

# TEXAS ETHICS COMMISSION

IN THE MATTER OF  
JOE M. PARNELL,  
RESPONDENT

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§  
§

BEFORE THE  
TEXAS ETHICS COMMISSION  
SC-2409133

## ORDER and AGREED RESOLUTION

### I. Recitals

The Texas Ethics Commission met on January 13, 2005, to consider sworn complaint SC-2409133. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 255.006(d) 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, a candidate for district judge, represented in campaign communications that he held an office he did not hold. The complaint also alleges that the respondent violated the statute that prohibits a person other than an officeholder from using a representation of the state seal in political advertising. (The complaint also alleges violations of the Texas Code of Judicial Conduct and the Local Government Code. The commission does not have jurisdiction over those statutes.)

### III. Facts Supported by Credible Evidence

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

1. The case involves a 2004 election for district judge in Kaufman County.
2. The respondent was a county court-at-law judge who was defeated for re-election in November 2002. He was an unsuccessful candidate for district judge in the November 2004 election.
3. The respondent was responsible for newspaper advertisements that showed him in judicial robes and that stated, "Judge Joe Parnell Candidate for 422nd District Judge" and "Judge Joe Parnell for District Judge."

4. The respondent was responsible for billboard signs that stated, "Vote Judge Joe Parnell for District Judge 422nd District Court - Kaufman County," yard signs that stated, "Vote Judge Joe Parnell for District Judge," and a card that stated "Vote November 2, 2004 Judge Joe Parnell."
5. In two of the communications the respondent is pictured in front of a representation of the state seal.
6. At the time of the complaint the respondent was a former judge sitting by assignment.

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

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

##### Misleading use of office title

1. A person commits an offense if the person knowingly enters into a contract or other agreement to print or publish 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. ELEC. CODE § 255.006(a).
2. 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. ELEC. CODE § 255.006(b).
3. The communications in question fall within the definition of both political advertising and campaign communication. ELEC. CODE §§ 251.001(16) and (17).
4. The commission has stated that the use of the title "Judge" by a retired judge who sits by assignment does not, by itself, represent that the former judge holds an office he does not hold. Ethics Advisory Opinion No. 303 (1996). However, if the communications taken as a whole indicate that the respondent held an office he did not hold, a violation would be present.
5. The communications taken as a whole do not misrepresent that the respondent held the office of district judge. Therefore, there is credible evidence that the respondent did not violate section 255.006(a) or (b) of the Election Code.

##### Use of state seal

6. A person other than an officeholder commits an offense if the person knowingly uses a representation of the state seal in political advertising. ELEC. CODE § 255.006.

7. Title 15 of the Election Code applies to an officeholder who holds an *elective* public office. ELEC. CODE § 251.002.
8. The two provisions indicate that only an elected officeholder may use the seal in political advertising.
9. Although the respondent exercises the authority of a judge when he sits by assignment, he was not elected to the position. Therefore, there is credible evidence that the respondent violated section 255.006(d) 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 other than the person holding an elective office commits an offense if the person knowingly uses a representation of the state seal in political advertising. The respondent agrees to fully 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. No 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 no civil penalty for the violation described under Section IV.

#### **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-2409133.

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

\_\_\_\_\_  
Joe M. Parnell, Respondent

EXECUTED ORIGINAL received by the commission on: \_\_\_\_\_.

Texas Ethics Commission

By: \_\_\_\_\_  
David A. Reisman, Executive Director