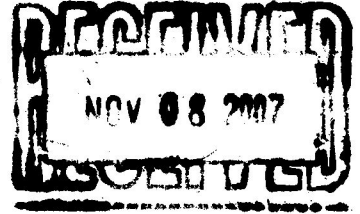


JUDICIAL ETHICS COMMITTEE

Advisory Opinion 07-5
Issued November 6, 2007



Issue

Does a Justice of the Supreme Judicial Court violate any canon of judicial conduct in donating royalties from the sale of a book he authored to a law library, if the library publicizes that it will benefit from the sale?

Statement of Facts

A Justice of the Supreme Judicial Court has written a treatise and has donated all royalties from the sale of the treatise, after the first 100 copies, to Cleaves Law Library. The library intends to publicize that proceeds from the sale of the book will go to the library.

Discussion

Canon 4(C)(3)(b) of the Code of Judicial Conduct provides in pertinent part that a judge may assist an organization devoted to the improvement of the law, the legal system, or the administration of justice or a nonprofit educational or civic organization in planning fund-raising but

shall not personally participate in the solicitation of funds or other fund-raising activities, except that a judge may . . . work at a fund-raising event so long as the judge's participation could not reasonably be perceived by others as directly soliciting funds.

Canon 4(C)(3)(b)(i). In addition, under Canon 4(C)(3)(b)(iii) a judge "shall not use or permit the use of the prestige of judicial office for fund raising."

Cleaves Law Library qualifies both as an organization devoted to the legal system, and a nonprofit educational organization. Nothing in the code prevents the justice from donating royalties to Cleaves. If Cleaves publicizes that royalties will go to Cleaves, this does not constitute personal participation by the justice in either solicitation or fund-raising activities.

The remaining question is whether publicizing that royalties will go to Cleaves constitutes a violation of Canon 4(C)(3)(b)(iii) by using or permitting the use of the prestige of judicial office for fund raising. If Cleaves restricts itself to statements that proceeds from the purchase of the book will go to Cleaves, the prestige of judicial office will not be invoked.

If Cleaves were to state expressly that the justice has specified that royalties from the sale of the book will go to Cleaves, a slightly closer question is presented. Nevertheless, it does not appear that Canon 4(C)(3)(b)(iii) would be violated. The purpose of that Canon is to prevent lawyers and parties who appear before a judge from feeling coerced to donate or from donating in order to curry favor with a judge. That concern is absent here, where the names of persons purchasing the book are not going to be recorded on any list of donors that the justice can become aware of. Moreover, as noted above, Cleaves is an organization devoted to the legal system and the administration of justice and is not an organization that is in any way controversial. The justice's publicized donation to Cleaves therefore would not create any risk of undermining confidence in the impartiality of the judiciary.

Conclusion

Neither a judge's donation of royalties to Cleaves Law Library nor publicity by Cleaves that the royalties will go to Cleaves violates the Code of Judicial Conduct.