

OFFICE OF THE ATTORNEY GENERAL



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Honorable Jim Bennett
Secretary of State
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Fair Campaign Practices Act -
Political Activities -
Advertising

Discussion of the
identification and notice
that must appear on paid
political advertisements and
the persons who may be
prosecuted for failure to
comply.

This opinion is to be applied
prospectively.

Dear Mr. Bennett:

This opinion is issued in response to your request for
an opinion from the Attorney General.

QUESTION 1

The law states that political
advertisements must be identified or
marked as "paid advertisement." Does this
mean that those exact words must appear?
If substitute wording is allowed, what
other specific words would meet the
requirements of the law?

FACTS AND ANALYSIS

Pursuant to Code of Alabama 1975, § 17-22A-12, a provision of the Fair Campaign Practices Act, paid advertisements are to be identified. This section states:

"Any paid political advertisement appearing in any print media or broadcast on any electronic media shall be clearly identified or marked as a paid advertisement. It shall be unlawful for any person, candidate, principal campaign committee or other political committee to broadcast, publish or circulate any campaign literature or political advertisement, without a notice appearing on the face or front page of any printed matter, or broadcast at the beginning or end of a radio or television spot, stating that the communication was a paid advertisement and giving the identification of the person, principal campaign committee or other political committee that paid for or otherwise authorized such communication."

It is the opinion of this office that the language of this provision does not require that the exact words "paid advertisement" be used. Words which indicate that the advertisement is a paid political advertisement meet the requirements of the law. Such words may include but are not limited to "paid for by," "paid advertisement by," or "paid political ad."

CONCLUSION

Code of Alabama 1975, § 17-22A-12, does not require that political advertisements be identified with the exact words "paid advertisement."

QUESTION 2

Do the requirements in Code of Alabama 1975, § 17-22A-12 mean that the

disclaimer must include the full address down to the zip code as in a mailing address? Would a delivery address, which would not necessarily include a zip code, comply; or perhaps, could identification in the context of this section be interpreted to mean enough information that the person, principal campaign committee, or other political committee can be determined by the public?

FACTS AND ANALYSIS

The term "identification" as used in Code of Alabama 1975, § 17-22A-12, is defined in Code of Alabama 1975, § 17-22A-2(5) as follows:

"The full name and complete address."

The fundamental rule of statutory construction is to ascertain and give effect to the intent of the legislature as expressed in the statute from the language used, the reason and necessity for the act and the purpose sought to be obtained. Shelton v. Wright, 439 So. 2d 55 (Ala. 1983). The purpose of the Fair Campaign Practices Act was to require candidates and other political committees to provide full and fair disclosure to the public. Thus, this purpose along with the plain language of the Code requires that a full address be used. It is our opinion that the full address that the Code requires includes the name, street or post office box, city and state.

CONCLUSION

The term "identification" as used in Code of Alabama 1975, § 17-22A-12, requires that the name, street or post office box, city and state be used in paid political advertisement disclaimers.

QUESTION 3

If a paid political advertisement is not properly identified, who is liable for prosecution -- the candidate, the political committee, or the publication or broadcast company running the ad?

FACTS AND ANALYSIS

Section 17-22A-12 as cited above provides that it is "unlawful for any person, candidate, principal campaign committee or other political committee to broadcast, publish or circulate any campaign literature or political advertisement, without a notice ..." A "person" is defined in § 17-22A-2(8) as:

"An individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons."

Any person who violates the non-reporting requirements of the Fair Campaign Practices Act is subject to prosecution for a misdemeanor pursuant to § 17-22A-22 which provides for a fine of not more than \$2000.00 or imprisonment of not more than one year or both.

Given the above provisions, a candidate, a political committee or the publication or broadcast company or all three could be prosecuted for broadcasting, publishing or circulating paid political advertisements without the proper disclaimer. Whether a particular person would be prosecuted and/or found guilty would depend upon the facts and circumstances in each case.

CONCLUSION

Depending upon the facts and circumstances in each case a candidate, political committee or publication or broadcast company could be prosecuted and found guilty for broadcasting, publishing or circulating paid political advertisements without the proper disclaimer.

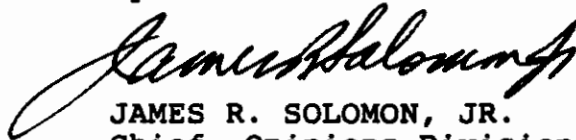
Honorable Jim Bennett
Page 5

We note that this opinion is being released in the middle of an election year and given the fact that there has been some confusion as to the requirements of the law, this opinion should be applied prospectively.

I hope this sufficiently answers your questions. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General
By:



JAMES R. SOLOMON, JR.
Chief, Opinions Division

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