

TEXAS ETHICS COMMISSION

IN THE MATTER OF

ALBERT E. "AL" EDWARDS,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-280299

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on June 10, 2008, to consider sworn complaint SC-280299. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 255.006 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. Allegations

The complaint alleges that the respondent represented in campaign signs, mailers and a campaign website that he held a public office that he did not hold at the time the representations were made.

III. Facts Supported by Credible Evidence

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

1. During the time in question, the respondent was a former state representative and a candidate for that office.
2. The complaint included a photograph of one of the respondent's campaign signs, a copy of the respondent's campaign mailer, and the respondent's campaign website address.
3. The website included the word "re-elect" and did not include the word "for" before the office sought.
4. The campaign sign included the word "re-elect" and the word "for" before the office sought.
5. The campaign mailer stated that the respondent is "seeking re-election," and included the word "for" before the office sought on one side of the mailer. The other side of the mailer included the word "re-elect," but did not include the word "for" before the office sought.

6. The complaint alleges that by using “re-elect,” and by failing to use the word “for” each time a communication states the office sought, the respondent represented that he held a public office that he did not hold at the time of the representation.
7. In response to the complaint, the respondent swears that the campaign signs bear the words “re-elect” because the respondent was previously in office as a state representative of District 146 and, “Re means to do again or back to.”
8. The respondent asserts that the campaign mailer properly includes the word “for.”

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 represent 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).
2. A campaign communication means a written or oral communication relating to a campaign for nomination or election to public office or office of a political party or to a campaign on a measure. ELEC. CODE § 251.001(17).
3. Because the communications at issue relate to an election to public office, they are campaign communications.
4. If the candidate does not hold the office that the candidate seeks and the political advertising or campaign communication states the public office sought, then the candidate must include the word “for” to clarify that the candidate does not hold that office. ELEC. CODE § 255.006(c).
5. Ethics Advisory Opinion No. 385 indicates that while the word “for” is required, it is not required in every instance in which the candidate’s name is linked to the office sought within the same campaign communication. Ethics Advisory Opinion No. 385 (1997).
6. Although the signs and mailers included the word “for” before the office sought in some instances, they also used the word “re-elect” in such a way as to represent that the respondent held the office of state representative of District 146 at a time when he did not hold that office. The website stated “re-elect” and did not use “for” in any instance.
7. 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 enters into a contract or other agreement to print, publish, or broadcast political advertising with the intent to represent to an ordinary and prudent person that a candidate holds a public office that the candidate does not hold at the time the agreement is made. 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 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. 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 \$500 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-280299.

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

Albert E. "Al" Edwards, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director