

Maryland Judicial Ethics Committee

Opinion Request Number: 1984-04

Date of Issue: August 31, 1984

■ Published Opinion Unpublished Opinion Unpublished Letter of Advice

Judge May Not Be Used as Reference Source for Fund Raising Endeavors by Educational Entity

A judge has directed the following inquiries to the Judicial Ethics Committee:

1. May I allow general counsel for a judicial education institution to write letters to potential funders which list me as one who is willing to answer questions about that institution?
2. May I attend a reception and dinner for gas and oil company executives in this area (there would be no direct solicitation – only an orientation as to the said educational institution)?

Two letters, each dated June 21, 1984, were submitted with the judge's inquiry.

One letter stated the educational institution's plan to target major oil and gas companies for donations by mail, and perhaps through a reception or dinner. It proposed that the judge contact such potential donors as he might know personally or, in the alternative, the firm might contact him to ask his opinion of the institution. The reception or dinner was to be an "acquaintance and orientation" occasion involving no direct solicitation of funds.

The other was a copy of a proposed letter of solicitation describing the important functions of the institution, its activities and objectives. It noted that the judge had attended the institution and urged the addressee to call him and "hear first hand of the quality and services ... the institution ... is contributing to justice in our nation." The letter also solicits support by corporate philanthropy.

Canon XXIV and Rule 9 are applicable to the questions raised and state as follows:

Canon XXIV provides

A judge should avoid giving ground for any reasonable suspicion that he is utilizing the power or prestige of his office to persuade or coerce others to patronize or contribute, either to the success of private business ventures, or to charitable enterprises. He should, therefore, not enter into such private business, or pursue such a course of conduct, as would justify such suspicion, nor use the power of his office or the influence of his name to promote the business interests of others; he should not solicit for charities, nor should he enter into any business relation which, in the normal course of events reasonably to be expected, might bring his personal interest into conflict with the impartial performance of his official duties.

Rule 9 provides

A judge shall not, directly or indirectly, lend the influence of his name or the prestige of his office to aid or advance the welfare of any private business or permit others to do so. He shall not personally solicit funds for any purpose, charitable or otherwise.

The Committee Note appended to Rule 9 provides

This rule is not intended to prohibit judges from serving without

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compensation on advisory or other committees, commissions or boards established for charitable, educational or religious purposes or for the purpose of the improvement of judicial administration.

Consideration of the ethical standards applicable to solicitation of funds often occurs when a judge is appointed to an organization or committee involved in charitable, educational or religious endeavors. A judge on such a committee is prohibited from having any role in the solicitation of funds ([Opinion Request No. 1976-07]), and his name must be excluded from any literature or material used in fundraising. ([Opinion Request No. 1971-05]). These restrictions should be considered in conjunction with the prohibition that a judge may not use his name to promote the business interests of others or solicit for charities (Canon XXIV and Rule 9), and therefore preclude the use of the inquiring judge's name in the aforementioned letter soliciting financial support.

The judge also inquires as to the propriety of attending a reception or dinner for "acquaintance and orientation" purposes. Although no direct solicitation of donations is contemplated at this gathering, those in attendance will be asked for contributions shortly thereafter. The judge is being invited for the purpose of helping to create a favorable impression of the institution in the eyes of potential contributors. The attendance of the judge under these circumstances may well create a reasonable suspicion in the minds of the guests that his office is being used to persuade them to contribute to the institution. A judge should avoid giving grounds for such suspicion (Canon XXIV).

The Committee concludes that the inquiring judge should not consent to the listing of his name in the letter and should not attend the reception or dinner about which he inquired.