

TEXAS ETHICS COMMISSION

IN THE MATTER OF
PAT HALLISEY
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-96035

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (“commission”) met on July 12, 1996, to consider sworn complaint SC-96035 filed against Pat Hallisey (the “respondent”). A quorum of the commission was present. The commission voted to accept jurisdiction of this complaint. Based on the investigation conducted by commission staff to date, the commission determined there was credible evidence of a violation of Section 255.006, Election Code, (Misleading Use of Office Title), 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. Facts Supported by Credible Evidence

Credible evidence available to the commission would support the following findings of fact:

1. At all times relevant to this complaint, the respondent was a candidate for city mayor.
2. On November 12, 1994, pursuant to the city charter, the respondent was appointed to fill the city mayor position, which was vacated in October 1994. There is a legal issue as to whether the city council has the authority to appoint the respondent as mayor because of a conflict between the city charter and the Texas Constitution.
3. In May 1995 and June 1996, the respondent unsuccessfully ran for mayor. The respondent used the title “mayor” in his political advertising signs during both of the campaigns.
4. During the 1995 campaign, the respondent was serving as mayor as a result of the city council’s appointment. During the 1996 campaign, the respondent was not serving as mayor.
5. The complaint alleges that the respondent violated Sections 255.005 and 255.006, Election Code, by using the tile “mayor” in his political advertising when in fact he was not a mayor.

III. Conclusions of Law

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

1. Section 255.005, Election Code, prohibits a person from misrepresenting his identity in political advertising. There is credible evidence that the respondent did not misrepresent his identity in political advertising by using the title “mayor.”

2. Section 255.006, Election Code, prohibits a person from entering into an agreement to print political advertising with the intent to represent that a candidate holds a public office he does not hold when the agreement is made. It also prohibits a person from representing in political advertising that a candidate holds a public office he does not hold when the representation is made.
3. During the 1995 campaign, the respondent reasonably relied on the city council's appointment to the office of mayor when he entered into an agreement to print political advertising representing that he was a mayor and when he erected the political advertising representing that he was mayor. Therefore, there is credible evidence that the respondent did not violate Section 255.006, Election Code, during the 1995 campaign.
4. During the 1996 campaign, the respondent was not a mayor but he represented in his political advertising that he held that office. Therefore, there is credible evidence that the respondent violated Section 255.006, Election Code, during the 1996 campaign.

IV. Representations and Agreement by the Respondent

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

1. The 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. 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 appointed by the commission, and further waives any right to a post-hearing procedure established or provided by law.
3. The respondent acknowledges that Section 255.006, Election Code, prohibits a person from representing in political advertising that a candidate holds a public office he does not hold when the representation is made. 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 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 or *de minimis*. Accordingly, this ORDER and AGREED RESOLUTION is not confidential under Section 571.140, Government Code, and may be disclosed by members and staff of the Texas Ethics Commission.

VI. Sanction

After considering the seriousness of the 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 after considering the sanction deemed necessary to deter future violations, the commission imposes a \$100 civil penalty for the violation described under Section III, Paragraph 4.

VII. Order

The Texas Ethics Commission hereby ORDERS:

1. that the portion of this sworn complaint that alleges violations under Section III, Paragraphs 1 and 3, are dismissed;
2. that this proposed AGREED RESOLUTION be presented to the respondent;
3. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-96035;
4. that the 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 August 12, 1996; and
5. that the executive director shall promptly refer SC-96035 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 if the respondent does not agree to the resolution of SC-96035 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this _____ day of _____, 1996.

Pat Hallisey, Respondent

EXECUTED ORIGINAL received by the commission on: _____
DATE

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director