



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 211

May 13, 1994

Whether a brochure that lists the duties of a justice of the peace and that bears the name, courthouse address, and courthouse phone number of a specific justice of the peace is political advertising that may not be paid for with public funds. (AOR-234)

The Texas Ethics Commission has been asked to consider whether a brochure that lists the duties of a justice of the peace and that bears the name, courthouse address, and courthouse phone number of a specific justice of the peace is political advertising that may not be paid for with public funds.¹ The Office of the Justice of the Peace produces and distributes the brochure on a regular basis, and the justice of the peace hands out the brochure when speaking at meetings.

Section 255.003 of the Election Code provides as follows:

- (a) An officer or employee of a political subdivision may not spend or authorize the spending of public funds for political advertising.
- (b) This section does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure.
- (c) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

Political advertising is defined by Election Code section 251.001(16) 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 written communication.

The text of the brochure merely describes the duties of the justice of the peace court. The name of the incumbent justice of the peace appears only on the letterhead, and this is not done in an unduly conspicuous way or in a way that would lead one to believe that the purpose of the brochure was to support the incumbent. No facts are indicated that would lead the commission to believe that distribution of the brochure is campaign related. Therefore, we do not believe that the brochure provided for our inspection constitutes political advertising as that term is defined in section 251.001(16) of the Election Code.

SUMMARY

The attached brochure is not "political advertising" as defined in section 251.001(16) of the Election Code.

¹ The text of the brochure is attached to this opinion as an appendix. County letterhead appears on the back of the brochure and appears as the cover when the brochure is folded. The letterhead bears the county name in large type and a representation of the courthouse. The name of the justice of the peace and the address and phone numbers of the justice court appear in smaller type arranged in an ordinary way for business letterhead.

JUSTICE OF THE PEACE COURT

The Justice of the Peace Court is the court with which most individuals have contact. The Court's judicial power is to determine the rights and interests of all the people and, by application of law, to protect those rights and interests. The following overview of responsibilities was compiled from the Texas Justice Court Deskbook, which is approved by the State Commission on Judicial Conduct.

JUDICIAL RESPONSIBILITIES

Holding Court: *Presides over Bench Trials and Jury Trials, renders and enters Judgments*

Collection of Money: *Collects, records and distributes money to government entities*

Civil Actions: *Renders Judgments and enforces Judgments with judicial remedies*

Small Claims Actions: *Renders Judgments on suits for recovery of money only*

Seizure Hearings (property): *To determine ownership and disposition of stolen property*

Seizure Hearings (animals): *To determine disposition of cruelly treated animals*

MAGISTRATE RESPONSIBILITIES

Issue Arrest Warrants: *Based upon Probable Cause Affidavit approved by District Attorney's Office*

Issue Search/Arrest Warrants: *Determines if request meets elements of offense claimed*

Magistrates Warning: *Informs the accused of his legal rights upon arrest*

Setting Amount of Bail: *Determines and sets amount of bail at the time of arrest*

Appointing Counsel: *Insures representation for indigent defendants*

Examining Trials: *Determines if sufficient evidence exists to present case to Grand Jury for indictment*

Emergency Detention: *Apprehension and commitment of mentally ill and chemically dependent persons*

Juveniles: *Informs juveniles of rights upon arrest and holds Detention Hearings. Holds Truancy Hearings.*

GENERAL MATTERS

Records: *Responsible for the control, management and retention of documents*

Ex Officio Notary Public: *Takes acknowledgments, administers oaths, takes depositions, certify copies*

Inquests: *To determine cause of death*

Office of Local Registrar: *Records births and deaths that occur in said precinct*

Administrative Hearing: *Makes determination in suspension of driving privileges*

Contempt Powers: *Ensures court business is dispatched with dignity and decorum and enforces jurisdiction and orders of the court*

Jurisdiction: *Original jurisdiction in criminal matters of misdemeanor cases punishable by fine only (Texas Constitution, art. 4.11 c.c.p.)*

JUDGE WAYNE DUBOSE
Justice Of The Peace
Precinct 2, Place 2
911 E. Leavelle, Room 110
Angleton, Texas 77515



Telephone:
Angleton (409) 849-5711
Houston (713) 831-8101
Extension 1402

BRAZORIA COUNTY

ANGLETON, TEXAS 77515