

Committee on Judicial Ethics  
Teleconference  
Monday, September 16, 2013

Members present via teleconference: Justice Barry R. Schaller, Chair, Judge Barbara M. Quinn, Judge Maureen D. Dennis and Professor Sarah F. Russell. Staff present: Attorney Martin R. Libbin, Secretary and Attorney Viviana L. Livesay, Assistant Secretary.

### MINUTES

- I. With the above noted Committee members present, Justice Schaller called the meeting to order at 9:35 a.m. Although publicly noticed, no members of the public were in attendance.
- II. Justice Schaller and Professor Russell approved the minutes of the September 9, 2013 meeting. Judge Keller submitted her approval of the minutes via email.
- III. The Committee tabled discussion on **Informal JE 2013-38** until the next meeting.
- IV. The Committee discussed **Informal JE 2013-41** concerning whether a Judicial Official may serve as the keynote speaker at an awards dinner of the Connecticut chapter of a 501c(3) civic/charitable organization, the membership of which consists basically of individuals representing a particular segment of the criminal justice system.

The annual awards dinner is not designed to be a fund-raiser. Revenue from ticket sales and advertising in the program brochure cover the cost of the meal, invitations, the program book, plaques that are given to the award recipients and keynote speaker, and for miscellaneous expenses. If any proceeds remain after the payment of expenses, the money is devoted to one of the organization's civic activities. In the past, approximately 250 people have attended the awards dinner. The theme of the event is courage and integrity, and the Judicial Official has been asked to speak on those topics.

The organization was formed over 30 years ago by individuals of a particular religious, racial, ethnic or cultural group who sought to fight discrimination directed at their group. While the organization is open to all persons of good character, membership basically is limited to persons from law enforcement while others, including attorneys, community leaders, governmental officials and religious leaders, are associate members.

The organization's bylaws state that its goal is to bring together individuals who are interested in civic improvement and to promote good citizenship. The organization's mission includes, inter alia, promoting respect, understanding, friendship and cooperation; interacting with political and social organizations for civic improvement and to foster good citizenship; monitoring job-related issues for members; and helping aggrieved members obtain fair treatment. The organization does not engage in lobbying. With the exception of one lawsuit a number of years ago, the organization has not been a party to state or federal litigation.

Rule 1.2 of the Code of Judicial Conduct provides that a judge "shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety."

Rule 1.3 states that a judge "shall not use or attempt to use the prestige of judicial office to advance the personal or economic interests of the judge or others or allow others to do so."

Rule 2.4 (c) states that a "judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the judge's judicial conduct or judgment."

Rule 2.10 (a) states that "A judge shall not make any public statement that might reasonably be expected to affect the outcome or to impair the fairness of a matter pending or impending in any court or make any non-public statement that might substantially interfere with a fair trial or hearing."

Rule 3.1 states that a judge may engage in extrajudicial activities, except as prohibited by law; however, a judge shall not participate in activities that will interfere with the proper performance of judicial duties, lead to frequent disqualification or appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.

Rule 3.7 concerns participation in educational, religious, charitable, fraternal, or civic organizations and activities. Subject to the requirements in Rule 3.1, a judge is permitted to participate in various activities sponsored by or on behalf of such entities. Subject to the requirements in Rule 3.1, subsection (a)(4) specifically authorizes judges "appearing or speaking at ... an event of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the event concerns the law, the legal system, or the administration of justice".

Rule 3.13 concerns the acceptance and reporting of gifts. Subsection (a) notes that a judge should not accept a gift or other thing of value "if

acceptance is prohibited by law or would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality." Subsection (b)(1) states that unless otherwise prohibited by law or subsection (a), "a judge may accept the following without publicly reporting such acceptance: (1) items with little intrinsic value, such as plaques, certificates, trophies, and greeting cards".

Based upon the facts presented, including that the awards dinner is not a fund-raiser and the organization does not engage in lobbying or litigation, and after considering the Committee's prior decisions in JE 2009-11, 2009-18, 2010-21, 2013-13 and 2013-25, the Committee determined that the Judicial Official may speak on the topic of courage and integrity, and accept the plaque without reporting same, subject to the following conditions:

1. The Judicial Official is satisfied that the event is not a fund-raiser (see Rule 3.7);
  2. The Judicial Official does not make any public statement that might reasonably be expected to affect the outcome or to impair the fairness of a matter pending or impending in any court or make any non-public statement that might substantially interfere with a fair trial or hearing (see Rule 2.10);
  3. The Judicial Official does not personally believe that speaking at the program would create an appearance of impropriety and the Judicial Official is willing to participate in activities for other groups, if requested and available, including but not limited to those who represent other segments of the criminal justice system (see Rule 1.2); and
  4. The Judicial Official should retain the right to review and pre-approve the use of any biographical information or other material used to describe the Judicial Official's participation in the program and to review any post-presentation publications (see Rules 1.3 and 2.4).
- V. The meeting adjourned at 9:38 a.m.