

TEXAS ETHICS COMMISSION

IN THE MATTER OF
JOYCE COSGROVE,
RESPONDENT

§
§
§
§
§

BEFORE THE
TEXAS ETHICS COMMISSION
SC-250437

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission met on July 14, 2005, to consider sworn complaint SC-250437. A quorum of the commission was present. The commission determined that there is credible evidence of violations of sections 255.006 and 255.007 of the Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaint alleges that the respondent failed to include the right-of-way notice on political advertising signs and failed to use the word "for" as required on those signs.

III. Facts Supported by Credible Evidence

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

1. The respondent was an unsuccessful candidate for election to the city council in a May 7, 2005, city election.
2. After the complainant submitted the complaint, he submitted a photograph of one of the signs. The sign states "Vote Joyce Cosgrove Council at Large." The sign does not include the right-of-way notice or the word "for."
3. The respondent submitted a sworn response stating that she was unaware that the right-of-way notice was required and stating that the printer left the word "for" off of her political advertising signs.

IV. Findings and Conclusions of Law

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

1. Because the sign is a political advertising sign designed to be seen from a road, it was required to include the following notice on the sign.

"NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE), TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY."

ELEC. CODE § 255.007(a).

2. No right-of-way notice is visible in the photographs provided by the complainant. The respondent admits that she was unaware that the right-of-way notice was required. Therefore, there is credible evidence of a violation of section 255.007 of the Election Code.
3. A person commits an offense if the person knowingly represents in a campaign communication that a candidate holds a public office that the candidate does not hold at the time the representation is made. A campaign communication must include the word "for" in connection with the name of the office sought by a non-incumbent candidate to clarify that the candidate does not hold that office. ELEC. CODE § 255.006.
4. The respondent did not hold the position of city council person. The sign states the respondent's name and then the words "council at large" without including the word "for" between her name and the name of the position she is seeking.
5. The sign is a campaign communication because it is a written communication relating to a campaign for public office. ELEC. CODE § 251.001(17).
6. The respondent admits that the printer left the word "for" off of her political advertising signs.
7. By using the signs without the word "for" the respondent knowingly represented in a campaign communication that she held a public office that she did not hold. Therefore, there is credible evidence of a violation of section 255.006 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 a political advertising sign designed to be seen from a road is required to include the right-of-way notice on the sign and that a campaign communication must include the word "for" in connection with the name of the office sought by a non-incumbent candidate to clarify that the candidate does not hold that office. The respondent agrees to comply with these requirements of the law.

VI. Confidentiality

This order and agreed resolution describes violations that the commission has determined are 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. No Sanction

After considering the seriousness of the violations described under Sections III and IV, including the nature, circumstances, and consequences of the violations, and after considering the sanction necessary to deter future violations, the commission imposes no civil penalty for the violations described under Sections III and 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-250437.

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

Joyce Cosgrove, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director