



TEXAS ETHICS COMMISSION



****Overruled, Modified, Clarified, or Superseded****

ETHICS ADVISORY OPINION NO. 77

October 23, 1992

Whether corporate funds may be used to print and mail postcards advocating the election of judges who won a local bar poll. (AOR-110)

The Texas Ethics Commission has been asked whether corporate funds may be used to pay for printing and mailing certain postcards. The proposed postcard states, "LET'S ELECT JUDGES BY QUALIFICATIONS," and then lists the winners of a county bar poll.

In general, a corporation may not make a political expenditure. Elec. Code § 253.094. Paying for postcards advocating the election of identified candidates is a political expenditure.¹ *Id.* § 251.001(7), (10). Therefore, a corporation may not make such payments.

The requestor also asks whether individuals may pay the costs of printing and mailing the postcards without having to be identified on the postcards. The postcards are "political advertising." *Id.* § 251.001(16). Thus, if a single individual enters into an agreement to have the cards printed, the name of that individual would have to appear on the postcards as part of the disclosure statement. *Id.* § 255.001; *see also, id.* § 253.062 (individual making direct expenditure of over \$100 on any one candidate or measure must file as if a political committee).

Two or more individuals acting in concert to make a political expenditure would be a political committee. *See generally Ethics Advisory Opinion No. 74* (1992). A political committee may not make a political expenditure if a campaign treasurer appointment for the committee is not in effect. *Id.* § 253.031(b). If a political committee entered into an agreement to have the postcards printed, the name of the political committee or the individual who entered into the agreement on the committee's behalf would have to appear on the postcards as part of the disclosure statement. *Id.* § 255.001. The name of the committee's treasurer is not required. The name of any person who contributed more than \$50 in the aggregate during the reporting period to the committee would be reported on the committee's report of contributions and expenditures. *Id.* § 254.031(a)(1).²

SUMMARY

A corporation may not pay for the printing or mailing of postcards that advocate the election of judges who won a local bar poll. Such postcards would be "political advertising" and the name of an individual or group that entered into an agreement to have the cards printed would have to appear on the postcards as part of the disclosure statement.

¹ *Ethics Advisory Opinion No. 37* (1992) noted that nothing in title 15 would prohibit a corporation from making expenditures for nonpartisan voter information. The requestor suggests that the postcard in question is nonpartisan because it supports some Republicans and some Democrats. The postcard is clearly partisan, however, as to individual races.

² For committees that file monthly, reports must include names of contributors who contribute more than \$10 in a reporting period. Elec. Code § 254.156.