

**IN THE SUPREME COURT OF TEXAS**

Misc. Docket No. 96 - 9014

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**ADOPTION OF AMENDMENTS TO  
THE TEXAS CODE OF JUDICIAL CONDUCT**

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The Supreme Court of Texas this day adopts amendments to Canon 2 and Canon 5 of the Code of Judicial Conduct.

The text of Canon 2 C., as adopted March 1, 1994, prohibiting knowing membership "in an organization that practices invidious discrimination," was based on the American Bar Association Model Code of Judicial Conduct of 1990. The definition of "invidious" in Canon 8 B. 7. was recommended by the Supreme Court Task Force on Judicial Ethics. Despite the careful efforts of both the Task Force and the Court, Canon 2 C. has proven difficult to understand and apply. The Judicial Section of the State Bar of Texas adopted a resolution on September 26, 1995, calling upon the Court to amend Canon 2 C. to prohibit "unlawful" rather than "invidious" discrimination. The highest courts of Maine, Minnesota, Washington and the District of Columbia have similarly adopted language in Canon 2 C. prohibiting "unlawful" discrimination or discrimination "prohibited by law" rather than "invidious" discrimination.

The text of Canon 5 (4), as adopted March 1, 1994, prohibiting the solicitation or acceptance of political contributions outside certain time frames before and after certain electoral events, was also patterned after the ABA Model Code and the Codes of a majority of states with elected judiciaries. In 1995, the Legislature incorporated the standards of Canon 5(4) into the Judicial Campaign Fairness Act, thus obviating the need for Canon 5 (4) and (5).

Because the Supreme Court received extensive written and oral comment from the bench, bar and general public regarding Canon 2 C. and Canon 5 (4) and (5), both before and after the adoption of these provisions effective March 1, 1994, there is no need for further comment at this time. Accordingly, the foregoing changes will become effective March 1, 1996.

Canon 2  
AVOIDING IMPROPRIETY AND THE APPEARANCE OF  
IMPROPRIETY IN ALL OF THE JUDGE'S ACTIVITIES

...

C. A judge shall not knowingly hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion or national origin prohibited by law.

Canon 5  
REFRAINING FROM INAPPROPRIATE POLITICAL ACTIVITY

...

~~(4) In addition to any other restrictions imposed by law, a judge or judicial candidate shall not either personally or through others solicit or accept contributions:~~

~~(i) earlier than 1210 days before the filing deadline for the office sought by the judge or judicial candidate; or~~

~~(ii) later than 120 days after the general election in which the judge or judicial candidate seeks office.~~

~~(5) The requirements of (4) above shall not apply to political contributions solicited or accepted solely for one or more of the purposes set forth in Tex.Elec.Code § 253.035(1).~~

Canon 8  
CONSTRUCTION AND TERMINOLOGY OF THE CODE

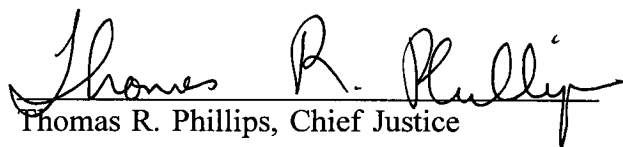
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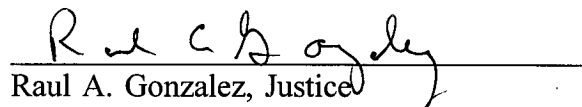
B. ...

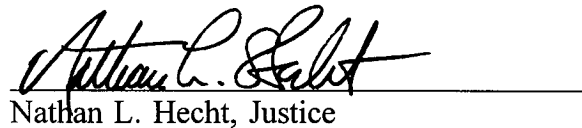
~~(7) "Invidious discrimination" cannot be determined from a mere examination of an organization's current membership rolls but rather depends upon how the organization selects members and other relevant factors, such as that the organization is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interests to its members, or that it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex or national origin persons who would otherwise be admitted to membership.~~

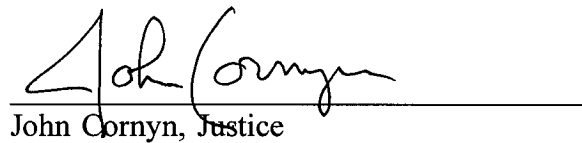
~~(8)(7)~~ "Knowingly," "knowledge," "known" or "knows" ...

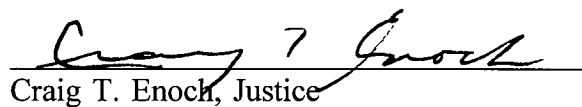
- (9)(8) "Law" . . .  
(10)(9) "Member of the judge's . . .  
(11)(10) "Family member . . .  
(12)(11) "Require." . . .  
(13)(12) "Third degree of relationship." . . .

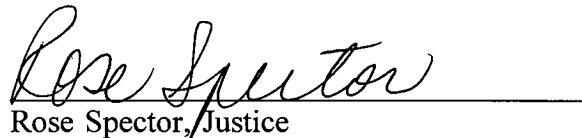
  
Thomas R. Phillips, Chief Justice

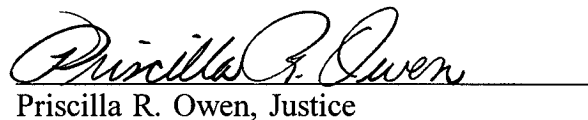
  
Raul A. Gonzalez, Justice

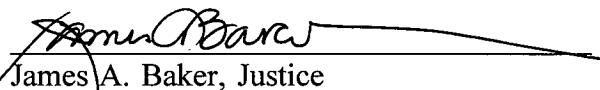
  
Nathan L. Hecht, Justice

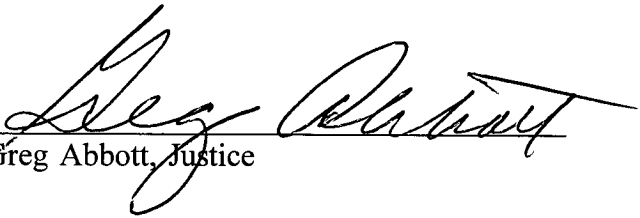
  
John Cornyn, Justice

  
Craig T. Enoch, Justice

  
Rose Spector, Justice

  
Priscilla R. Owen, Justice

  
James A. Baker, Justice

  
Greg Abbott, Justice

SIGNED this 4<sup>th</sup> day of January, 1996.