

JPC 1989-1
December 19, 1989

You have requested the advice of the Judicial Proprieties Committee on the question whether, in the opinion of the Committee, it would be consistent with the ethical obligations imposed by the Delaware Judges' Code of Judicial Conduct (the "Code") for a judge to accept an invitation to speak at a conference or seminar for lawyers with an interest in matrimonial law. You stipulate that the seminar in question is being offered by a for-profit corporation and have supplied us with materials that would be used in promoting this seminar. While the seminar is to be run by a for-profit corporation, you have been offered no compensation for your participation, nor would your reasonable expenses be reimbursed.

Subject to the qualifications stated below, it is our opinion that participation by you in such an enterprise would not constitute a violation of any provision of the Code.

It is of course generally appropriate, indeed commendable, 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 impede the proper performance of his judicial duties or cast doubt upon his capacity to decide impartially any issue that may come before him. See Canon 4A. Thus, participation in a seminar of the type you posit is generally consistent with your ethical obligations so long as the qualifications set forth in the prior sentence are observed.

There is, however an additional factor to be considered. "[A judge] should not lend the prestige of his office to advance private interests of others." Canon 2B. This proscription may have particular application when the activity in which a judge contemplates engaging may redound to the financial benefit of a private person, as in the case at hand. A judge must be ever alert to the risk that his office or title may be used to advance private interests. This risk warrants special care in the case of a for-profit organizer of a seminar, but it does not prohibit participation by a Delaware judge in all events. What is necessary, we believe, is that a judge is assured that his title or office will not be used in promotional materials in a way that calls special attention to that office so as to encourage participation or attendance in the seminar. We note that the Federal Judicial Proprieties Committee has 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 Opinion No. 55.

Advisor Committee On the Codes of Conduct Advisory Opinion No. 79 (May 6, 1987). The promotional materials with which you have supplied us would, in the Committee's opinion,

satisfy this requirement.

Accordingly, with the qualifications above stated, in our opinion, you may participate as a faculty member in a program of continuing legal education organized by a for-profit corporation in the circumstances presented without breaching any ethical obligation imposed by the Code.

Honorable Andrew G.T. Moore, Chairman
Honorable William T. Allen
Honorable Clarence W. Taylor
Honorable Vincent A. Bifferato
Honorable Robert W. Wakefield
Honorable Paul E. Ellis
Honorable, Alfred Fraczkowski