

JPC 1995-1
April 11, 1995

This is in response to your request for the advice of the Judicial Proprieties Committee on whether you may participate in a seminar entitled "Collection Law in Delaware," which is being presented by a for-profit corporation. It is our understanding that there is a small stipend (\$10.00) available to panelists at the seminar, but that you have the option of refusing the stipend. Otherwise, you would not receive reimbursement for your expenses in participating in the seminar.

The Judicial Proprieties Committee has considered this matter and unanimously opined that your participation in such a presentation would not constitute a violation of any provision of the Delaware Judges' Code of Judicial Conduct, subject to the qualifications noted below:

It is generally appropriate for a judge to "speak, write, lecture, teach and participate in other activities concerning the law, the legal system and the administration of justice" so long as such activities do not interfere with the judge's ability to properly perform the judge's duties or "cast reasonable doubt" on the judge's impartiality. Judges' Code of Judicial Conduct, Canon 4A. Thus,

your participation in a seminar on collection law in Delaware is generally consistent with your ethical obligations so long as the qualifications specified in Canon 4A are satisfied.

However, there is an additional ethical consideration as set forth in Judges' Code of Judicial Conduct, Canon 2B, which prohibits a judge from "lend[ing] the prestige of the judicial office to advance the private interests of others." Although this consideration does not preclude a judge from participating in a seminar being presented by a for-profit organization, it does require that the judge take care to avoid the impression that the prestige of the judicial office is being used to advance the private interests of another. Thus, the judge must be assured that the judge's title or office will not be used in promotional materials in a way that calls special attention to the office so as to encourage participation or attendance in the seminar. The judge also may not participate in the marketing aspects of the program. Also, to ensure that there is no appearance of favoritism, the judge should be willing and available to accept similar invitations from other organizations, should other invitations occur.

We note that we have addressed this issue previously in an opinion issued December 18, 1989 and came to the same conclusion. In that opinion, the Judicial Proprieties Committee held that the Judge could speak at a conference on matrimonial law sponsored by a for-profit corporation. We noted that the Committee on Codes of Conduct of the Judicial Conference of the United States reached a similar conclusion:

In the last twenty years or so, there has been a significant increase in the scope and importance of continuing education programs for the practicing bar, programs often conducted outside the confines of traditional legal education. It is appropriate for judges to participate in such programs for compensation, but there are some additional concerns. For instance, these programs are often widely advertised. Judges participating in such

programs should ensure that promotion of the program does not trade on the judicial office, and in particular that the judge's official position is not emphasized to encourage participation in the program.

See Advisory Committee on the Codes of Conduct, Advisory Opinion No.79 (May 6, 1987). Similarly, the judicial ethics advisory opinions from many other jurisdictions have reached a similar conclusion. See e.g., The Digest of Judicial Ethics Advisory Opinions, Fla. 76-18 (December 1, 1976) at 110; Ga. 102 (August 28, 1987) at 200; Ks. JE-22 (October 30, 1987) at 223; Or. 87-3 (August 10, 1987) at 461; Tn. 89-9/issue 1 (1989) at 508.

To ensure that the judge's office is not emphasized in the promotional materials to encourage participation in the program, the judge's title may be noted on the program but only to the same degree that the titles and positions of the other speakers are noted. The judge's official position should not be featured or singled out in the marketing of the program.

Finally, the issue of whether you may receive compensation for participating as a panelist in this program is addressed in Canon 6 of the Judges' Code of Judicial Conduct. A judge may receive compensation or reimbursement for expenses for law-related and extra-judicial activities permitted by the Code if the source does not give the appearance of influencing the judge in the judge's judicial duties, or otherwise give the appearance of impropriety, and if the amount is reasonable and does not exceed what the panelists who are not judges receive. In addition, expense reimbursements should be limited to the actual cost of travel, food and lodging reasonably incurred by the judge. See Canon 6. Thus, it is appropriate for you to accept a small stipend for your participation in the seminar, so long as the amount is reasonable and the same as that received by all of the other panelists. Also, you may attend a luncheon at the seminar at no cost to you if the other panelists are also invited to the luncheon.

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for the Judicial Proprieties Committee