



JUDICIAL INVESTIGATION COMMISSION

City Center East - Suite 1200 A
4700 MacCorkle Ave., SE
Charleston, West Virginia 25304
(304) 558-0169 • FAX (304) 558-0831

December 21, 2015

Re: JIC Advisory Opinion 2015-23.

Dear Judge:

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission. The factual scenario giving rise to your request is as follows: You plan on running for re-election in 2016. At this time you think you may finance your own campaign and not have a campaign committee. You have some old campaign signs you would like to use in the election. The campaign materials say in very small letters "Paid for by Committee to Elect _____, Judge, _____, Treasurer. You want to know if you can use the signs even though you will not have a campaign committee. You also want to know whether you may use them if you decide to have a campaign committee but use a different treasurer.

To address your questions the Commission reviewed Rules 4.1(A)(9), 4.2(A)(1) and 4.2(A)(5) of the Code of Judicial Conduct. Rule 4.1(A)(9) states that a judge or judicial candidate "shall not knowingly, or with reckless disregard for the truth, make any false or misleading statement." Rule 4.2(A)(1) provides that a judge or candidate subject to public election "shall act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary." Meanwhile, Rule 4.2(A)(5) states that a judge or judicial candidate "shall take corrective action if he or she learns or any misrepresentations made in his or her campaign statements or materials."

In applying those Rules to your factual scenario, the Commission's opinion is that you cannot use the signs as printed if you do not have a Committee or have a different treasurer because they would not contain true and accurate information about how your campaign is structured. However, the Commission also concluded that it would not be a violation of the Code of Conduct to use them in your current campaign if you are able to cover, cut out or remove the information from the old campaign materials.

Furthermore, the Commission, as a decisive element of this conclusion, deliberated on the meaning of the phrase "things of value" in WV Code 3-8-5 and the use of the word "value" by the Elections Division of the West Virginia Secretary of State's Office, and then determined that old campaign signs used or prepared for use in a previous political campaign cease to have value when that old campaign ends. They are usually collected by the candidate and placed in the garbage. They may be of some use for their paper value, but it would be difficult to believe that anyone could sell them to another person. They are of no use to anyone other than a limited use by the candidate at a future campaign. Therefore Commission concluded that the signs, having no resell value, have no value under our election laws and can be used as stated in this Advisory Opinion.

It is hoped that this opinion fully addresses the issues which you have raised. If there is any further question regarding this matter do not hesitate to contact the Commission.

Sincerely,



Ronald E. Wilson, Chairperson
Judicial Investigation Commission

REW/tat