAS ETHICS COMMISSION

IN THE MATTER OF GENE L. MARTIN, RESPONDENT SC-93008	§ § § § §	BEFORE THE TEXAS ETHICS COMMISSION
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**ORDER
and
AGREED RESOLUTION**

I. Recitals

The Texas Ethics Commission (“commission”) met on September 1, 1993, to consider sworn complaint SC-93008 filed against GENE L. MARTIN (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, Texas 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. In the May 1, 1993, Victoria Independent School District, Victoria, Texas, election, Respondent was the campaign treasurer for Friends of Education, a general-purpose political committee which supported several candidates for election to the school board.
2. On March 30, 1993, Respondent, in support of the political committee's goals, arranged for the printing and mailing of a letter supporting several candidates. The letter had the following printed on it: "FRIENDS OF EDUCATION, 602 Brooks Road, Victoria, TX 77904."
3. The letter did not state that it was political advertising.
4. On May 7, 1993, Respondent filed an affidavit with the commission stating that it was his understanding that the printer who printed and mailed the letter was to have included a disclosure statement on the bottom of the letter.

III. Conclusions of Law

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

1. The letter distributed by Respondent on behalf of Friends of Education was political advertising.
2. The political advertisement did not include the disclosure required by § 255.001 of the *Texas Election Code* because the letter did not state it was political advertising.

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, Texas 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 the person who arranged to have the advertising printed or published or the person represented by the individual who arranged to have the advertising printed or published. 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. No 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; and the sanction, if any, deemed necessary to deter future violations; the commission does not impose a sanction for the alleged 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 if Respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete disposition of SC-93008;

- (3) that Respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than November 15, 1993;
- (4) that the executive director shall promptly refer SC-93008 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-93008 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by Respondent on this _____ day of _____, 1993.

GENE L. MARTIN, RESPONDENT

EXECUTED ORIGINAL received by the commission on: _____.
DATE

**JOHN STEINER
EXECUTIVE DIRECTOR
TEXAS ETHICS COMMISSION**