



STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

LORI SWANSON
ATTORNEY GENERAL

November 5, 2009

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Mr. Jeff Wiita
4538 Highland Road
Minnetonka, MN 55345

Dear Mr. Wiita:

I thank you for your correspondence received October 15, 2009.

You indicate that you intend to run for State Auditor next year and would like your name to appear on the 2010 primary and general election ballots as "Jeff Wiita, CPA." You ask whether this is permissible.

This Office does not have jurisdiction to provide legal advice or legal opinions to private citizens. Notwithstanding this limitation, I can provide the following comments.

First, under Minnesota law, it is the Secretary of State, as the filing officer for affidavits of candidacy for the office of State Auditor, who is responsible to "determin[e] [whether] use on the ballot of the candidate's name as written on the Affidavit of Candidacy would violate 204B.35, subd. 2," discussed below. *See* Minn. Stat. § 204B.10, subd. 5 (2008). As a result, the proper authority to determine whether a candidate may use a particular name on a ballot is the Secretary of State's Office, not this Office.

Second, as you know, Minn. Stat. § 204B.35, subd. 2 provides as follows:

Ballots shall be prepared in a manner that enables the voters to understand which questions are to be voted upon and the identity and number of candidates to be voted for in each office and to designate their choices easily and accurately. The name of a candidate shall not appear on a ballot in any way that gives the candidate an advantage over an opponent, *including words descriptive of the candidate's occupation, qualifications, principles, or opinions*, except as otherwise provided by law.

Minn. Stat. § 204B.35, subd. 2 (2008) (*emphasis added*)

Third, you also ask why the Secretary of State's Office allowed Governor Ventura to run for Governor in 1998 under the name "Jesse Ventura," as opposed to his birth name, "James Janos." Once again, it is the Secretary of State who determines the propriety of using any particular name under section 204B.35, and I suggest that you pose your questions to that office. I suspect that part of the answer, however, may be found in Minn. Stat. § 204B.06, subd. 1 (2008), which provides that:



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An affidavit of candidacy must include a statement that the candidate's name as written on the affidavit for ballot designation is the candidate's true name *or the name by which the candidate is commonly and generally known in the community.*

Minn. Stat. § 204B.06, subd. 1 (2008) (*emphasis added*).

I thank you again for your letter.

Very truly yours,

A handwritten signature in cursive script that reads "Christie B. Eller".

CHRISTIE B. ELLER
Deputy Attorney General

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