Sign at Mark Whitaker's Portsmouth church encourages votes. Is it legal?

By Saleen Martin
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PORTSMOUTH

"Spread the word," reads the sign in front of New Bethel Baptist Church in Portsmouth. "Votes for Mark Whitaker will be counted."

That message may be breaking an IRS rule.

Mark Whitaker, a former councilman who was suspended from his seat last month after a judge sentenced him on three felony forgery counts, is the assistant pastor there, according to the church's site.

The church is listed on Guidestar.org, a database of nonprofit organizations.

According to the IRS, 501c3 nonprofit organizations like New Bethel Baptist are prohibited from directly or indirectly campaigning for political candidates. Nonprofits that violate this rule could have their tax-exempt status revoked, according to the IRS website.

Whitaker was one of eight people pursuing seats on the council for the next four years, but under Virginia law, felons can't seek or hold public office unless the governor restores their voting rights.

His supporters have encouraged people to vote for him at the polls so he'll be one of the top three candidates in the race. They think he could win his seat back if his rights are restored, The Pilot reported.

Is the church allowed to display a sign like this?
It depends on how you read it, said Rebecca Green, a professor at the College of William & Mary who teaches election law.

The statement could be viewed as voter education activity since election day is approaching, she said. It could also be viewed as indirect or direct campaigning, she said.

"It's an interesting call," she said. "If you think they're campaigning or advocating for or against a specific candidate, that would be prohibited activity, but if you think they're providing voter education, that's not prohibited."

The IRS has to determine whether the church violated any rules by posting the sign, Green said. The agency did not respond to a request for comment.

Green also said it's not a matter of whether the sign is legal.

"They're not violating a law per se," she said. "What they're doing is jeopardizing their tax exempt status."

When asked about the message, the church didn't respond. Whitaker, however, weighed in with an email.

"There is no law nor entity that can limit nor regulate the Prophetic Voice of Truth," he wrote.

Saleen Martin, saleen.martin@pilotonline.com
Saleen Martin
Saleen Martin, a Norfolk native, is a reporter on The Virginian-Pilot's digital enterprise team. She joined The Pilot in 2018 after graduating from the University of Georgia. She has covered mental health, a presidential election and research at UGA.
saleen.martin@pilotonline.com