

The Supreme Court of Ohio

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

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OFFICE OF SECRETARY

OPINION 90-16

Issued August 17, 1990

[Former CJC Opinion-provides advice under the former Ohio Code of Judicial Conduct which is superseded by the Ohio Code of Judicial Conduct, eff. 3/1/2009.]

[Not Current- subsequent rule amendments to Canons 1 through 6, Ohio Code of Judicial Conduct, eff. May 1, 1997]

SYLLABUS: A judge may serve as a trustee of a charitable, non-profit foundation provided it does not conflict with the judge's official function. A judge's name may be listed as a trustee along with similar information about the other trustees but the judge's name and office may not be selectively emphasized. A judge may not solicit funds for the trust and should be insulated from any solicitation. Nothing in the Code of Judicial Conduct prohibits a judge from naming persons to the trustee committee. A judge may personally contribute to the foundation.

OPINION: We have before us your request regarding a public non-profit foundation which administers a trust named for a respected judge from your area who died last year. The trust will provide law school scholarships for area minority students. Your specific questions are as follows:

1. May a judge serve on the trustee committee which will solicit funds for the trust?
2. May such judge's name be used in the literature by the committee seeking contributions?
3. May a judge contribute to the fund?
4. May a judge solicit funds for the trust?
5. Do judges violate the Canons if they act, per the trust, to name persons to the trustee committee?

Canon 5B of the Code of Judicial Conduct permits judges to participate in charitable activities that do not reflect adversely upon their impartiality or interfere with their judicial duties. The Canon specifically allows a judge to

serve as a trustee of a charitable organization as long as the organization ordinarily would not come before the judge or will not be regularly engaged in adversary proceedings in any court. Code of Judicial Conduct, Canon 5B (1). The judge would be disqualified from hearing any case that could affect the organization in which the judge serves as a trustee. Code of Judicial Conduct, Canon 5B (2).

A judge serving as a trustee may not solicit funds for the charitable foundation. Code of Judicial Conduct, Canon 5B (3). Judges should be insulated from the fund-raising as far as practicable. Thode, Reporter's Notes to Code of Judicial Conduct 80 (ABA 1973). However, potential donors to the foundation are entitled to know the names of the trustees. Therefore, a judge can be listed as a trustee along with the other trustees provided the judge's name and office are not selectively emphasized by the foundation. Id.

In regard to your last question, nothing in the Code of Judicial Conduct prohibits a judge from naming persons to the Trustee Committee.

In conclusion, it is our opinion and you are so advised that a judge may serve as a trustee to a foundation which provides scholarships for minority students in law school. A judge may not solicit funds for the trust. The judge's name may be listed along with the other trustees on literature used by the foundation. A judge may contribute to the foundation and may name persons to the trustee committee.

This is an informal, non-binding advisory opinion based upon the facts presented and limited to questions arising under the Code of Judicial Conduct and not the Ohio Revised Code nor the Ohio constitution.