

Committee on Judicial Ethics
Teleconference
Friday, October 7, 2011

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

MINUTES

- I. With the above noted members present, Justice Schaller called the meeting to order at 9:31 a.m. Although publicly noticed, no members of the public attended.
- II. Four of the Committee members present approved the Minutes of the September 23, 2011 meeting. (Judge Corradino abstained.)
- III. The Committee considered Judicial Ethics Formal Opinion 2011-21 concerning the propriety of a Judicial Official serving on the Connecticut Sentencing Commission. A copy of the Committee's Formal Opinion will be available on the Committee's website at:
http://www.jud.ct.gov/Committees/ethics/formal_op/default.htm
- IV. The Committee considered Judicial Ethics Informal Opinion 2011-22 concerning whether a Judicial Official may preside over foreclosure and other cases involving a financial institution if the Judicial Official individually owns collateralized mortgage obligation bonds (CMOs) worth over \$5,000 that were issued by the financial institution.
- V. The Committee considered Judicial Ethics Informal Opinion 2011-23. The facts are as follows: Prior to appointment to the bench, a Judicial Official was certified as a trial specialist by an approved certifying agency. The certifying agency has a "Judicial Fellow" category for attorneys who are certified and thereafter become full time judges. The certifying agency offers to waive the annual dues for Judicial Officials provided that they sign an annual statement that they meet the requirements pertaining to a Judicial Fellow. May the Judicial Official accept the offer to have his or her dues waived?

Additional facts include that the certifying agency is a non-profit entity devoted to improving the quality of trial advocacy and aiding clients to select experienced legal counsel. Certification requires, inter alia, proof that the attorney is in good standing and has substantial trial experience, passing a written test and providing writing samples. A person must be recertified every 5 years and has to provide references for initial certification as well as recertification. Certification is open to practitioners in various areas of the law and includes those who represent plaintiffs as well as those that represent defendants. In addition to an application fee and a testing fee,

there is an annual fee in excess of \$250 for maintaining certification. The Committee unanimously determined that consistent with this Committee's opinion in JE 2011-10, membership in the organization did not violate Rules 1.2, 1.3, 2.4 or 3.1 and waiver of dues is not a gift, benefit or other thing of value prohibited by Rule 3.13, but rather is a permitted waiver or partial waiver of fees or charges within the meaning of Rule 3.14(a). As a result, the Judicial Official may accept the offer subject to the following conditions: (1) since the value exceeds \$250, the Judicial Official must publicly report the fee waiver in accordance with Rule 3.15(a)(3); (2) if any of the references that the Judicial Official used when he or she last applied for certification or recertification appear before the Judicial Official, the Judicial Official should disclose the relationship for a reasonable period of time, but not less than one year from the date the Judicial Official was last certified or recertified; and (3) the Judicial Official should regularly reexamine the activities of the organization to determine if it is proper to continue his or her relationship with it.

VI. The meeting adjourned at 9:53 a.m.