

TEXAS ETHICS COMMISSION

IN THE MATTER OF
LARRY LIPPINCOTT,
RESPONDENT

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BEFORE THE
TEXAS ETHICS COMMISSION
SC-31205149 AND 31205150

ORDER and AGREED RESOLUTION

I. Recitals

The Texas Ethics Commission (the commission) met on August 30, 2012, to consider sworn complaints SC-31205149 and SC-31205150. A quorum of the commission was present. The commission determined that there is credible evidence of a violation of section 255.006 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 did not include a disclosure statement on political advertising and represented in a campaign communication that he held an elective public office that he did not hold at the time the representation was made.

III. Facts Supported by Credible Evidence

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

1. The respondent was a candidate for Parker County Tax Assessor Collector in the May 29, 2012, primary election.

Disclosure Statement on Political Advertising

2. Sworn complaint SC-31205149 alleged that the respondent did not include a disclosure statement on political advertising. At issue were campaign items distributed by the respondent at speaking events. The respondent distributed what the complainant called "writing tablets." The items were small notebooks with the respondent's campaign stickers placed on the cover. The complaint alleged that the respondent did not include a disclosure statement on the political advertising. In response to the complaint, the respondent provided a copy of the notebooks at issue.

Misleading Use of Office Title

3. Sworn complaint SC-31205150 alleged that the respondent represented in a campaign communication that he held an elective public office that he did not hold at the time the representation was made. At issue in the complaint was the respondent's campaign sign, which stated: "Elect Republican Larry Lippincott Tax Assessor Collector." In response to the complaint, the respondent swore that one of his signs did not include the word "for." The respondent swore that the sign at issue was from a previous campaign (he was the former tax assessor collector) and was mistakenly erected.

IV. Findings and Conclusions of Law

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

Disclosure Statement on Political Advertising

1. Political advertising means, in pertinent part, a communication supporting or opposing a candidate for election to a public office that appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication, or on an Internet website. ELEC. CODE § 251.001(16).
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. ELEC. CODE § 255.001(a). Political advertising that is authorized by a candidate, an agent of a candidate, or a political committee filing reports under this title shall be deemed to contain express advocacy. *Id.* § 255.001(b). This section does not apply to campaign buttons, pins, hats, or similar campaign materials. *Id.* § 255.001(d)(2)
3. A political advertising disclosure statement is not required on lapel stickers, pens, magnets, or emery boards. Ethics Advisory Opinion No. 184 (1994).
4. The items at issue were small notebooks with small campaign lapel stickers placed on the cover. The commission has previously determined that a disclosure statement is not required on lapel stickers, and the small notebooks were similar in type to campaign buttons, pins, or hats. Thus, they fall within the exception to the disclosure statement requirement. Therefore, there is credible evidence of no violation of section 255.001 of the Election Code.

Misleading Use of Office Title

5. A person represents that a candidate holds a public office that the candidate does not hold if the candidate does not hold the office that the candidate seeks, and the political

advertising or campaign communication states the public office sought but does not include the word “for” in the communication in a type size that is at least one-half the type size used for the name of the office. ELEC. CODE § 255.006(c).

6. The respondent does not hold the office of Parker County Tax Assessor Collector. At the relevant time at issue, the respondent’s campaign sign stated the name of the public office sought by the respondent but did not include the word “for” immediately before the name of the office. The respondent swore that he replaced the sign with one that included the word “for” when he was made aware of the error. However, at the time the complaint was filed, the respondent did not include this wording. Therefore, there is credible evidence of a violation of section 255.006(c) 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 a person commits an offense if the person knowingly represents in a campaign communication that a candidate holds a public office the candidate does not hold at the time the representation is made. The respondent also acknowledges that a person represents that a candidate holds a public office that the candidate does not hold if the candidate does not hold the office that the candidate seeks, and the political advertising or campaign communication states the public office sought but does not include the word “for” in the communication in a type size that is at least one-half the type size used for the name of the office. The respondent agrees to comply with these requirements 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 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 sections III and 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-31205149 and SC-31205150.

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

Larry Lippincott, Respondent

EXECUTED ORIGINAL received by the commission on: _____.

Texas Ethics Commission

By: _____
David A. Reisman, Executive Director