

Committee on Judicial Ethics  
Teleconference  
Wednesday, January 19, 2011

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

**MINUTES**

- I. With four 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 Committee members present unanimously approved the draft Minutes of the December 30, 2010 meeting.
- III. The Committee considered Judicial Ethics Informal Opinion 2011-01. The issue presented is as follows: If a Judicial Official is contacted by the Judicial Selection Commission (JSC) because his or her name has been listed as a reference by an attorney who has submitted an application, whether the judicial official has consented to be listed or not, what restrictions, if any, apply to the Judicial Official when responding to such inquiry from the JSC about the attorney?

Question 42 of the JSC application provides, in relevant part: "State the names and complete mailing addresses of six lawyers and/or judges who know you and your work and who can be interviewed about your legal qualifications as a judge. (The Commission will contact these people directly and a non-response from any of them will be considered to be an unfavorable response.)"

Based upon the facts presented, the Committee unanimously agreed that the Judicial Official may supply specific information about the attorney, unless the candidate is the Judicial Official's spouse, the Judicial Official's domestic partner, the Judicial Official's child or child's spouse, the Judicial Official's parent, or the Judicial Official's brother or sister where providing a reference would be prohibited (see JE 2008-10), if requested by the JSC subject to the following conditions. See Rule 1.3 comments 2 & 3.

- 1) The Judicial Official's recommendation should be based on the Judicial Official's personal knowledge of the candidate's qualifications. See Rule 1.3 comment 2.
- 2) The Judicial Official should disclose to the Judicial Selection Committee any familial or material personal relationship that the Judicial Official has to the candidate. See Rule 1.2 (judge must act at all times in a manner

that promotes public confidence in the integrity of the judiciary); Conn. Gen. Stat. § 51-39a (familial conflict-of-interest prohibition).

- 3) If the Judicial Official's recommendation is furnished in writing on official letterhead, the Judicial Official should indicate that the recommendation constitutes the Judicial Official's personal opinion of the candidate's qualifications. See Rule 1.3 comment 2.
- 4) If the Judicial Official provides information to the Judicial Selection Committee, the Judicial Official should consider whether his or her impartiality might reasonably be questioned on the ground of personal bias based on the information provided (favorable or unfavorable). If so, if the candidate appears before the judicial official for a reasonable time after providing the information, the Judicial Official should voluntarily recuse him/herself, disqualify him/herself *sua sponte* or seek remittal of the disqualification from the parties in the case in which the candidate appears before the Judicial Official. See Rule 1.2 (judge must act at all times in a manner that promotes public confidence in the judiciary); Rule 2.11(A)(1) (judge who has a personal bias concerning a party's lawyer should disqualify himself or herself).

IV. The meeting adjourned at 10:15 a.m.