

Nebraska Ethics Advisory Opinion 00-1

Question Presented--

Does participation in an auction that is intended to be a benefit and fundraiser for a local nonprofit organization constitute an ethical breach in the stated case?

Conclusion

The Nebraska Judiciary Member is advised to not participate in this fundraising event. However, he/she would not be prohibited from attending this event as a nonhonoree, where his/her name and title does not appear on literature advertising this event.

Statement of Facts

A member of the Nebraska Judiciary has been asked to volunteer the judge's time by participation in an auction that is intended to be a benefit and fundraiser for a local nonprofit organization, and a secondary purpose of this event is to honor this particular judge, along with three other individuals. The judge's name and title will be circulated on literature advertising this event.

Applicable Code Sections

Neb. Code of Jud. Cond., Canons 2 and 4

References in Addition to Nebraska Code of Judicial Conduct

Illinois Supreme Court Rule 65B; Illinois Judicial Ethics Advisory Opinion 99-1

Discussion

Canon 4 is directly on point and the language is unambiguous:

C. Governmental, Civic or Charitable Activities.

.....

(3) A judge may serve as an officer, director, trustee or non-legal advisor of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice or of an educational, religious, charitable, fraternal or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Code.

.....

(b) A judge as an officer, director, trustee or non-legal advisor, or as a member or otherwise:

(i) may assist such an organization in planning fund raising and may participate

in the management and investment of the organization's funds, but shall not participate personally in the solicitation of funds or other fund-raising activities, except that a judge may solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority.

....

(iv) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation.

It appears that under the fact situation as proposed that participation in the above-mentioned charitable fundraiser by this member of the judiciary would be in violation of this Canon.

In the instant case, not only is the auction a fundraiser for the organization in question, the judge's name and title will be circulated on literature advertising this event.

Illinois has a similar rule to the Nebraska rule in regard to participation in fundraising events. Illinois Supreme Court Rule 65B provides in pertinent part:

B. *Civic and Charitable Activities.* A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of the judge's judicial duties. A judge may serve as an officer, director, trustee, or nonlegal advisor of an educational, religious, charitable, fraternal or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

....

(2) A judge should not solicit or permit his or her name to be used in any manner to solicit funds or other assistance for any such organization.

Illinois Judicial Ethics Advisory Opinion No. 99-1, dated January 12, 1999, held that a judge who wanted to serve as a "celebrity bagger" at a supermarket as part of a charitable fundraising effort would be prohibited from doing so pursuant to Illinois Supreme Court Rule 65B.

Disclaimer

This opinion is advisory only and is based on the specific facts and questions submitted by the person or organization requesting the opinion pursuant to appendix A of the Nebraska Code of Judicial Conduct. Questions concerning ethical matters for judges should be directed to the Ethics Advisory Committee.

APPROVED AND ADOPTED
BY THE COMMITTEE ON JANUARY 3, 2000

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