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**2017 ETH 01**  
ETHICS – IMPROPER USE OF OFFICE

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You are a state public official. You have asked whether you may reference your position as a state public official in advertising for your law firm.

Summary:

It is the opinion of the Commission that a public official may not use his or her title or prestige of public office to obtain financial gain; however, a public official may include his or her public role in a biography or résumé as long as it is included in the same style and prominence as other positions described and there is no evidence the official is seeking to obtain financial gain by use of his or her official title or the prestige of public office.

Opinion:

State public officials are subject to the prohibitions of the code of ethics, [WIS. STAT. § 19.45](#).

One of the key prohibitions of the code of ethics is that a state public official may not use his or her public position to obtain financial gain or anything of substantial value for the private benefit of himself or herself, his or her immediate family, or for an organization with which he or she is associated. [WIS. STAT. § 19.45\(2\)](#). Our predecessor agencies have long held that using the title and prestige of public office is a use of that office. 1998 Wis. Eth. Bd. 12, ¶5; 1998 Wis. Eth. Bd. 6, ¶5; 1994 Wis Eth Bd 1, ¶5; 1991 Wis Eth Bd 6, ¶6; 10 Op. Eth. Bd. 47 (1988); 10 Op. Eth. Bd. 43 (1987); 9 Op. Eth. Bd. 45 (1987); 9 Op. Eth. Bd. 21 (1986); 5 Op. Eth. Bd. 98 (1982); 3 Op. Eth. Bd. 53 (1979). The purpose of advertising for your law firm is undoubtedly to obtain clients, which would be a financial gain to the business, of which you are the registered agent, founder, and sole owner/operator. As such, the use of your official title or the prestige of your public office as a significant part of advertising for your law firm would likely be a violation of the code of ethics.

However, this is not to say that elected officials cannot communicate their public role to their customers in their private capacity. Wisconsin's Code of Ethics specifically recognizes that state public officials may need to engage in employment other than their official duties in order to support themselves or their families. [WIS. STAT. § 19.45\(1\)](#). However, it also states that any effort to realize substantial personal gain through public office is a violation of the public trust. *Id.* In balancing the two, the Legislature stated that the Code of Ethics needed to distinguish between the minor and inconsequential conflicts of interest that are unavoidable in a free society, and those conflicts which are substantial and material. *Id.*

For example, it is common for attorneys and other professionals to provide a biography or résumé for review by prospective clients. A public official should not be prohibited from describing their public service when providing such a description of their experience. Providing such information as part of a larger description of the official's experience in a biography or a resume is different than using it as a significant selling point in an advertisement.

An analogy can be drawn to existing guidance on the use of official titles on private letterhead. Public officials affiliated with private organizations may permit the appearance of their name and title on the organization's letterhead in the same style and prominence in which others similarly affiliated with the organization are identified. Guideline [ETH-1231](#). Similarly, the Commission determines that public officials may use the title of their public office in biographies or résumés as long as the title is used in the same style and prominence as other positions described and there is no evidence the official is seeking to obtain financial gain by use of his or her official title or the prestige of public office.

**From:** [Bell, Brian M - ETHICS](#)  
**To:** [REDACTED]  
**Cc:** [Buerger, David - ETHICS](#)  
**Subject:** RE: Advertising  
**Date:** Thursday, April 06, 2017 8:43:08 AM

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[REDACTED]

This email confirms our receipt of your request for a formal advisory opinion from the Wisconsin Ethics Commission on the application of campaign finance, lobbying, and ethics laws regarding your ability to reference your position as [REDACTED] in your capacity as an attorney in private practice [REDACTED]. In the emails below you further outline examples of such potential reference: to inform potential clients that [REDACTED] and [REDACTED] is indeed the same person; and to clarify that your service as [REDACTED] does not inhibit your ability to serve your legal clients. Please let us know if there are any other pertinent facts or particular details you wish to be considered or addressed in the advisory opinion. We will be drafting an analysis for this advisory opinion and inform you when we have any further updates.

Sincerely,

Brian M. Bell, MPA  
Commission Administrator  
Wisconsin Ethics Commission  
(608) 267-0715  
Campaign Finance | Lobbying | Ethics  
<https://ethics.wi.gov>  
Twitter: [@EthicsWi](#)  
Facebook: [@WisconsinEthicsCommission](#)  
YouTube: [Wisconsin Ethics Commission](#)

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**From:** [REDACTED]  
**Sent:** Thursday, April 06, 2017 8:09 AM  
**To:** Bell, Brian M - ETHICS  
**Subject:** RE: Advertising

Mr. Bell,

I would like to request a confidential advisory opinion regarding my title. I would like an opinion on what capacity my title [REDACTED] can be used in general advertising. I practice [REDACTED] law in [REDACTED].

Thank you,

[REDACTED]

[REDACTED]

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**From:** Bell, Brian M - ETHICS  
**Sent:** Monday, April 03, 2017 12:40 PM  
**To:** [REDACTED]  
**Subject:** RE: Advertising

Could you please call me at your convenience to discuss this?

Sincerely,

Brian M. Bell, MPA  
Commission Administrator  
Wisconsin Ethics Commission  
(608) 267-0715  
Campaign Finance | Lobbying | Ethics  
<https://ethics.wi.gov>  
Twitter: [@EthicsWi](https://twitter.com/EthicsWi)  
Facebook: [@WisconsinEthicsCommission](https://www.facebook.com/WisconsinEthicsCommission)  
YouTube: [Wisconsin Ethics Commission](https://www.youtube.com/WisconsinEthicsCommission)

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**From:** [REDACTED]  
**Sent:** Sunday, April 02, 2017 10:16 AM  
**To:** Bell, Brian M - ETHICS  
**Subject:** RE: Advertising

Glad that I asked. Can you give me any examples of acceptable inferences?

[REDACTED] holds inherent credibility. Seems like there should be some acceptable way to inform the public that the same guy that is [REDACTED] [REDACTED] and that I am available to work with them individually.

FYI, just as many people may say, he sounds too busy. That has been a consistent concern with my current clients. It would be a shame to be punished with the negative for public service without appreciating the positive.

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**From:** Bell, Brian M - ETHICS

**Sent:** Thursday, March 30, 2017 4:18 PM  
**To:** [REDACTED]  
**Cc:** ETH Ethics  
**Subject:** RE: Advertising

[REDACTED]

I think our staff would agree with you that such a statement would violate Wis. Stat. 19.45(2):

No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. This subsection does not prohibit a state public official from using the title or prestige of his or her office to obtain contributions permitted and reported as required by ch. [11](#).

Please feel free to call if you would like to discuss this issue further or discuss specific details.

*Please note that this email does not constitute an informal opinion of Wisconsin Ethics Commission staff. If you wish to obtain an informal or formal opinion of the Commission, you may make a written request pursuant to [Wis. Stat. § 19.46\(2\)](#). Your request is confidential and any response is as well; however, if the Commission acts formally then statutes require us to purge identifying information from the opinion and then publish it. An informal or formal opinion issued by the commission will provide some protection to the requestor against an enforcement action pursuant to [Wis. Stat. § 19.49](#), providing the material facts are as stated in the request and the individual or committee is following the advice. No such protection attaches to informal opinions of Commission staff.*

Sincerely,

Brian M. Bell, MPA  
Commission Administrator  
Wisconsin Ethics Commission  
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Facebook: [@WisconsinEthicsCommission](#)  
YouTube: [Wisconsin Ethics Commission](#)

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**From:** [REDACTED]  
**Sent:** Thursday, March 30, 2017 9:37 AM  
**To:** ETH Ethics  
**Subject:** Advertising

Good Morning,

I am up for new commercials for my day job in [REDACTED] at [REDACTED]. I am unaware of any law preventing me from using my position [REDACTED] to enhance my credibility in my law practice. If there are some rules, I need to know about them. I was hoping you could point me in the right direction.

For example, I might say, "I am [REDACTED]. Last [REDACTED]. My full-time job is at my law firm, [REDACTED]."

This is corny and not exactly what I'd say. But, it shows the point.

I am concerned that this may violate the rule preventing a state public official from using his or her office to obtain financial gain or anything of substantial value for the private benefit of the official or a member of the official's immediate family or for an organization with which he or she is associated. [subch. III of ch. 19, Stats.] . It may violate another rule, too. Not sure. That is why I am asking.

[REDACTED]