

TEXAS ETHICS COMMISSION

IN THE MATTER OF
BRUCE McRAE,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-240226

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission met on July 16, 2004, to consider sworn complaint SC-240226. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 255.003 of the Election Code, a law administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegation

The complainant alleges that the respondent spent or authorized the spending of public funds for political advertising.

III. Facts Supported by Credible Evidence

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

1. The respondent is a town commissioner in the town of Clark, Texas.
2. The complainant, a resident of Dallas, Texas, participated in the circulation of a petition to have certain property deannexed from the town of Clark. In support of his allegation that the respondent spent or authorized the spending of public funds for political advertising, the complainant submitted a newsletter on town of Clark letterhead that encourages residents to have their names removed from the petition and encourages them to vote against the deannexation proposal. The letter is signed by the respondent.

IV. Findings and Conclusions of Law

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

1. An officer or employee of a town may not use town resources for political advertising. ELEC. CODE § 255.003; Ethics Advisory Opinion No. 45 (1992). Political advertising includes a written communication supporting or opposing a measure. *Id.* § 251.001(16).
2. A measure includes “the circulation and submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters’ will.” *Id.* § 251.001(19).
3. The newsletter signed by the respondent is political advertising because it opposes a petition being circulated to determine whether a matter will be submitted in an election. The evidence indicates that the respondent used resources belonging to the town of Clark for that letter. Therefore, there is credible evidence that the respondent violated section 255.003 of the 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 or 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 this sworn complaint.
2. The respondent consents to this order and agreed resolution and waives any right to further proceedings in this matter.
3. The respondent acknowledges that an officer or employee of a town may not use town resources for political advertising. The respondent agrees to fully and strictly comply with this requirement of the law.

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 of the Government Code, and may be disclosed by members and staff of the commission.

VII. Sanction

After considering the seriousness of the violation described under Sections III and IV, including the nature, circumstances, and consequences of the violation, and after considering the sanction necessary to deter future violations, the commission imposes a \$100 civil penalty for the violation described under Section IV.

VIII. Order

The commission hereby orders that if the respondent consents to the proposed resolution, this order and agreed resolution is a final and complete resolution of SC-240226.

AGREED to by the respondent on this _____ day of _____, 2004

Bruce McRae, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Sarah Woelk, Acting Executive Director