



Advisory Committee on the Code of Judicial Conduct

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Hon. Freddie J. Romero
Hon. Sandra W. Engel

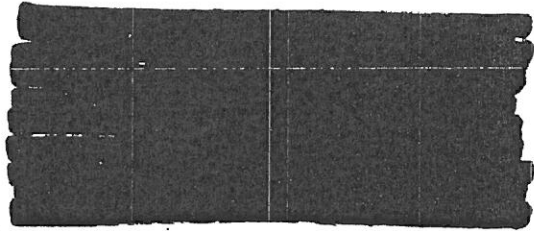
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March 2, 2018

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Re: Judicial Advisory Opinion 18-03

Dear 


You are currently running for re-election as  Municipal Court Judge. Your opponent, who is not currently a judge, works for a private company that provides ignition interlock devices to the public. You have learned that your opponent has been attaching his campaign literature to customer receipts when they contract for ignition interlock devices. You have asked whether this action violates the Code of Judicial Conduct.

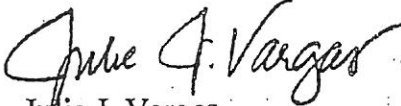
Initially, we note that the Code has limited application to judicial candidates. *See* NMRA 21-004(A) ("Where stated, the Code . . . applies to judicial candidates."). Your request implicates a judicial candidate's responsibilities Rule 21-402 NMRA. "Rule 21-402 NMRA establishes the boundaries for political and campaign activities that circumscribe the conduct of judges and non-judges who are judicial candidates engaged in a partisan, non-partisan, or retention election." Rule 21-400, cmt. 4 NMRA. The Rule permits judicial candidates to "speak on behalf of his or her candidacy through any medium, including, but not limited to, advertisements, websites or other campaign literature." Rule 21-402(A)(3)(a). Unless prohibited by the the Election Code and its accompanying regulations, nothing in the Rule

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prohibits a candidate from distributing permitted campaign literature at his private business or private place of employment. *See* Rule 21-402(A)(1)(b) (stating that a judicial candidate “shall comply with all applicable election, election campaign, and election campaign fundraising laws and regulations”). We are unaware of any law or regulation that would prohibit your opponent from distributing campaign literature at a private business. Consequently, we see no violation of the Code based on the information you have provided.

Very truly yours,


James J. Wechsler
Co-Chair


Julie J. Vargas
Co-Chair

cc: Hon. Sandra W. Engel
Hon. Freddie J. Romero
Professor Robert L. Schwartz
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