

**JUDICIAL ETHICS ADVISORY COMMITTEE
OF THE
STATE OF DELAWARE**

The Hon. Kenneth M. Millman., Chair
The Hon. Richard F. Stokes, Vice Chair
The Hon. Jan R. Jurden
The Hon. Charles W. Welch, III
The Hon. Alan G. Davis
The Hon. Michael K. Newell
The Hon. J. Travis Laster

JEAC 2011-3

July 20, 2011

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

**RE: Request for Opinion from the Judicial Ethics Advisory Committee
Regarding Receipt of *Judicial Leadership Award* at the [REDACTED] National Bar
Foundation Annual Awards Dinner**

Dear [REDACTED]:

By correspondence dated June 29, 2011, you have requested an expedited opinion from the Judicial Ethics Advisory Committee (“Committee”) on whether you may accept the *Judicial Leadership Award* at the Annual Awards Dinner (“dinner”) for the [REDACTED] National Bar Foundation (“HNBF”), a charitable organization. In addition, you have asked whether your name can be mentioned in the program that will be distributed during

the dinner. With your request, you have included a copy of the dinner invitation, correspondence from the ■■■ NBF and ■■■ NBF materials and information.

Please be advised that after much discussion and consideration by the Committee, it is of the opinion that it cannot approve your acceptance of an award at the dinner and that your name cannot be mentioned in the program that will be distributed during the dinner. The reason for the Committee's decision is that the materials provided to it for review are inconclusive with respect to the key factual issue of whether the dinner is a fundraising event.

A. The Applicable Rules of the Delaware Judges' Code of Judicial Conduct ("Code").

Your inquiry implicates Rule 3.7. In pertinent part, Rule 3.7 provides as follows:

A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's independence, integrity, impartiality or interfere with the performance of judicial duties. A judge may serve as an officer, director, trustee, or non-legal 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:

(B) A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of the judicial office for that purpose, but the judge may be listed as an officer, director, or trustee of such an organization. A judge should not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or is essentially a fund-raising mechanism.

The comment provided for this rule also explains that although a judge may attend fundraising activities of the organization, the judge may not be a speaker, a guest of honor or featured on the program of such an event.

B. Previous Decision of the Judicial Ethics Advisory Committee

The Committee has found the latest opinion that it issued to be relevant to your request.

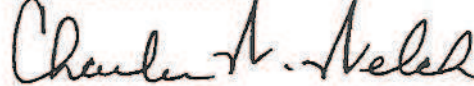
In Delaware Judicial Ethics Advisory Committee Opinion No. 2011-1, the Committee held that a judicial officer could serve as a master of ceremonies at a dinner for a charitable organization. The factor most heavily relied upon by the Committee in making its decision was that the dinner was not designed or intended as a fundraising event. In fact, the dinner was only to become a fundraising event if, by accident, the proceeds of the event exceeded its costs. Because the dinner was not determined to be a fundraising event, the judicial officer's actions did not violate Rule 3.7 of the Code.

C. Given the Materials Provided to the Committee, it is Unable to Determine Whether the Dinner is a Fundraising Event.

The main issue that was considered by the Committee is whether the dinner is a fundraising event. The material that has been provided to the Committee for review to determine this issue is inconclusive. Although there are statements that the dinner is "primarily" programmatic and is not "marketed" as a fundraising event, there is no clear statement provided in the materials that the event is not intended as a fundraiser. In fact, in the materials provided to the Committee, there was an e-mail describing the dinner as the main annual fundraiser for the ■NBF. Additionally, it is the opinion of the Committee that if a fundraising raffle is held at the dinner, such as the one held at the 2010 dinner which raised close to \$5,000, the dinner would be considered a fundraising event and your participation at it would be prohibited by Rule 3.7 of the Code.

For the reasons set forth, the Committee cannot determine whether the dinner is a fundraising event. Therefore, it cannot approve your acceptance of an award at it and the appearance of your name in the program for the dinner.

For the Committee,



Charles W. Welch, III
Judicial Ethics Advisory Committee



Kenneth M. Millman
Chair, Judicial Ethics Advisory Committee

cc: The Honorable Carolyn Berger, Liaison Justice
Members of the Judicial Ethics Advisory Committee:
The Honorable Kenneth M. Millman, Chair
The Honorable Richard F. Stokes, Vice Chair
The Honorable Jan R. Jurden
The Honorable Alan G. Davis
The Honorable Michael K. Newell
The Honorable J. Travis Laster