

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
WILLIAM H. KING, III,  
RESPONDENT

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BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-220683

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (the commission) met on July 12, 2002, and voted to accept jurisdiction of Sworn Complaint SC-220683 filed against William H. King, III, Respondent. The commission met again on August 16, 2002, to consider Sworn Complaint SC-220683. 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 a violation of Section 255.006, 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 the respondent.

### II. Allegation

The complainant alleges that the respondent, a candidate for city council, represented in political advertising that he held a public office that he did not hold.

### 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 city council in a May 4, 2002, city election. He was not the incumbent.
2. In support of his allegation the complainant submitted two communications. One communication is in the form of a flier that states, in part, "Vote May 4, 2002 City Councilman Position #1 . . . Tried . . . Proven William H. King III." The other communication is in the form of a key chain that states, in part, "William H. King, III City Councilman Position #1 . . . Tried & Proven Honest Leadership."

3. The respondent filed a response in which he states the following:

I did not knowingly enter into a contract with anyone concerning the materials cited in the complaint with the intent to imply that I was a current officeholder. I was unaware that I must use the word “for” in my campaign advertising . . . It was an inadvertent error as this was a flyer that I composed and copied myself and with the help of a volunteer. The key ring was the same type of inadvertent error.

#### **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 represent in a campaign communication that a candidate holds a public office the candidate does not hold at the time the representation is made. Section 255.006(b), Election Code. Under this provision, a person represents that a candidate holds a public office the candidate does not hold if: (1) the candidate does not hold the office that the candidate seeks; and (2) the campaign communication 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 sought. Section 255.006(c), Election Code.
2. A campaign communication is defined, in relevant part, as a written communication relating to a campaign for election to public office. Section 251.001(17), Election Code. The flier and key chain constitute campaign communications because they are written communications relating to the respondent’s campaign for election to city councilman.
3. The respondent’s flier states, in part, “Vote May 4, 2002 City Councilman Position # 1 . . . Tried . . . Proven William H. King III” but does not include the word “for.” The respondent’s key chain states, in part, “William H. King, III City Councilman Position #1 . . . Tried & Proven Honest Leadership” but does not include the word “for.” Therefore, there is credible evidence that the respondent violated 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 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. 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 described under Section IV, Paragraph 3, 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. No Sanction**

After considering the seriousness of the violation described under Sections III and IV, including the nature, circumstances, consequences, extent, and gravity of the violation, 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 no civil penalty for the violation described under Section IV, Paragraph 3.

#### **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-220683;
3. 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 September 13, 2002; and

4. that the executive director shall promptly refer SC-220683 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-220683 as proposed in this ORDER and AGREED RESOLUTION.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
William H. King, III, Respondent

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

Texas Ethics Commission

By:

\_\_\_\_\_  
Tom Harrison, Executive Director