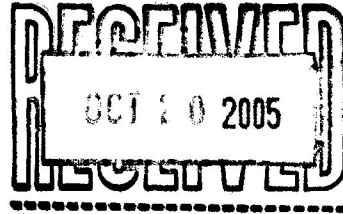


JUDICIAL ETHICS COMMITTEE
Advisory Opinion 05-3
Issued: October 18, 2005



Issue

May a Maine Judge participate as a member of a musical group in the following activity.

Statement of Facts

The Judge is a member of a local musical group of nonprofessional musicians. The group proposes to rent a hall, secure catering services, and host a performance and gathering for friends and their families. They are considering having the members of the band, excepting the Judge, each choose a worthy charity and have a container at the concert for attendees to make their respective voluntary contributions. Members of the respective charities would be on hand to handle the donations - band members would not be handling any of the contributions.

The Judge is conscious of Canon 4(C)(3)(b), and would propose to stay within the limitations of the Canon by taking the following precautions.

1. At no time in the invitations or performance would the Judge be identified or introduced as being a judge (the band members already follow this strict condition which the Judge has insisted upon in the past for a number of reasons).
2. It will be made clear that the three other members of the band have each selected a particular charity for contributions and their names will be associated with that charity - the Judge's name will not appear as associated with any of them.
3. The invitation will make the following points quite clear: The function is free. Attendees will be free to contribute - or not - as they deem fit. No one will be monitoring the contributions. No one but the individual charities will know who contributed and how much. The contribution containers will probably be located in a corner of the room (i.e. - not near the entrance or the stage). In other words, this function is not primarily a fundraiser, but a social function - and that point will be made clear to all participants.

Canon 4(C)(3)(b) provides as follows:

A judge as an officer, director, trustee or nonlegal 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 personally participate in the solicitation of funds or other fund-raising activities, except that a judge may: (a) solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority; (b) be listed as an officer, director, or trustee of such an organization on its fund-raising letters, but may not sign that letter or be listed as a judge or as honorable; and (c) work at a fund-raising event so long as the judge's participation could not reasonably be perceived by others as directly soliciting funds.

(ii) may make recommendations to public and private fund-granting organizations on projects and programs concerning the law, the legal system, or the administration of justice;

(iii) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation, except that a judge's name may appear on the letterhead of membership solicitations sent out or distributed by an organization in which a judge is permitted to participate under the Code, but the judge may not sign a membership solicitation letter and the letter may not identify the judge by judicial title or by the court on which the judge serves. A judge should not be a speaker or the guest of honor at an event of the organization held primarily for fund-raising, but a judge may attend such events.

Discussion

As we read the inquiry, the Judge is of the opinion that he has taken or will take all necessary precautions so that he will not be in violation of any of the Canons of Ethics, and he seeks our review and concurrence.

Conclusion

The Committee's view is that if the Judge follows diligently all of the precautions that he proposes to take, as outlined herein, he will not be in violation of the Canon mentioned above.