

**FINAL REPORT OF THE 2002 SPECIAL COMMITTEE** JUL 14 2003  
**JUDICIAL CAMPAIGN INTERVENTION**

SUPREME COURT CLERK

Pursuant to Canon 5F of the Code of Judicial Conduct of Mississippi Judges, as adopted by the Mississippi Supreme Court on April 4, 2002, a Special Committee on Judicial Campaign Intervention was established and appointed to serve during the 2002 judicial elections. The Special Committee was comprised of Fred L. Banks, Jr., Esquire of Jackson, Chairman (appointed by the Chief Justice of the Supreme Court); Richard T. Phillips, Esquire of Batesville (appointed by the Governor); Ms. Sheila Dees of Pass Christian, (appointed by the Lt. Governor); Mark Sledge, Esquire of Jackson, Secretary (appointed by the Speaker of the House of Representatives) and William H. Liston, Esquire of Winona (appointed by the Chairman of the Mississippi Commission on Judicial Performance).

The Special Committee received five (5) formal requests for advisory opinions; the Special Committee issued one (1) formal advisory opinion, a copy of which is attached hereto as Appendix I. The Special Committee issued informal advisory opinions in response to the other requests.

The Special Committee received approximately ten (10) complaints alleging unethical contributions. In one (1) complaint the Special Committee found violations of the Code of Judicial Conduct and issued a public statement, pursuant to Canon 5F(3)(c)&(d). A copy of that public statement is attached hereto as Appendix II. Eight (8) of the complaints were determined to be without merit or beyond the scope of the Special Committee. The tenth complaint was received after the election and involved a candidate who was not elected. That complaint was referred to Bar Counsel for further proceedings. A summary of the complaints without merit is attached hereto as Appendix III.

The Formal Advisory Opinion is herein forwarded to the Mississippi Supreme Court in accordance with Canon 5F(2). The Special Committee has also distributed copies of all information and all proceedings relating thereto to the Commission on Judicial Performance as set forth in Canon 5F(6).

Finally, the Special Committee reports that there was substantial compliance with the requirement that all candidates or their representatives attend a mandatory seminar. Only four (4) candidates were unable to attend. The committee noted the relatively short notice, the fact that the rule was new and the fact that there was a single date provided for compliance. In light of those facts the committee adopted a resolution which required those who could not attend review the seminar materials which were copied at their expense and to certify that they had done so. The committee recommends that greater notice and more flexibility be incorporated into this rule in the future.

**SPECIAL COMMITTEE ON JUDICIAL ELECTION CAMPAIGN INTERVENTION**

**Matter # 2002-0001**

**FORMAL OPINION**

We have been asked for an opinion by a candidate in the following circumstances:

The candidate is seeking an office in which all candidates run at large for unnumbered posts. Those receiving the highest votes fill the number of posts available. The candidate proposes to file a motion to recuse all of the incumbent judges from matters in which he represents clients before them because they are all his opponents in the race.

We have also been asked by a sitting judge in similar circumstances whether he should recuse himself in matters involving candidates for office in the district in which the judge is also a candidate for reelection and all candidates run for unnumbered posts.

The committee has considered the matter and unanimously concludes that these requests involve issues outside of the scope of this committee's authority. The issue put by the motion to recuse is one of judicial conduct in on going judicial proceedings rather than candidate campaign conduct. The determination whether a judge should recuse in a case should be made in accordance with the rules promulgated by the Mississippi Supreme Court, to wit: Rule 16A, Mississippi Rules of Civil Procedure; Rule 1.15, Uniform Rules of Circuit and Chancery Court Practice; Rule 1.11 Uniform Chancery Court Rules; and Rule 48B Mississippi Rules of Appellate Procedure.

This opinion is rendered on June 20, 2002.

SPECIAL COMMITTEE ON JUDICIAL ELECTION  
CAMPAIGN INTERVENTION

By 

Fred L. Banks, Jr., Chair

## Special Committee on Judicial Election Campaign Intervention

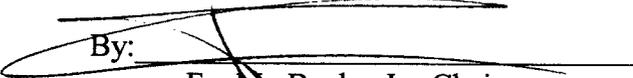
In re Complaint regarding Kenny Griffis Campaign flier

This matter is before the committee on a complaint filed with regard to a campaign flyer bearing the legend "Paid for by the Committee to Elect Kenny Griffis and approved by the candidate." The flyer asserts, among other things that "Kenny will fight the special interest groups—like the personal injury lawyers who have created the "lawsuit industry."

The committee has reviewed the flyer and concludes that it violates the Code of Judicial Conduct, Canons 5.A. (3) (d) (i) and (ii). Due to the exigencies of the circumstances immediate action is warranted. Accordingly, the committee directs that the attached press release immediately issue to all media outlets.

Ordered this 5<sup>th</sup> day of November, 2002.

Special Committee on Judicial Election Campaign  
Intervention

By: 

Fred L. Banks, Jr., Chair.

## **Special Committee on Judicial Election Campaign Intervention.**

### **Press Release**

**November 5, 2002**

Kenny Griffis, a candidate for the Mississippi Court of Appeals has, in the view of this committee, violated Canon 5.A. (3)(d) (i) and (ii) of the Code of Judicial Conduct by asserting that he will "fight the special interest groups--like the personal injury lawyers who have created the "lawsuit industry." This statement singles out "personal injury lawyers" as those Griffis intends to "fight." The committee views this as a pledge or promise inconsistent with the fair and impartial administration of justice in violation of Canon 5.A. (3)(d)(i)) and appears to commit Griffis on issues likely to come before him should he be elected, in violation of Canon 5.A. (3)(d)(ii).

For Immediate Release

Fred L. Banks, Jr. Chair

Special Committee on Judicial Election Campaign Intervention

## SUMMARY OF COMPLAINTS WITHOUT MERIT

1. A vendor took issue with a judge's committee reporting a refund for photography work as a campaign contribution. [This was considered a reporting issue, if anything at all and clearly not a violation of the Code of Judicial Conduct.]
2. An anonymous complaint alleged a judge's court administrator was his campaign chairperson; this was not true. The Committee found no evidence to substantiate the claim.
3. A campaign committee complained about a 3<sup>rd</sup> party soliciting contributions for candidates then the 3<sup>rd</sup> party would forward the contributions to the candidate's committees. The Special Committee found no violation in the activity complained of.
4. A special interest group complained about the response of a candidate to that group's ads attacking the candidate. There was not a majority of the Committee in support of a conclusion that there was a violation.
5. A candidate complaint of a circuit clerk campaigning for a candidate. The Special Committee found the circuit clerk was an independent elected official and not subject to the statutory limitations placed on court administrators, law clerks, etc.
6. A candidate believes another candidate had personally solicited publicly stated endorsements, which can only be solicited by the candidate's committee. The Special Committee could find no evidence that the candidate had personally solicited the endorsements.
7. A candidate's committee questioned the use of the title "Judge" in the campaign materials of a candidate who had served as a special judge by appointment. The Special Committee found that the candidate adequately explained the circumstances surrounding the use of the title and were, therefore, proper.
8. An anonymous complainant believed a candidate's wife writing a letter soliciting support violated Canons 5A(1)(c) and 5C(2). The Special Committee concluded the activity was not a violation.

Appendix III