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Special Committee on Judicial Election Campaign Intervention

2020 Judicial Elections

2020-01- Opinion

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The Special Committee on Judicial Election Campaign Intervention (hereinafter Special Committee) received a request for an opinion on two questions summarized as follows:

(1) May a judicial candidate send a letter by mass email to potential supporters and potential contributors that requests support, and may the candidate's committee attach a digital graphic to that letter that contains a donate button with a link that allows the person to make an online financial campaign contribution?

(2) May a judicial candidate sign and mail a letter to potential contributors that asks for "support," and also may the envelope for such letter contain a solicitation card and a return envelope for the return of financial campaign contributions?

As set forth in the past opinions of the Special Committee, a judicial candidate may ask for support. *See* 2018-02 Opinion of the Special Committee on Judicial Election Campaign Intervention (2018 Judicial Elections). However, a judicial candidate may not personally solicit or accept campaign contributions, and it is therefore the best practice and the role of the candidate's campaign committee to solicit and/or accept campaign contributions on behalf of the judicial candidate's campaign. *See* Canon 5C(2) of the Mississippi Code of Judicial Conduct.

The best practice would be to have an individual associated with the judicial candidate's campaign committee to sign the letter soliciting support if the campaign committee seeks to attach a financial solicitation to the letter, regardless of whether the letter is sent by email or by hard copy in the U.S. Mail. It should be clear as to whether the letter is being sent by the candidate or whether the letter is being sent by the committee and whether the material

has been approved by the candidate. Note, based upon the information currently before the Special Committee, this opinion does not address whether a mass mailing or mass email by the candidate's campaign committee of a letter signed by a judicial candidate constitutes a personal solicitation.

Additionally, judicial candidates and their campaign committees are reminded that Mississippi Code Annotated section 23-15-1025 provides as follows:

If any material is distributed by a judicial candidate or his campaign committee or any other person or entity, or at the request of the candidate, his campaign committee or any other person or entity distributing the material shall state that it is distributed by the candidate or that it is being distributed with the candidate's approval. All such material shall conspicuously identify who has prepared the material and who is distributing the material. The identifying language shall state whether or not the material has been submitted to and approved by the candidate. If the candidate has not approved the material, the material shall so state. The identity of organizations or committees shall state the names of all officers of the organizations or committees. Any person, who violates the provisions of this section, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of One Thousand Dollars (\$1,000.00) or by imprisonment for six (6) months or both fine and imprisonment.

Mississippi Code Annotated section 23-15-897 also defines campaign materials and sets forth required disclosures that must be provided on any campaign materials that the candidate, political committee or other person publishes or knowingly causes to be published. *See also* 2018-01 Opinion of the Special Committee on Judicial Election Campaign Intervention (2018 Judicial Elections) (Finding that the inclusion of the language “approved by the candidate’ is sufficient to indicate the material was submitted to the candidate, approved by the candidate, and paid for/distributed by either the

candidate or the candidate's committee as the disclaimer.”).

The Special Committee has determined that this inquiry presents a question of sufficient general interest and importance and as a result, the Special Committee issues this formal summarized opinion to give the campaigns guidance in accordance with Canon 5F.

This opinion is limited in scope and authority of the Special Committee under the Mississippi Code of Judicial Conduct.

Any questions should be in writing and directed to the following:

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