

TEXAS ETHICS COMMISSION

IN THE MATTER OF
AL LIPSCOMB,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-200964

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on November 10, 2000, and voted to accept jurisdiction of Sworn Complaint SC-200964 filed against Al Lipscomb, Respondent. The commission met again on November 9, 2001, to consider Sworn Complaint SC-200964. A quorum of the commission was present at both meetings. Based on the investigation conducted by commission staff, the commission determined that there is credible evidence of violations of Sections 254.063 and 254.064, Election Code, laws administered and enforced by the commission. To resolve and settle this complaint without further proceedings, the commission proposes this agreed resolution to the respondent.

II. Allegations

The complainant alleges that the respondent, as a city council member, failed to file a campaign treasurer appointment for his legal defense fund committee, and that the committee failed to file reports of contributions and expenditures. The complaint also alleges that the respondent, as a candidate for city council, failed to file pre-election reports and a semiannual report.

III. Facts Supported by Credible Evidence

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

1. The respondent was a member of the Dallas City Council. The respondent was reelected on May 1, 1999, while under indictment on federal conspiracy and bribery charges. The respondent was convicted in January 2000. The respondent resigned his city council seat after the conviction.
2. The respondent filed a semiannual report with the local filing authority on January 25, 1999. He filed a 30-day before election report on March 31, 1999. The respondent has not filed any other reports with the local filing authority since that report.

3. The local filing authority had no records of a legal defense committee named “Friends of Al Lipscomb.” No other political committees had filed with the city that either supported the respondent or that the respondent controlled.

IV. Findings and Conclusions of Law

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

1. A “political committee” means a group of persons that has as a principal purpose accepting political contributions or making political expenditures. Section 251.001(12), Election Code. A political committee may not accept political contributions or make or authorize political expenditures totaling more than \$500 at a time when a campaign treasurer appointment for the committee is not in effect. Section 253.031(b), Election Code.
2. There were no campaign treasurer appointments filed with the city under the name of “Friends of Al Lipscomb” in 1998, 1999, or 2000, nor did a committee by that name file any campaign finance disclosure reports during those years. No other political committees that supported the respondent filed campaign treasurer appointments or campaign finance reports with the city.
3. The complainant provided no evidence that political contributions were collected or that political expenditures were made by the legal defense fund, which would establish that a legal defense fund, or political committee, existed.
4. Even if a political committee had existed, the complainant provided no evidence that the respondent was responsible for failing to file a campaign treasurer appointment for that committee. There is, therefore, no credible evidence to support a finding that the respondent violated Section 253.031, Election Code.
5. A candidate with a campaign treasurer appointment on file is required to file semiannual campaign finance reports not later than July 15 and January 15 each year. Section 254.063, Election Code. An opposed candidate is also required to file reports not later than the 30th day and 8th day before the election. Section 254.064, Election Code.
6. The respondent had a campaign treasurer appointment on file with the local filing authority. The respondent was an opposed city council candidate in the May 1, 1999, election. The respondent timely filed his 30-day before election report on March 31. The respondent filed no 8-day before election report, no July 1999 semiannual report, no January 2000 semiannual report, and no July 2000 semiannual report. He resigned his council seat in January, but because he had a campaign treasurer appointment on file (filed January 1999), he was still required to file the report due in July 2000.

7. Because the respondent did not file an 8-day before election report, a July 1999 semiannual report, or a January or July 2000 semiannual report, there is credible evidence that the respondent violated Sections 254.063 and 254.064, 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 and 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 and settling this sworn complaint.
2. The respondent consents to the entry of this Order before any adversarial evidentiary hearings or argument before the commission, and before any formal adjudication of law or fact by the commission. The respondent waives any right to a hearing before the commission or an administrative law judge, and further waives any right to a post-hearing procedure established or provided by law.
3. The respondent acknowledges that an individual who has a campaign treasurer appointment on file must file all campaign finance reports required by Chapter 254, Election Code. The respondent agrees to fully and strictly comply with this requirement of the law.
4. Notwithstanding any other provisions of this ORDER and AGREED RESOLUTION, the respondent understands and agrees that the commission will consider the respondent to have committed the violations described under Section IV, Paragraph 7, if it is necessary to consider a sanction to be assessed in any future sworn complaint proceedings against the respondent.

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, Government Code, and may be disclosed by members and staff of the commission.

VII. No Sanction

After considering the seriousness of the violations described under Sections III and IV, including the nature, circumstances, consequences, extent, and gravity of the violations, and after considering the sanction necessary to deter future violations, the commission imposes no civil penalty for the violations described under Section IV, Paragraph and 7.

VIII. Order

The commission hereby ORDERS:

1. that this proposed AGREED RESOLUTION be presented to the respondent;
2. that if the respondent consents to the proposed AGREED RESOLUTION, this ORDER and AGREED RESOLUTION is a final and complete resolution of SC-200964;
3. that the respondent may consent to the proposed AGREED RESOLUTION only by signing an original of this document and mailing the signed original to the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711, no later than December 7, 2001; and
4. that the executive director shall promptly refer SC-200964 to either the commission or to an administrative law judge to conduct hearings on the commission's behalf and to propose findings of fact and conclusions of law to the commission in accordance with law if the respondent does not agree to the resolution of SC-200964 as proposed in this ORDER and AGREED RESOLUTION.

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

Al Lipscomb
Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
Tom Harrison, Executive Director