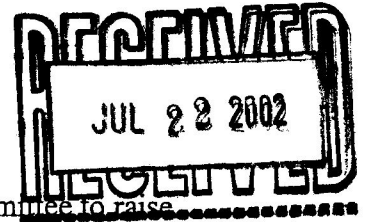


JUDICIAL ETHICS COMMITTEE
Advisory Opinion 02-2
Issued July 16, 2002



Issue: Whether a judge may serve on a “mini-capital campaign” committee to raise funds for the renovation of a local hospital.

Discussion: The Maine Code of Judicial Conduct provides guidelines with respect to charitable fundraising by judges. Canon 2 states “a judge shall not lend the prestige of judicial office to advance the private interests of the judge or others.” Canon 4(C)(3)(b) further clarifies a judge’s permissible role in charitable organizations:

A judge as an officer, director, trustee or non-legal advisor [of a charitable organization], or as a member or otherwise ... may assist such an organization in planning fundraising .. but shall not personally participate in the solicitation of funds or other fund-raising activities.... [A judge] shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation.

Two principal concerns exist when considering the propriety of a judge’s involvement in fundraising activity. The first is that potential donors may feel compelled to contribute or that donors may expect special consideration in the future in return for their gift. Second, financial solicitation compromises the public confidence in judges by creating the appearance of conflicts of interest. See Jeffrey Shaman, et al. *Judicial Conduct and Ethics* (3rd Ed. 2000) §9.06 at 294-295. In this case, we believe such concerns are prevalent despite the laudatory nature of the organization for which funds are to be solicited.

The Judicial Ethics Committee previously addressed a similar question in Advisory Opinion No. 97-3, finding that Canon 4(C)(3)(b)(i) precluded a judge from acting as a cashier at a used book sale held to benefit a charitable organization. In that opinion, we found that “the judge’s visible participation at a fund-raising event may make lawyers or litigants feel obligated [to donate].” Me. Jud. Adv. Op. 97-3. As a committee member whose name would appear on

fundraising letters, the judge's involvement in the hospital's capital campaign will be apparent to persons from whom funds are solicited. Those persons may include current or future parties with interests before the judge. Furthermore, the overwhelming weight of authority from other jurisdictions with similar judicial conduct provisions supports a strict interpretation of the rules on fundraising.¹ Thus, we find the rationale underpinning Opinion No. 97-3 persuasive and believe that the participation of a judge on a fundraising committee would violate Canons 2(B) and 4(C)(3)(b)(i).

¹ See, e.g., Ark. Jud. Adv. Op. 94-09 (finding service on an ad hoc fund-raising committee for the local Boys/Girls Club to be a "clear violation" of Canon 4(C)(3)); Del. Jud. Adv. Op. 1998-2 (citing Canon 2(B) in advising a judge not to serve on a church committee responsible for collecting tuition owed to a church-operated school); Wash. Jud. Adv. Op. 91-9 (improper for a judicial officer to chair a fundraising event for a civic organization, even where the judicial officer would not be responsible for individual solicitations); Ill. Jud. Adv. Op. 99-1 (prohibiting a judge from volunteering as a "celebrity bagger" in a United Way fundraiser at a local supermarket); Neb. Jud. Adv. Op. 00-1 (advising judge not to participate in charity auction to benefit a local non-profit organization); and Neb. Jud. Adv. Op. 02-3 (prohibiting a judge from authoring a letter on behalf of the Nebraska State Bar Association's charitable campaign). See also In re Benjamin Crahalla, 46 Pa. D. & C. 4th 38 (2000) (reprimanding a judge for sending a letter on behalf of the Boy Scouts that included a request for contributions).