

Use this ‘off-year’ to refamiliarize yourself with ethics of advertising

When the calendar turns to August, it’s always a reminder that political races are coming up. This year is an off-year for most of us in the state, but it seems like a good time to talk to your advertising staff about reminders related to running political ads, and other ad issues.

Only a few laws or rules impact newspapers directly in regard to publishing election ads, but these rules can create direct liability for the advertising staff. So, EVERY ad staff should have posted the rules from the Mo. Ethics Commission (at <https://tinyurl.com/432p8x5d>).

These rules are critical for your staff because the Ethics Commission complaints generate a fine that is imposed against your newspaper, as well as a fine against the candidate. It doesn’t matter if the ad came in that way and you simply republished what you were given. The fine is a minimum \$1,000.

Other than that concern, most political advertising is going to be acceptable, regardless of what is said about other candidates. The hotline is always available if you have questions, of course.

The other primary focus in advertising departments should be whether housing advertising, either for rental or sale of real estate, could be seen to be discriminatory. Unfortunately, there are not clearly-defined rules that make such ads easy

to spot. Often, the best suggestion is that the ad should be carefully limited in its language to describe the property, and not discuss what type of person is most-suited for the property or is desired by the landlord as a tenant.

Language describing the location of the property should be limited to address and cross-streets. Location in terms of nearby landmarks can be dangerous for the paper because those have been held to indicate a preference for someone of a certain faith or of someone without children. Such language is simply not necessary

and should be avoided, leaving it up to the reader to determine whether the property is suitable for their needs.

And legal notices create their own special challenges. Legal notices for foreclosures present a huge risk for newspapers. A lot of attorney work goes into the preparation for publication of a foreclosure notice and if a newspaper fails

to properly publish it for the dates it needs to run, all of that work goes down the drain. The process must be re-started and the cost to the advertiser in terms of attorneys fees explodes.

The simple solution for a newspaper is to have double-checks in place to ensure that failure to publish never happens. There just is no easy “make good” available. A lawyer who says you cannot just run it one extra week

for free is not being stubborn, the lawyer is doing what is required under state law.

Yes, it is the right thing to do to offer to pay the cost to re-do the legal work that precedes the running of the legal notice, if your failure to catch the error caused the re-do. That’s why this should just never happen.

At the same time, it’s good practice for a paper to decline to give legal advice to a lawyer who calls to ask how many times a notice should run. I have a perfect example that happened to me just this past month. I published a notice for a self-storage unit sale for a client. I researched it before placing the ad and believed it only needed to run one time. It ran and then in the period between publication and the sale, my client called with a question that caused me to hunt again for the statutes. In doing that, I first saw a statute that called for publication twice. I panicked and my first thought was that we would need to re-do the advertising step.

Fortunately, I kept reading and in due course determined that the statute I was reading applied to warehouse operators, while the self-storage statutes were different. Once was all that was required.

This business of “reading the statutes” is a difficult task. Don’t let an advertiser ask you to tell them how many times a notice should run. Don’t step in and attempt to give an advertiser legal advice.

Do what they tell you to do and make it clear that the advertiser is responsible for deciding when and how often the ad runs, not the paper.

Be safe, not sorry!

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