



### **III. Conclusions of Law**

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

1. The material distributed by Respondent was a campaign communication and was political advertising.
2. Respondent violated § 255.001 of the *Texas Election Code* by distributing political advertising that did not state the name and address of the person who entered into the contract with the printer to print the material, or that the material was political advertising.
3. Respondent violated § 255.006 of the *Texas Election Code* by representing in a campaign communication that Respondent held a public office he did not hold at the time the representation was made.

### **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 printed political advertising that states the material is political advertising and provides the full name and address of the person who entered into the contract with the printer to print or publish the advertising. Respondent agrees to fully and strictly comply with this requirement of the law.
4. Respondent acknowledges that § 255.006, *Texas Election Code*, prohibits a person from representing in a campaign communication that a candidate holds a public office that the candidate does not hold at the time the representation is made.
5. 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 acknowledges that although the required disclosure may have been left off some of the distributed materials, subsequent materials run through the copy machine included the required disclosure; and the sanction, if any, deemed necessary to deter future violations; the commission imposes a civil penalty of \$100.00 for the violations 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-93009;
- (3) that Respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original along with the payment of the \$100 civil penalty 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-93009 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-93009 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by Respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 1993.

\_\_\_\_\_  
**JOE H. HICKS, JR., RESPONDENT**

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_.  
DATE

\_\_\_\_\_  
**JOHN STEINER  
EXECUTIVE DIRECTOR  
TEXAS ETHICS COMMISSION**