



CAMPAIGN ADVERTISING DISCLAIMER GUIDELINES

FAIR CAMPAIGN PRACTICES ACT ♦ ELECTION 2010

Elections Division
Beth Chapman, Secretary of State

PRACTICAL APPLICATIONS

The Fair Campaign Practices Act (FCPA) specifies that campaign advertising appearing in print and broadcast media and campaign literature must be clearly identified with an advertising disclaimer.

Campaign literature and advertisements must carry this information on the face or front page and broadcast materials must be identified either at the beginning or the end of the radio or television spot.

DOES THE FCPA SPECIFY WORDING FOR THE DISCLAIMER?

No, the law does not give a specific format for wording the disclaimer. However, the FCPA does state that political advertisements must be identified or marked as a paid advertisement. Such words as *paid advertisement by*, *paid for by*, *paid political ad* meet the requirements of the act; however, an advertiser is not limited to just those phrases. Attorney General's Opinion 94-227 states that *words which indicate that the advertisement is a paid political advertisement meet the requirements of the law*.

In addition, the disclaimer must contain the identification of the person, candidate, principal campaign committee, or other political committee placing the ad. Under the FCPA, the term **identification means full name and complete address**. The attorney general has stated in AG's Opinion 94-227 that a complete address includes the street or post office box, city, and state.

DOES THE U.S. SUPREME COURT RULING IN MCINTRYE V. OHIO ELECTIONS COMMISSION AFFECT FCPA DISCLAIMER REQUIREMENTS?

That case, which involved an individual who distributed anonymous leaflets opposing a proposed school tax levy, has a very limited impact. Alabama's attorney general has written in AG's Opinion 95-218 that the ruling *is limited to individuals who distribute anonymous written material (particularly leaflets) in a non-candidate election*. In all other circumstances, the advertising must carry identification.

WHAT ABOUT BILLBOARDS AND CAMPAIGN MATERIALS?

The advertising disclaimer should be used on billboards, yard signs, bumper stickers, and campaign novelties, such as buttons, pencils, caps, and T-shirts, because these types of advertising fall under the category of "poster or other printed material" named in §17-5-13, the *Code of Alabama, 1975*.

IS THERE A PENALTY FOR FAILING TO COMPLY?

The attorney general may prosecute any person who violates the FCPA law. Anyone failing to comply with the advertising requirements would be guilty of a Class A misdemeanor and subject to a fine of not more than \$2,000 and/or imprisonment of not more than one year.

HAVE QUESTIONS? CONTACT . . .

By mail:

Elections Division
Office of Secretary of State
P.O. Box 5616
Montgomery, Alabama 36103-5616

By telephone:

1-800-274-VOTE (8683) or (334) 242-7210

The Elections Division is located in Room E-208 of the State Capitol building at 600 Dexter Avenue in Montgomery, Alabama.

STATE LAW

The Fair Campaign Practices Act (FCPA) addresses advertising requirements in three sections of the Code of Alabama, 1975:

§17-5-12. Paid advertisements to be identified as such.

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 action 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 action committee that paid for or otherwise authorized such communication.

§17-5-13. Cards, pamphlets, circulars, etc., to bear name of candidate, committee, etc.

It shall be unlawful for any person, candidate, principal campaign committee, or other political action committee to publish or distribute or display, or cause to be published or distributed or displayed, any card, pamphlet, circular, poster, or other printed material relating to or concerning any election, which does not contain the **identification** of the person, candidate, principal campaign committee, or other political action committee responsible for the publication or distribution or display of the same.

§17-5-2(5). Definitions.

(5) IDENTIFICATION.
The full name and complete address.

This document is not a substitute for the Code of Alabama. This document is provided as a guide and is not intended to be an authoritative statement of law. For further legal information, please consult the Code of Alabama or other appropriate legal resources.