



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 102

December 10, 1992

Whether an advertisement in a youth magazine to congratulate a sports team purchased by a member of the legislature must indicate that it is political advertising. (AOR-96)

A member of the legislature has asked the Texas Ethics Commission whether an advertisement he pays for in a magazine published by a youth sports organization must indicate that it is political advertising.

Section 255.001 of the Election Code provides as follows:

(a) A person may not knowingly enter into a contract or other agreement to print, publish, or broadcast political advertising that does not indicate in the advertising:

(1) that it is political advertising;

(2) the full name of either the individual who personally entered into the contract or agreement with the printer, publisher, or broadcaster or the person that individual represents; and

(3) in the case of advertising that is printed or published, the address of either the individual who personally entered into the agreement with the printer or publisher or the person that individual represents.

(b) This section does not apply to tickets or invitations to political fund-raising events or to campaign buttons, pins, hats, or similar campaign materials.

(c) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

See also Elec. Code § 255.007 (disclosure required on signs). "Political advertising," for purposes of that provision, is defined as follows:

"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:

(A) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or

(B) appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of communication.

Elec. Code § 251.001(16) (emphasis added). The critical issue in determining whether an advertisement is "political advertising" is whether it is a communication supporting or opposing a candidate or a public officer. Whether a particular communication supports or opposes a candidate or a public officer is a fact question. We

think, however, that an advertisement congratulating a sports team that identifies a candidate or public officer as such would almost always be political advertising and therefore would have to contain the information required by section 255.001.

SUMMARY

In most circumstances, an advertisement congratulating a sports team that identifies a candidate or public officer as such is political advertising and must contain the information required by Election Code section 255.001.