

TEXAS ETHICS COMMISSION

IN THE MATTER OF
GILBERT FLORES,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-280125

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 10, 2008, to consider sworn complaint SC-280125. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 255.006 of the Election Code, a law administered and enforced by the commission. To resolve this complaint without further proceedings, the commission proposes this resolution to the respondent.

II. Allegations

The complaint alleges that the respondent represented in campaign communications 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 is a non-incumbent candidate for Lubbock County Commissioner, Precinct 3, a position that the respondent previously held.
2. The evidence indicates that the respondent displayed signs at a campaign banquet held on January 11, 2008, that read, "Re-elect Mr. Gilbert Flores." The evidence also indicates that the respondent was advised that the signs did not comply with the law but that he did not remove them.
3. The evidence also indicates that the respondent had several 4x8 political signs placed at several locations throughout the precinct that read, "Re-elect."

4. The evidence indicates that some of the signs placed by the respondent failed to include the word “for” prior to the name of the office sought.
5. The evidence indicates that the respondent corrected the signs at issue by changing them to read “elect” and by adding the word “for” immediately before the office sought.
6. The evidence indicates that on February 21, 2008, there was a sign mounted on a vehicle parked in the street in front of a polling site in Idalou, Texas, during early voting in the primary election that stated, “Re-elect Gilbert A. Flores, County Commissioner Precinct 3.”
7. The evidence indicates that one of the respondent’s supporters took an old sign from his home and went to a park in front of a polling site in Idalou, Texas. The evidence indicates that when the supporter realized his mistake he removed the sign.

IV. Findings and Conclusions of Law

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

1. Campaign communication means, in pertinent part, a written or oral communication relating to a campaign for nomination or election to public office. ELEC. CODE § 251.001(17).
2. 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. ELEC. CODE § 255.006(b).
3. 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 or 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 to clarify that the candidate does not hold that office. ELEC. CODE § 255.006(c).
4. The evidence indicates that the signs at issue used the word “re-elect” in such a way as to represent that the respondent held the office of Lubbock County Commissioner, Precinct 3, at a time when he did not hold that office. In addition, the respondent was required to use the word “for” on his sign to clarify that he did not hold the office he sought. The respondent failed to do so. Thus, the respondent represented in campaign communications that he held a public office that he did not hold at the time of the representations. Therefore, there is credible evidence of violations 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 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. The respondent also 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 or 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 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 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 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 a \$200 civil penalty.

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-280125.

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

Gilbert Flores, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director