



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 171

November 18, 1993

Whether a part-time municipal judge may use the title of judge in political advertising in connection with his or her candidacy for either district or county court-at-law judge. (AOR-187)

The Texas Ethics Commission has been asked if a part-time municipal judge may use the title "judge" in political advertising in connection with a candidacy for either district or county court-at-law judge. The commission also has been asked if a former part-time municipal judge may use the title "judge" in political advertising.

The Ethics Commission's authority to issue advisory opinions is limited to opinions interpreting certain laws.¹ The conduct of judges in campaigns is regulated not only by title 15 of the Election Code, which the Ethics Commission has authority to interpret, but also by the Code of Judicial Conduct, Gov't Code ch. 34; *Id.* tit. 2, subtit. G App., which the Ethics Commission does not have authority to interpret. Questions about the Code of Judicial Conduct should be directed to the Committee on Judicial Ethics, which is in the Judicial Section of the State Bar.²

Section 255.006 of the Election Code is relevant to the questions raised here. It provides as follows:

- (a) A person commits an offense if the person knowingly enters into a contract or other agreement to print, publish, or broadcast political advertising with the intent to represent to an ordinary and prudent person that a candidate holds a public office he does not hold at the time the agreement is made.
- (b) A person commits an offense if the person knowingly represents in a campaign communication that a candidate holds a public office he does not hold at the time the representation is made.

As a general rule, it would not be a violation of section 255.006 for a person who is currently a judge to use the title "judge" in political advertising or campaign communications. *See* Elec. Code § 251.001(16), (17) (defining "political advertising" and "campaign communication"). It would be a violation of subsection (a) of section 255.006, however, for a judge running for a judicial office other than the one he or she currently holds to enter into an agreement to print, publish, or broadcast political advertising that suggests the judge is an incumbent in the office sought. Similarly, it would be a violation of subsection (b) for a judge to represent in a campaign communication that he or she holds a judicial office other than the one he or she actually holds.

The second question is whether a former part-time municipal judge may use the title "judge" in political advertising or in a campaign communication. It would be a violation of subsection (a) of section 255.006 for a former judge to enter into an agreement to print, publish, or broadcast political advertising suggesting that the person is currently a judge. It would be a violation of subsection (b) for a former judge to represent in a campaign communication that he or she currently holds a judicial office.

SUMMARY

Under section 255.006 of the Election Code, a person may not suggest in political advertising or in a campaign communication that the person holds an office the person does not currently hold.

¹ The Ethics Commission has authority to interpret six statutes: (1) chapter 302 of the Government Code (speaker's race); (2) chapter 305 of the Government Code (lobby); (3) chapter 572 of the Government Code (financial disclosure and standards of conduct); (4) title 15 of the Election Code (campaign finance); (5) chapter 36 of the Penal Code (bribery); and (6) chapter 39 of the Penal Code (abuse of office).

² An opinion construing the Code of Judicial Conduct states that a municipal court judge may use the title "judge" in campaign literature, stationery, and press releases. Judicial Ethics Opinion No. 164 (1993). See also Judicial Ethics Opinions Nos. 159 (1993) (judge may not use title "judge" in advertising for nonjudicial political office), 92 (1987) (part-time judge's conduct is subject to the Code of Judicial Conduct).