



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 321

April 19, 1996

Whether a sitting judge may solicit campaign contributions using letterhead that shows her current judicial position if the solicitation contains a notation indicating that the solicitation was not printed at county expense and noting that it is political advertising. (AOR-358)

The Texas Ethics Commission has been asked to consider whether a sitting judge may solicit campaign contributions using letterhead that shows her current judicial position if the solicitation contains a notation indicating that the solicitation was not printed at county expense and noting that it is political advertising.

The commission has reviewed the solicitation letter in question and finds nothing on the face of the solicitation that suggests a violation of any law under the jurisdiction of the Ethics Commission.¹ Although a candidate's political advertising and campaign communications may not indicate that the candidate holds an office he or she does not hold, a candidate who is an officeholder is free to accurately identify himself or herself as the holder of a particular office. *See generally* Elec. Code § 255.006 (misleading use of office title).

The request letter states that the solicitation would note that it was not printed at county expense. Although the laws under the jurisdiction of the Ethics Commission do not require such a statement, we assume that officeholders sometimes use such a disclaimer to assure the public that public funds have not been used for campaign purposes. *See generally* Penal Code § 39.02 (prohibiting misuse of government resources).

The solicitation is "political advertising" for purposes of title 15 of the Election Code. Elec. Code § 251.001(16).² Section 255.001 of the Election Code prohibits a person from entering into a contract to print political advertising unless the advertising indicates that it is political advertising and states the full name and address of either the individual who personally entered into the contract or agreement with the printer or the person that individual represents. The solicitation discloses that information and therefore does not run afoul of section 255.001.

SUMMARY

Although a candidate may not suggest in political advertising and campaign communications that the candidate holds an office he or she does not hold, a candidate who is an officeholder is free to accurately identify himself or herself as the holder of a particular office.

The laws under the jurisdiction of the Texas Ethics Commission do not require that political advertising contain a disclaimer stating that the advertising was not paid for with public funds, but an officeholder may wish to include such a disclaimer to assure the public that public funds have not been used for campaign purposes.

¹ The solicitation letter makes clear that the judge is aware of the Judicial Campaign Fairness Act, which limits the time period for the acceptance of contributions and imposes other restrictions on certain judicial candidates. Elec. Code § 253.151 et seq. Judicial candidates should, of course, also make sure that their campaign activity is conducted in accordance with Canon 5 of the Code of Judicial Conduct. Gov't Code, tit. 2, subtit. G, app. B. Questions about the Code of Judicial Conduct should be directed to the State Commission on Judicial Conduct.

² Section 251.001(16) provides: "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.