



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 91- 88

Dennis D. Prater
General Counsel
Kansas Public Disclosure Commission
109 W. Ninth
Topeka, Kansas 66612

Re: Elections--Campaign Finance Act--Kansas Commission
on Governmental Standards and Conduct; Members

Synopsis: Section 2(b)(10) of chapter 150 of the 1991 Session
Laws does not preclude endorsements by a newspaper,
the publisher and editor of which is a member of
the commission on governmental standards and
conduct. Cited herein: L. 1991, ch. 150, § 2.

* * *

Dear Mr. Prater:

As general counsel for the Kansas commission on governmental
standards and conduct, you request our opinion regarding
chapter 150, section 2(b)(10) of the 1991 Session Laws of
Kansas. Specifically you inquire whether a commission member
who is publisher and editor of a newspaper would be rendered
ineligible if his newspaper were to endorse a candidate.

L. 1991, ch. 150, § 2 provides in part:

"(b) While serving on the commission
created by K.S.A. 25-4119a, and
amendments thereto, no member shall:
(1) Be an individual subject to the
provisions of the campaign finance law or

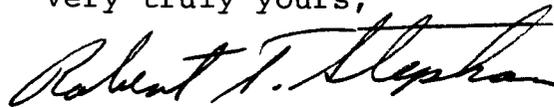
the provisions of K.S.A. 46-215 et seq. and amendments thereto administered or enforced by the commission; (2) serve as a chairperson or treasurer for any candidate or committee subject to the provisions of the campaign finance act; (3) actively solicit contributions subject to the provisions of the campaign finance act; (4) be a lobbyist as defined by K.S.A. 46-222 and amendments thereto; (5) hold a substantial interest in or by an officer of any vendor of goods and services of the state of Kansas or any agency thereof; (6) provide services under contract to the state of Kansas or any agency thereof; (7) be a candidate for or the holder of any partisan political office; (8) be the chairperson, vice chairperson or treasurer of any county, district or state political party committee; (9) directly or indirectly solicit contributions for any partisan political party or any organization thereof or any candidate for partisan political office; or (10) endorse any candidate for any partisan political office subject to the provisions of this act.

"(c) Whenever any member of the commission is ineligible to serve as a member thereof under the provisions of subsections (a) and (b) of this section, the membership of such person shall terminate and such person shall no longer be eligible to participate in any action or proceeding by the commission. Such vacancy shall be filled in the manner prescribed by K.S.A. 25-4119a, and amendments thereto." (Emphasis added).

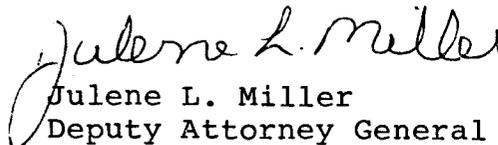
As a general rule of construction from which to begin our analysis of this statute, "[a] strong public policy exists in the favor of eligibility for public office, and a [statutory] provision, where the language and context allow, should be construed so as to preserve this eligibility, as ambiguities are to be resolved in favor of eligibility to office." 63A Am.Jur.2d Public Officers and Employees § 39 (1984)

(footnotes omitted). The statutory provision in question prohibits the commission member from endorsing certain candidates; the newspaper is not the commission member. Thus, construing section 2(b)(10) strictly against ineligibility, it is our opinion that it is the commission member that is precluded from endorsing candidates, not the newspaper for which the member works as publisher and editor.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Julene L. Miller
Deputy Attorney General

RTS:JLM:jm