

TEXAS ETHICS COMMISSION

IN THE MATTER OF

A. B. OWENS,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-250443

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission met on July 14, 2005, to consider sworn complaint SC-250443. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 255.001 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 complaint alleges that the respondent failed to include the disclosure statement on political advertising signs.

III. Facts Supported by Credible Evidence

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

1. The respondent was a candidate for city council in a May 7, 2005, city election.
2. In support of his allegation, the complainant submitted photographs of two signs supporting the respondent. The signs do not include the disclosure statement.
3. The respondent submitted an affidavit in which he states that in response to the complaint he corrected all the signs.

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 knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising that it is political advertising and the full name of the person, candidate, or political committee who

paid for it. ELEC. CODE § 255.001(a). The signs in question support a candidate for elected public office and are therefore political advertising. *Id.* § 251.001(16). The signs contain express advocacy. *Id.* § 255.001(b).

2. No disclosure statement is visible on the signs in the photographs provided by the complainant. The respondent filed an affidavit swearing that in response to the complaint he corrected his signs. Therefore, there is credible evidence of a violation of section 255.001 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 person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising that it is political advertising and the full name of the person, candidate, or political committee who paid for it. The respondent agrees to 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 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-250443.

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

A. B. Owens, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director