

# TEXAS ETHICS COMMISSION

IN THE MATTER OF

VAUN HENRY,

RESPONDENT

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BEFORE THE

TEXAS ETHICS COMMISSION

SC-31712187

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission (Commission) met on January 30, 2018, to consider sworn complaint SC-31712187. 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 the complaint without further proceedings, the Commission adopted this resolution.

### II. Allegation

The complaint alleged that the respondent knowingly 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 an Assistant Secretary and Treasurer on the Board of Directors of the Galveston County Municipal Utility District No. 12 ("MUD"). The complaint relates to political advertising in connection with a May 6, 2017, bond election.
2. The complaint alleged that the respondent knowingly spent or authorized the spending of public funds for political advertising signs in violation of section 255.003 of the Election Code.

3. Credible evidence indicates that the respondent 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.
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 indicates that an online account belonging to the MUD 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 complaint 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.
6. 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 an upcoming bond election and urged readers to "VOTE YES" in the election.
7. The respondent signed the checks for the signs and newspaper advertisement.
8. 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 a political subdivision, spent or authorized the spending of public funds for the signs and newspaper advertisement.
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 a violation of section 255.003(a) 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 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 an officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising. 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 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 complaint.

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

\_\_\_\_\_  
Vaun Henry, Respondent

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

Texas Ethics Commission

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