

Committee on Judicial Ethics
Teleconference
Thursday, December 21, 2017

Committee members present via teleconference: Judge Maureen D. Dennis (Chair), Judge Christine E. Keller, Professor Sarah F. Russell, Judge Angela C. Robinson and Judge Robert B. Shapiro. Staff present: Attorney Martin R. Libbin (Secretary) and Attorney Viviana L. Livesay (Assistant Secretary).

MINUTES

- I. Judge Dennis called the meeting to order at 9:31 a.m. Although publicly noticed, no members of the public were present.
- II. Judges Dennis, Robinson and Shapiro and Professor Russell approved the minutes of the September 21, 2017 regular meeting. (Judge Keller abstained.)
- III. Judges Keller and Shapiro approved the minutes of the October 19, 2017 regular meeting. (The remaining committee members abstained.)
- IV. The Committee discussed **Informal JE 2017-16**. The facts are as follows. A Judicial Official's adult child wants to make a monetary gift of \$28,000 to the Judicial Official with the understanding that the Judicial Official will then re-gift the money to the adult child's children. The Judicial Official was advised by his/her accountant that this transaction is not illegal. It is tax avoidance, not tax evasion. (The Judicial Official's adult child and grandchildren do not live in Connecticut.) Is it ethically permissible for the Judicial Official to engage in this activity? If it is permissible, is there a duty to report any such gift?

Rule 1.2 of the Code of Judicial Conduct states that a judge "should act at all times in a manner that promotes public confidence in the ... impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge."

Rule 3.13 (b) states that "[u]nless otherwise prohibited by law, or by subsection (a), a judge may accept the following without publicly reporting such acceptance:...(2) gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including lawyers, whose appearance or interest in a proceeding pending or impending before the judge would in any event require disqualification of the judge under Rule 2.11."

Section 5 (Scope of Question) of the Policy and Rules of the Committee states that: “Advisory opinion requests must relate to the interpretation of rules of court relating to the ethical and professional conduct of (a) the requesting judicial official, (b) someone subject to the requesting judicial official’s direction and control, (c) someone over whom the requesting judicial official exercises supervisory responsibility, or (d) a spouse or relative of the requesting judicial official. The Committee has discretion to decline to answer questions for any reason including those seeking opinions on hypothetical questions or upon questions relating to the conduct of persons other than the requesting judicial official but no such request is precluded by this policy.”

Because this issue falls outside the scope of the Committee’s jurisdiction, as well as outside the area of its expertise, the Committee takes no position with respect to the legality of the proposed gift transaction. The Committee recommends that the Judicial Official obtain expert legal advice from an individual with more sophisticated knowledge of the tax code. It should be noted that there is no duty to report gifts from relatives under Rule 3.13 (b).

- V. The Committee approved the Regular Meeting Schedule for 2018.
- VI. The meeting adjourned at 9:54 a.m.