

Viewpoints

Puffery versus fraud on the political campaign trail

Top of Utah Voices



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Commentary

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not permit sellers to give inaccurate information about important facts. A used-car dealer isn't permitted to roll back an odometer or falsify a vehicle identification number on a salvaged automobile.

These fraudulent acts are illegal, and the penalties for fraud can be severe. In considering the behavior of politicians, it is worthwhile to consider whether they are engaging in puffery or fraud.

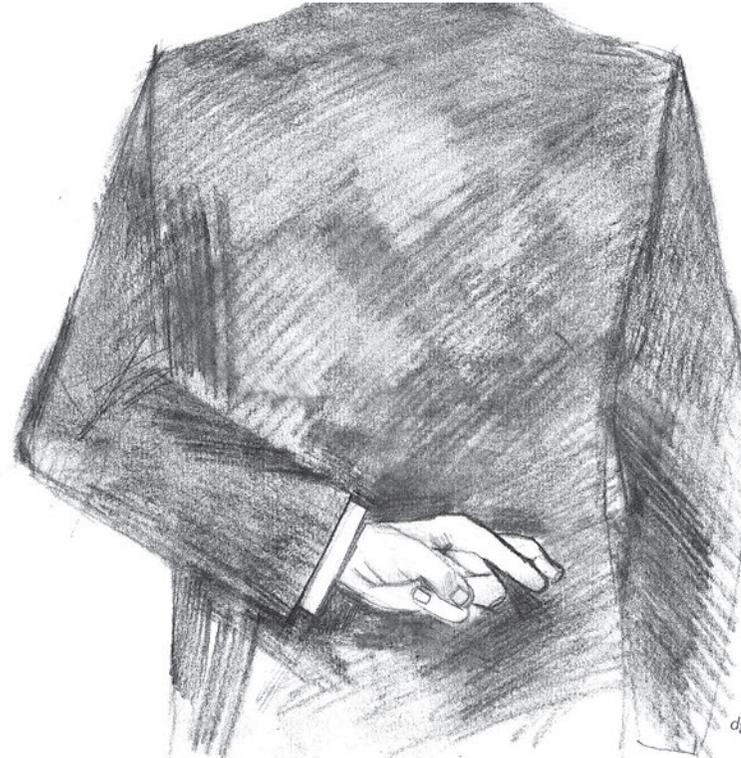
More than a few politicians cross the line between puffery and fraud. On a distressingly regular schedule, major political figures are caught in some adulterous affair. The typical response is to first tell a lie. "I did not have sex with that woman." Then, when the lie is uncovered the next response is to hide.

Most often, politicians choose to hide behind their spouses. A recent example is Elliot Spitzer who, after being exposed for spending a small fortune on high-priced prostitutes, called a news conference where

he stood with his arm around his adoring wife and attempted to explain his behavior.

Spitzer's behavior isn't a singular incident. It has become *de rigueur* for scoundrels caught in some despicable act to call upon their spouses, and sometimes children, for a public display of support. It is worth considering whether this behavior is puffery or fraud.

The implied message of such news conferences seems to be that



One good predictor of a politician's contriteness is whether they say "I made a serious mistake" versus "serious mistakes were made." If they avoid personal responsibility by choosing the latter phrase, their public act of contrition is probably fraud.

Another useful legal phrase is "void for vagueness." This term is a concept in constitutional law that holds that civil and criminal statutes may be unconstitutional when the statutes are so vague that persons of reasonable intelligence could not ascertain the actual meaning.

Similarly, many political speeches should be deemed void for vagueness. A recent example would include John McCain's May 15 speech in which he declared that he would attain victory in Iraq and capture Osama bin Laden by the end of his first term. The details of how all this would happen were a little vague.

Yet, it would be unfair to only criticize McCain. I don't understand the details of how either Obama or McCain plan to provide better health care, deal with the country's energy needs or address the nation's fiscal problems. The term "void for vagueness" applies to the platforms of all the major presidential contenders.

The final term I leave you with is "caveat emptor," which simply means "Let the buyer beware." The meaning is self-explanatory. The advice is always useful, especially during an election year.

the political rascal is basically a good, moral person with a strong commitment to family. The inappropriate behavior was an isolated incident that is not indicative of the politician's true character. Voters can be assured that the politician is profoundly sorry and will never do anything inappropriate again.

In rare instances this may be true, but in many cases it is not. Character defects have a habit of reoccurring.

Last week, I pulled my copy of Black's Law Dictionary off the shelf to review some legal terminology. My research wasn't a result of the recent notice I received regarding possible jury duty. My reading was actually prompted by the ongoing presidential campaigns and the upcoming November elections.

The language of law is rich and complex. Certain legal phrases capture the essence of human interactions in unambiguous terms. Many of these legal terms are useful when considering the actions of politicians. Consider the term "puffery."

Puffery is defined as exaggerations reasonably expected of a seller, the truth or falsity of which cannot be precisely determined.

For example, a used car salesman may describe virtually any car on the lot as a "real beauty" or a "sweet ride." Buyers should be savvy enough to disregard such claims, so puffery isn't illegal.

Presidential candidates known for wearing latest fashions on Capital Hill tend to wear flannel and denim in Iowa. Politicians with a strong preference for haute cuisine have been seen eating a cheese steak in Philadelphia or lutefisk in Wisconsin. This behavior is a good example of political puffery. As such, it does not reflect poorly on the character of a politician. It is simply something to be expected.

On the other hand, the law does