

TEXAS ETHICS COMMISSION

IN THE MATTER OF

PATSY PEREZ,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-220102

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 8, 2002, and voted to accept jurisdiction of Sworn Complaint SC-220102 filed against Patsy Perez, Respondent. The commission met again on April 12, 2002, to consider Sworn Complaint SC-220102. A quorum of the commission was present at both meetings. Based on the investigation conducted by commission staff, the commission determined that there is credible evidence of violations of Sections 255.001 and 255.006, Election Code, laws 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 failed to include the required political advertising disclosure statement on her campaign yard signs. The complainant also alleges that the respondent misrepresented on her signs that she held the office of district clerk by failing to use the word “for.”

III. Facts Supported by Credible Evidence

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

1. The respondent was an opposed candidate for district clerk in Nueces County. The respondent was not the incumbent.
2. The complainant provided photographs showing the respondent’s signs allegedly placed throughout the county. At least one of the signs does not include a political advertising disclosure statement.
3. The respondent’s signs state “Vote for Patsy Perez District Clerk.” A bar is drawn between the respondent’s name and the office sought.

4. The respondent provided a sworn response in which she swears the following:

. . . . at the time the signs were posted, I was unaware of the omission on the signs. When I was informed, I immediately made a good faith effort to rectify the violations and to comport with said sections. The error was committed not to mislead the public. It was simply an error – albeit one that should never have occurred – but nonetheless, has been remedied.

IV. Findings and Conclusions of Law

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

1. A person may not enter into a contract or other agreement to print political advertising that does not indicate that it is political advertising and that does not contain the full name and address of the individual who entered into the contract or agreement with the printer or the full name and address of the person that individual represents. Section 255.001(a), Election Code.
2. Political advertising is defined in relevant part as a communication supporting a candidate for election to a public office that appears in a sign. Section 251.001(16), Election Code. The exhibits constitute political advertising because they are communications supporting a candidate for election to a public office that appear in a sign.
3. The respondent, in her sworn response, admits to failing to include the political advertising disclosure statement.
4. Because the respondent entered into a contract or agreement to print political advertising that does not have the required political advertising disclosure statement, there is credible evidence that the respondent violated Section 255.001, Election Code.
5. A person may not enter into a contract or other agreement to print political advertising with the intent to represent that the person holds a public office that the person does not hold at the time the agreement is made. Section 255.006(a), Election Code.
6. A person represents that a candidate holds a public office that the candidate does not hold if the candidate does not hold the office that the candidate seeks and the political advertising states the public office sought, but does not include the word “for” in a type size that is at least one-half the type size used for the name of the office to clarify that the candidate does not hold that office. Section 255.006(c), Election Code.
7. The respondent did use the word “for” on her signs, but the word was not used in conjunction with the office sought.

8. Because the respondent did not use the word “for” before the office sought, there is credible evidence that the respondent committed a technical or *de minimis* violation of Section 255.006, Election Code.

V. Representations and Agreement by Respondent

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

1. The respondent neither admits nor denies 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 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, and further waives any right to a post-hearing procedure established or provided by law.
3. The respondent acknowledges that a candidate must include a political advertising disclosure statement on campaign signs. The respondent further acknowledges that a candidate who is not an incumbent must use the word “for” in campaign materials to clarify that the candidate does not hold the office sought. The respondent agrees to fully and strictly comply with these requirements 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 violations described under Section IV, Paragraphs 4 and 8, 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 a violation that the commission has determined is neither technical nor *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 commission.

VII. Sanction

After considering the seriousness of the violations described under Sections III and IV, including the nature, circumstances, consequences, extent, and gravity of the violations, after considering the fact that no previous violations by this respondent are known to the commission, and after considering the sanction necessary to deter future violations, the commission imposes a \$100 civil penalty for the violation described under Section IV, Paragraph 4.

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-220102;
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 \$100 civil penalty to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than May 10, 2002; and
4. that the executive director shall promptly refer SC-220102 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-220102 as proposed in this ORDER and AGREED RESOLUTION.

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

Patsy Perez, Respondent

EXECUTED ORIGINAL received by the commission on: _____.
Texas Ethics Commission

By: _____
Tom Harrison, Executive Director