

TEXAS ETHICS COMMISSION

IN THE MATTER OF
EDDIE C. HADLOCK,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31108195 AND SC-31108198

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on February 8, 2012, to consider sworn complaints SC-31108195 and SC-31108198. A quorum of the commission was present. The commission determined that there is credible evidence of violations of section 255.003 of the Election Code, a law administered and enforced by the commission. To resolve and settle these complaints without further proceedings, the commission proposed this resolution to the respondent.

II. Allegations

The complaints alleged that the respondent spent or authorized the spending of public funds for political advertising.

III. Facts Supported by Credible Evidence

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

1. The respondent is the president of North Central Texas College (NCTC), a political subdivision with three major campuses located across north Texas.
2. The complaints relate to events leading up to a May 14, 2011, election to pass a \$32.5 million school bond package that would provide improvements and expansions to the NCTC Gainesville campus.
3. The complaints alleged that the respondent spent or authorized the spending of public funds for political advertising by: 1) using college resources to assist in the creation of a political advertisement supporting the school bond measure; 2) having a staff member hand-deliver the political advertisement to a local newspaper; and 3) using his college office to distribute political yard signs.

Preparing the Political Advertisement

4. Sworn complaint SC-31108195 alleged that the respondent spent or authorized the spending of public funds for political advertising by using college resources to prepare a political advertisement to be placed in the Gainesville Daily Register, a local newspaper publication. The advertisement indicated that it was paid for by the Vote For NCTC PAC (the PAC), a specific-purpose committee, and the committee's 8-day pre-election report disclosed a political expenditure to the newspaper for newspaper advertising.
5. The complaint included several emails sent by the respondent that included the exact wording for the political advertisement that appeared in the Gainesville Daily Register. One of the emails submitted with the complaint was sent from the respondent to [NCTC PAC's treasurer] at 3:25 p.m. on May 12, 2011, and included the exact wording for the political advertisement that appeared in the Gainesville Daily Register. Another email submitted as additional evidence was sent from the respondent to [individual] at 3:31 p.m. on May 12, 2011, and stated: "[NCTC PAC's treasurer] has made arrangements for the ad in tomorrow's paper and I have email [sic] text to him."
6. In response to the allegation, the respondent swore that the wording of the advertisement was provided by the treasurer of the PAC, and that his only involvement was to verify the factual and statistical information contained in the advertisement. The respondent provided a sworn statement from the treasurer of the PAC, in which the treasurer swore that he described the ad and provided the wording, and that he asked the respondent to verify the facts and fill in the numbers.

Hand-delivery of the Political Advertisement

7. Sworn complaint SC-31108195 alleged that the respondent spent or authorized the spending of public funds by having a staff member hand-deliver a political advertisement to the local newspaper.
8. In response to the allegation, the respondent submitted a sworn statement from the staff member, in which the staff member swore that the act of delivering the political advertisement was a personal errand not involving the use of any school resources. The staff member swore that he used his own vehicle and fuel, was not on school district time, and did not seek or receive reimbursement for any expenses associated with the errand.

9. The respondent provided an affidavit and swore that he did not require the staff member to deliver the document to the newspaper in the course and scope of his employment, and that the act of delivering the document was a personal errand rather than an official duty.

Using College Office to Distribute Political Advertising Signs

10. Sworn complaint SC-31108198 alleged that the respondent spent or authorized the spending of public funds for political advertising by using his college office to distribute campaign signs to faculty and staff.
11. The evidence submitted with the complaint included an email dated April 26, 2011, 2:48 a.m., that was sent by an individual “on behalf of” the respondent to all faculty and staff members, wherein the respondent stated: “[y]ard signs will be available in my office on Thursday of this week. Please feel free to pick up as many as you need to put in your yard or to give to friends.”
12. The complainant submitted as additional evidence other emails regarding the shipment and subsequent distribution of the political yard signs at issue. One email was sent from the respondent’s NCTC email address to an individual at 9:29 a.m. on April 26, 2011, wherein the respondent stated: “[t]hey are to ship today. What happened on the signs is beyond my understanding. The sign [sic] were to be here last Tuesday.”
13. Another email was sent from an individual to the respondent at 3:34 p.m. on April 28, 2011, and stated: “I have people asking about yard signs. Nobody is in your office. Are they there yet?” In response to that email, the respondent replied: “[t]alked with Sandy and she had been delivering signs this afternoon to employees on campus.”
14. Although a picture of the yard signs was not provided, the complainant submitted an affidavit in which he swore that he personally saw the yard signs placed in numerous locations in the county, and that the wording “VOTE FOR NORTH CENTRAL TEXAS COLLEGE” with the date of the election and the campaign website address were on the signs. A photograph of a sign that matched the description of the sign described by the respondent was posted on NCTC PAC’s website.

IV. Findings and Conclusions of Law

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

1. An officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising. ELEC. CODE § 255.003(a).

2. Political advertising means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that, in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication or on an Internet website. *Id.* § 251.001(16).
3. Section 255.003(a) of the Election Code prohibits any method of distribution that involves the use of school district employees on school district time or school district equipment. Ethics Advisory Opinion No. 45 (1992).
4. Any use of a political subdivision's resources for political advertising constitutes spending or authorizing the spending of public funds for political advertising and is prohibited. The use of facilities maintained by a political subdivision also constitutes the spending of public funds. Ethics Advisory Opinion No. 443 (2002).

Preparing the Political Advertisement

5. The communication at issue supported the bond measure and was published by the Gainesville Daily Register in return for consideration paid for by the Vote for NCTC PAC. Thus, the communication was political advertising.
6. The evidence indicated that the respondent, at the very least, provided statistical information for the creation of the political advertisement at issue, and some evidence indicated that he may have provided some of the text for the advertisement. In addition, the evidence indicated that the respondent assisted in the creation of a political advertisement, and did so using district resources.
7. The evidence showed that the respondent was employed by NCTC and was on school district time when he assisted in creating the political advertisement at issue. Therefore, the respondent used political subdivision resources to assist in the creation of political advertising. There is credible evidence of a violation of section 255.003 of the Election Code.

Hand-delivery of the Political Advertisement

8. Although the respondent used a school district employee to distribute the political advertisement, the evidence does not establish that the school district employee was on school district time, or that school district equipment was used. Therefore, there is insufficient evidence of a violation of section 255.003(a) of the Election Code.

Using College Office to Distribute Political Advertising Signs

9. The signs at issue were written communications supporting the school bond measure that, in return for consideration paid for by the Vote for NCTC PAC, appeared in the form of yard signs. Thus, the yard signs constituted political advertising.
10. Since North Central Texas College is a political subdivision, the respondent's office on campus is considered to be a facility maintained by the political subdivision.
11. The respondent used his college office to distribute political signs. Therefore, there is credible evidence of a violation of section 255.003 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 an officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising. The respondent also acknowledges that any use of a political subdivision's resources for political advertising constitutes spending or authorizing the spending of public funds for political advertising and is prohibited. 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-31108195 and SC-31108198.

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

Eddie C. Hadlock, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director