

ADVISORY OPINION NO. 98-30

Issued On December 3, 1998 By The

WEST VIRGINIA ETHICS COMMISSION

OPINION SOUGHT

A **State Legislator** asks whether it would be a violation of the Ethics Act for him to include reference to his legislative service in a television commercial for his private legal practice.

FACTS RELIED UPON BY THE COMMISSION

The Legislator is an attorney practicing law in the private sector. He is preparing a television commercial for his practice and asks whether he may include reference to the fact that he serves in the WV Legislature.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

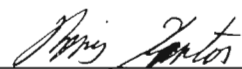
West Virginia Code 6B-2-5(b)(1) provides in pertinent part that a public servant ... may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person.

ADVISORY OPINION

In Advisory Opinion 96-38 the Ethics Commission ruled that a State Trooper, who operated a towing business, could not "trade on his position as a police officer to secure unwarranted or unfair advantage for his private business interests." Doing so would be a prohibited use of office for private gain. His business could be included on a comprehensive list of towing companies given by police agencies to potential customers, but could not be identified as owned by a police officer.

In Advisory Opinion 97-18 the Commission ruled that a State Trooper's use of the word "Trooper" in any advertising for his driving school would be a use of office for private gain and a violation of the Ethics Act.

Here the requestor's reference to his position as a member of the WV Legislature in a television commercial would be an improper use of the prestige of his public position for private gain. It would be a violation of WV Code 6B-2-5(b).


Chairman