

TEXAS ETHICS COMMISSION

IN THE MATTER OF
BILLY WICKLIFFE,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-290460 AND SC-290471

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on December 2, 2009, to consider sworn complaints SC-290460 and SC-290471. 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 and settle this complaint without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaints allege that the respondent represented in campaign communications that he held an elective 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. The respondent was an unsuccessful candidate for city council in Wilmer, Texas, in the May 9, 2009, election.
2. The respondent held the position of city councilman in Wilmer in the past, but was not an incumbent in the May 2009 election.
3. The respondent displayed signs in Wilmer, that stated, "RE-ELECT BILLY WICKLIFFE FOR CITY COUNCIL."
4. The respondent admits that he displayed signs from a previous campaign and failed to place a sticker covering the "RE" in "RE-ELECT" on some of those signs.

IV. Findings and Conclusions of Law

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

1. 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 the office. ELEC. CODE § 255.006(c).
2. 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. The respondent’s signs and newspaper advertisements were written communications relating to a campaign for election to public office and were, therefore, campaign communications.
4. The use of the word re-elect on the respondent’s signs represented that the respondent currently held the office he was seeking. Therefore, there is credible evidence that the respondent violated 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 these sworn complaints.
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 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.

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-290460 and SC-290471.

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

Billy Wickliffe, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director