

Committee on Judicial Ethics  
Teleconference  
Wednesday, February 6, 2013

Members present via teleconference: Justice Barry R. Schaller, Chair, Judge Edward R. Karazin, Jr., Vice Chair, Professor Jeffrey A. Meyer, and Judge Maureen D. Dennis. Staff present: Attorney Martin R. Libbin, Secretary and Attorney Viviana Langou Livesay, Assistant Secretary.

**MINUTES**

- I. With the above noted Committee members present, Justice Schaller called the meeting to order at 1:03 p.m. Although publicly noticed, no members of the public were in attendance.
- II. The Committee members present unanimously approved the Minutes of the January 22, 2013 meeting.
- III. The Committee discussed Informal JE 2013-02 concerning whether a Judicial Official, who has been nominated for elevation to a higher court, may solicit contributions from judges over whom the soliciting Judicial Official currently exercises no supervisory or appellate authority, but over whom the Judicial Official will supervise or exercise appellate authority if approved and elevated, to help pay for the cost of a portrait to be displayed at a court house in honor of a deceased judge?

Prior to the nomination for elevation to a higher court, the Judicial Official had planned to solicit other judges asking for a \$50 donation toward the cost of a portrait to be displayed at a court house in honor of a deceased judge. The inquiring Judicial Official has already paid a deposit to the portrait artist and work has begun.

Rule 1.2 of the Code of Judicial Conduct requires a judge to act in a manner that promotes public confidence in the impartiality of the judiciary and to avoid impropriety as well as the appearance of impropriety.

Rule 3.1 concerns extrajudicial activities and sets forth general limitations on such activities, such as not participating in activities that (1) interfere with the proper performance of judicial duties, (2) lead to frequent disqualification, (3) appear to a reasonable person to undermine the judge's independence, integrity or impartiality, or (4) appear to a reasonable person to be coercive.

Rule 3.7 of the Code deals specifically with participation with educational, religious, charitable, fraternal and civic organizations and activities. Subsection (a) of Rule 3.7 provides that, subject to the general requirements in Rule 3.1, a judge may participate in activities sponsored

by or on behalf of charitable organizations not conducted for profit including, but not limited to:

(1) assisting such an organization or entity in planning related to fund-raising and participating in the management and investment of the organization's or entity's funds;

(2) soliciting contributions for such an organization or entity, but only from members of the judge's family, or from judges over whom the judge does not exercise supervisory or appellate authority;

Based upon the information provided, including that the Judicial Official has been nominated for elevation to a higher court and, if elevated, will be exercising appellate authority over the judges to be solicited, the Committee unanimously agreed that the proposed course of action is inconsistent with the purpose/spirit of Rule 3.7(a)(2) and recommended against engaging in the solicitation.

- IV. No action was taken on Informal JE 2013-03 because it was withdrawn prior to the meeting.
- V. The meeting adjourned at 1:19 p.m.