

ARKANSAS ETHICS COMMISSION

910 West Second Street, Suite 100
Post Office Box 1917
Little Rock, Arkansas 72203-1917
(501) 324-9600 Fax (501) 324-9606
Toll Free (800) 422-7773

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ADVISORY OPINION NO. 2005-EC-004 Issued March 18, 2005

The Arkansas Ethics Commission has received a written advisory opinion request from Dan Greenberg, who holds the office of Justice of the Peace, Quorum Court of Pulaski County, Arkansas. Therein, Mr. Greenberg requests an opinion on the appropriateness of a political mailing paid for by campaign funds.

According to the opinion request, Mr. Greenberg has prepared a political mailing which is intended to be sent to persons residing in a state representative district which includes persons in his J.P. district. He has stated that the newsletter is being sent for campaigning purposes and is not a constituent newsletter. Because this Commission was called upon to consider the issue of campaign funds being used for a constituent newsletter case no. 2004-CO-017, Mr. Greenberg seeks an opinion of the Commission before he proceeds with such mailing.

In reviewing the statutes under the Ethics Commission's jurisdiction, it is noted that there is no statute which expressly prohibits a public servant from using campaign funds for a political mailing which also references his current service as a public official. The proposed mailing is clearly a partisan document and uses both the Republican party logo and name prominently. Moreover, there is no statutory requirement that campaign material contain express advocacy in order to for the candidate to use campaign funds.

Ark. Code Ann. § 7-6-203(g)(4)(A) prohibits a candidate from using campaign funds to fulfill "any commitment, obligation, or expense that would exist regardless of the candidate's campaign." Mr. Greenberg is not under any commitment or obligation to send the political mailing and is expressly doing so to enhance his visibility and viability in a political campaign.

Per the request, Mr. Greenberg has noted that he will include a statement that the mailing is being paid for by the "Dan Greenberg Campaign Committee" if such disclosure is recommended by the Commission. Mr. Greenberg has also advised the staff of the Commission that he will avoid the use of his law student email address ("ualr.edu") on the mailing.

Based on the facts presented in the opinion request, it is the Commission's opinion that Mr. Greenberg may send the proposed mailing and pay for it with campaign funds provided it is readily apparent that such mailing is not a constituent newsletter for his J.P. district. To avoid possible confusion and to eliminate possible concern that he is using public property for campaign purposes,¹ it is the recommendation of the Commission that Mr. Greenberg include a reference to the source of payment for the mailing and that he avoid use of the ualr.edu email address.

This advisory opinion is issued by the Commission pursuant to Ark. Code Ann. § 7-6-217(g)(2) .

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By:


Rita S. Looney, Chief Counsel

¹ Ark. Code Ann. § 7-1-103(a)(3) states that it shall be unlawful for any public servant to use for campaign purposes any item of personal property provided with public funds.