

# TEXAS ETHICS COMMISSION

**IN THE MATTER OF**

**BILL ALCORN,**

**RESPONDENT**

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**BEFORE THE**

**TEXAS ETHICS COMMISSION**

**SC-3170463, SC-31705104,  
SC-31706112, SC-31707116, AND  
SC-31712186**

## **ORDER and AGREED RESOLUTION**

### **I. Recitals**

The Texas Ethics Commission (Commission) met on January 30, 2018, to consider sworn complaints SC-3170463, SC-31705104, SC-31706112, SC-31707116, and SC-31712186. A quorum of the Commission was present. The Commission determined that there is credible evidence of violations of sections 255.001, 255.003, and 255.007 of the Election Code, laws administered and enforced by the Commission. To resolve and settle the complaints without further proceedings, the Commission adopted this resolution.

### **II. Allegations**

The complaints alleged that the respondent: 1) knowingly spent or authorized the spending of public funds for political advertising; 2) did not include on political advertising the political advertising disclosure statement; and 3) did not include a highway right-of-way notice 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 is the President of the Board of Directors of the Galveston County Municipal Utility District No. 12 ("MUD"). The complaints relate to political advertising in connection with a May 6, 2017, bond election.
2. The complaints alleged that the respondent: 1) knowingly spent or authorized the spending of public funds for political advertising signs in violation of section 255.003 of the Election Code; 2) did not include a disclosure statement on the political advertising signs as required

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- by section 255.001 of the Election Code; and 3) did not include a highway right-of-way notice on the political advertising signs, as required by section 255.007 of the Election Code.
3. The respondent admitted that he spent or authorized the spending of \$312.50 in public funds to purchase signs containing the following text: "VOTE "FOR" MUD BONDS." The signs were purchased and displayed in April 2017. The signs did not contain a political advertising disclosure statement or highway right-of-way notice.
  4. Credible evidence indicates that the MUD's office and personnel were also used to distribute the signs at issue to citizens during regular business hours. Credible evidence also indicates that an online account belonging to the MUD District and registered with a message board with the username "MUD #12," was used to post notice that citizens could obtain signs at the MUD's office.
  5. The respondent reimbursed the MUD for the cost of the signs and attempted to collect the signs to place a political advertising disclosure statement on them. This statement read: "POLITICAL SIGN PAID FOR BY BILL ALCORN."
  6. The complaints also alleged that the respondent knowingly spent or authorized the spending of public funds for political advertising in violation of section 255.003 of the Election Code in the form of a newspaper advertisement, including that the respondent authorized the use of public property, resources, and personnel to purchase the newspaper advertisement.
  7. In addition, the complaints alleged that the respondent: 1) knowingly spent or authorized the spending of public funds in violation of section 255.003 of the Election Code for political advertising in the form of a mailer, a handout distributed to attendees of a MUD public meeting, and an Internet posting; and 2) did not include a disclosure statement on the alleged political advertising as required by section 255.001 of the Election Code. The complaints further alleged that, as President of the MUD, the respondent directed or supervised the activities of the MUD office and personnel, and accordingly was responsible for authorizing the use of public funds, property, resources, and personnel for the alleged political advertising at issue.
  8. Credible evidence indicates that \$379.50 in public funds belonging to the MUD were used to purchase a newspaper advertisement in the "Vista Views" publication. The newspaper advertisement contained information pertaining to the bond election and urged readers to "VOTE YES" in the election.
  9. Credible evidence also indicates that public funds and resources, including MUD personnel, public property, and supplies, were used to distribute handouts at a MUD public meeting containing information pertaining to the bond election, but also containing the following text: "The Municipal Utility District is requesting that voters support and vote to authorize new bonds for needed repairs, and system improvements to take place over the next 10-15 years,"

and "VOTE YES FOR BOND AUTHORIZATION." Credible evidence indicates that an electronic copy of the handout was posted on the Internet to the Bayou Vista Message Board through the MUD's registered account, and that the handouts were also distributed through the mail, along with an additional "questions and answers" sheet, which contained the following text: "Vote yes for MUD bonds."

10. The respondent signed the checks for the newspaper advertisement, as well as the resources used to create and distribute the mailers and handouts.
11. According to documentation submitted by the respondent, the costs associated with the production and mailing of the mailers and handouts was \$834.21.
12. The alleged political advertising did not contain a political advertising disclosure statement.

#### **IV. Findings and Conclusions of Law**

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

##### **Public Funds for Political Advertising**

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. 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).
4. There is credible evidence that the respondent, as an officer or employee of the MUD, spent or authorized the spending of public funds for the signs at issue, the newspaper advertisement, mailers, handouts, and Internet posting. There is credible evidence that public property, the MUD office, personnel, and other public resources were used to distribute these communications.

5. These communications qualify as political advertising under section 251.001 of the Election Code, because they were written communications that supported a measure. Therefore, there is credible evidence of violations of section 255.003(a) of the Election Code.

#### **Political Advertising Disclosure Statement and Highway Right-of-Way Notice**

6. 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 who paid for the political advertising, the political committee authorizing the political advertising, or the candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate. ELEC. CODE § 255.001(a).
7. The following notice must be written on each political advertising sign designed to be seen from a road: "NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE), TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY." *Id.* § 255.007(a). A person commits an offense if the person knowingly enters into a contract to print or make a political advertising sign that does not contain the notice required by Subsection (a); or instructs another person to place a political advertising sign that does not contain the notice required by Subsection (a). *Id.* § 255.007(b).
8. The political advertising signs, mailers, handouts, and Internet posting did not contain a political advertising disclosure statement. The distribution of the Internet posting entailed a cost in the form of the resources used to create the physical document that was then posted on the Internet. The communications expressly advocated for the passage of a ballot measure. Therefore, there is credible evidence that the respondent knowingly caused to be published and/or distributed political advertising containing express advocacy without a political advertising disclosure statement. Accordingly, there is credible evidence of violations of section 255.001 of the Election Code. The complaints did not allege a violation of section 255.001 of the Election Code with respect to the newspaper advertisement.
9. The political advertising signs did not contain a highway right-of-way notice. There is credible evidence that the respondent knowingly entered into a contract to print or make a political advertising sign without the highway right-of-way notice. Therefore, there is credible evidence of violations of section 255.007 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 the 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: 1) an officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising; 2) 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 who paid for the political advertising, the political committee authorizing the political advertising, or the candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate; and 3) a person may not knowingly enter into a contract to print or make a political advertising sign that does not contain the notice required by section 255.007(a) of the Election Code, or instruct another person to place a political advertising sign that does not contain such notice. 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 nature, circumstances, and consequences of the violations described under Sections III and IV, 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 the sworn complaints.

AGREED to by the respondent on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Bill Alcorn, Respondent

EXECUTED by the Commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
Seana Willing, Executive Director