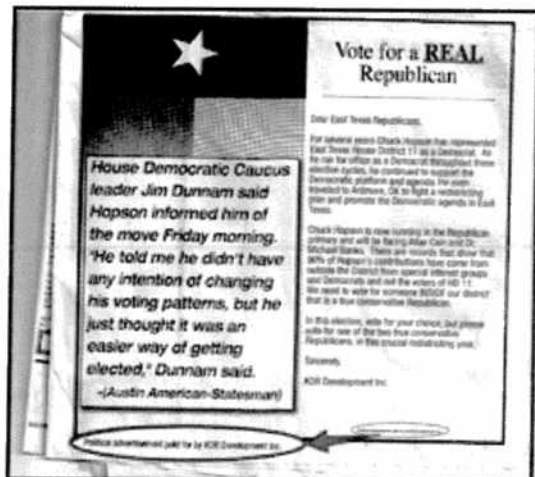


# THE TEXAS TRIBUNE

## The First Corporate Ad

by Ross Ramsey  
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The KDR Development Inc. advertisement that ran in the Panola Watchman

The first political ads bought by a corporation in Texas appeared in East Texas newspapers just weeks after the U.S. Supreme Court effectively ended the state's ban on that kind of spending.

The ads appear to mark the first instance of a corporation directly playing in a Texas election since the nation's highest court lifted a century-old ban on political spending by corporations and labor unions. That January ruling — in *Citizens United v. Federal Election Commission* — doesn't affect contributions to candidates, which remain restricted. But it does mean corporations and unions can spend money as they wish on politics and run all the ads they want, so long as they don't coordinate their efforts, messages and plans with the campaigns they're promoting or with other third-party groups that have similar political interests.

The ads in the *Jacksonville Daily Progress*, the *Tyler Morning Telegram* and the *Panola Watchman* took issue with the Republican bona fides of state Rep. Chuck Hopson of Jacksonville, a Democratic incumbent who jumped to the GOP in November and ran in a three-way race in the Republican primary this month. He got 61 percent of the vote, easily besting Michael Banks and Allan Cain.

The newspaper ads ran in Jacksonville and Tyler on the Sunday before the election and a week earlier in Panola, and they urged voters to choose anyone but Hopson. They were paid for by KDR Development Inc., a real estate company whose president, Republican Larry Durrett, lost to Hopson in 2006, when Hopson was still a Democrat. Durrett is also the president of Southern Multifoods, a Jacksonville-based company with dozens of franchised Taco Bell, KFC, Pizza Hut, A&W and Long John Silvers restaurants. The two companies are closely related, sharing addresses, officers and directors.

"I think we're on solid legal ground," Durrett said in an interview. "We checked it out every way from Sunday."

At least one paper — the *Longview News-Journal* — had reservations. "The disclaimer wasn't complete, and then we saw that it was a corporate ad," said Alan Todd, the paper's advertising director. "When we questioned it, [the buyer] pulled the ad."

Durrett wanted to run ads against Hopson and had been reading and hearing about the Supreme Court ruling on corporate politicking. He checked with a lawyer in Tyler, who sent him to a specialist in Austin, did "a significant amount of discussion about this," and then went to the papers with the ads. "My businesses do better under conservative people and not under people who aren't," he said. "There are an awful lot of folks on the Republican side of the House who aren't all that conservative, and that's an irritant." He felt the other two candidates were more conservative than Hopson.

He used corporate money for a simple reason. "You take the money out of the pocket that's got some money in there," he said.

Durrett doesn't consider Hopson's win a complete loss for his side: "If you continue to point out that people aren't as conservative as you are, it moves them to the right."

The ad has a quote on one side, and the copy on the other is standard fare for a House race, written in the form of a letter.

The quote, from the *Austin American-Statesman*: "House Democratic Caucus leader Jim Dunnam said Hopson informed him of the move Friday morning. 'He told me he didn't have any intention of changing his voting patterns, but he just thought it was an easier way of getting elected,' Dunnam said."

The letter:

Dear East Texas Republicans,

For several years Chuck Hopson has represented East Texas House District 11 as a Democrat. As he ran for office as a Democrat throughout these election cycles, he continued to support the Democratic platform and agenda. He even traveled to Ardmore, OK to fight a redistricting plan and promote the Democratic agenda in East Texas.

Chuck Hopson is now running in the Republican primary and will be facing Allan Cain and Dr. Michael Banks. There are records that show that 90% of Hopson's contributions have come from outside the District from special interest groups and Democrats and not the voters of HD 11. We need to vote for someone INSIDE our district that is a true conservative Republican.

In this election, vote for your choice, but please vote for one of the two true conservative Republicans, in this crucial redistricting year.

Sincerely,

KDR Development Inc

Before the Supreme Court ruling, that would have been an illegal ad in Texas, purely based on the corporate funding. So long as KDR didn't work with the campaigns or with anyone else on the copy, it now appears to be the sort of direct corporate expenditure the Supremes are protecting.

"It raised some issues with us, and I asked some people in the organization to look at it," said Amy Miller, publisher of the *Daily Progress*. In the end, the paper decided to accept the ad: "It's a pre-paid political ad, and I didn't see anything wrong with it."

The ad does bear some similarities to printed mailers sent by others. Cain, for instance, used that same quote from Dunnam in a mailer that also carried the "Hopson is not conservative" theme. Former state Sen. Drew Nixon, R-Carthage, paid for ads in the race, too, using that Dunnam quote again and a chart very similar to that used in Cain's flyer. Signed by three of the four GOP county chairs in the district, it was more direct in its hit on the party-switcher: "Make no mistake, Chuck Hopson is a Democrat."

But as long as the corporation wasn't in league with anyone else, they appear to be the first example of what might be possible under the court's ruling. The Texas Ethics Commission, which regulates these things, is still working on a full opinion of this new world of campaign finance. The agency posted its first impression online right after the court issued its ruling:

"... We believe the Texas Legislature intended laws under our jurisdiction to prohibit political expenditures by corporations to the full extent allowed by the Constitution, as interpreted by the United States Supreme Court. In light of the recently issued United States Supreme Court ruling in *Citizens United v. Federal Election Commission*, it is our position that corporations are allowed to make all types of direct campaign expenditures ... It is also our position that corporations are still prohibited from making political contributions unless specifically allowed..."

TEC now has a draft opinion in circulation — not yet voted out by its board — that goes further: "For the reasons stated in *Citizens United*, we cannot ... prohibit a corporation or labor organization from making a direct campaign expenditure or ... prohibit an individual or other association from making a direct campaign expenditure."

They can still block corporations and labor organizations from making contributions to candidates, but they can't do anything if those outfits want to spend money for or against the candidates without the candidates' knowledge.

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