

Committee on Judicial Ethics
Teleconference
Friday, August 6, 2010

Members present via teleconference: Justice Barry R. Schaller, Chair, Judge Linda K. Lager, Vice Chair, Judge Edward R. Karazin, Jr., and Associate Professor Jeffrey A. Meyer. Staff present: Martin R. Libbin, Esq., Secretary, Viviana L. Livesay, Esq., Assistant Secretary.

MINUTES

- I. With the above noted members present, Justice Schaller called the meeting to order at 9:30 a.m. Although publicly noticed, no members of the public attended.
- II. The two participating Committee members who were present at the July 28, 2010 meeting approved the draft Minutes of that meeting. (Judge Karazin and Associate Professor Meyer abstained due to their absence from the prior meeting.)
- III. The Committee considered Judicial Ethics Informal Opinion 2010-25 concerning whether a Judicial Official must disclose his/her prior professional relationship with a law firm, prior relationship with various municipal clients or prior relationship with an attorney with whom the Judicial Official had a sublease arrangement.

The Judicial Official's inquiries are as follows:

- (1) The Judicial Official was an associate of a law firm approximately 30 years ago. Must the Judicial Official disclose the prior relationship when members of the successor firm appear before the Judicial Official? Two members of the firm with whom the Judicial Official practiced are still members of the successor firm. When any member of the successor firm has appeared before the Judicial Official in the past, the Judicial Official has disclosed the prior relationship. The Judicial Official, however, has never been asked to recuse him/herself as a result of such disclosure.
- (2) The Judicial Official, while in private practice, represented various municipalities with respect to tax foreclosures. The Judicial Official has not represented the municipalities in approximately 30 years. Must the Judicial Official disclose the prior relationship when the municipalities appear as parties before the Judicial Official?
- (3) The Judicial Official, while in private practice, subleased office space to another attorney. The sublease arrangement lasted two to three years and ended approximately 20 years ago. Must the Judicial Official disclose

the prior relationship when the subleasing attorney or members of that attorney's current law firm appear before the Judicial Official?

Based upon the facts presented, including that 20 years or more have elapsed since the prior affiliations existed, the participating Committee members unanimously decided that the Judicial Official does not have an affirmative obligation to provide notice to litigants of these prior relationships, provided the following conditions are met: (1) the case is not one that was handled by the Judicial Official while in practice, and (2) the Judicial Official does not believe that he or she has any personal bias (favorable or unfavorable) involving the municipality, his/her former law firm (and successor), or the subleasing attorney and his/her law firm. In rendering its decision, the Committee considered Canon 3 (c) (1) (B) and New CJC Rule 2.11 (5) (a), as well as its opinions in JE 2008-21, JE 2010-04, and JE 2010-19.

IV. The meeting adjourned at 9:44 a.m.