

JPC 1986-1
December 23, 1986

The Judicial Proprieties Committee has considered your letter request of December 9, 1986 that we advise you concerning an offer made to you by a newly-organized Bar Review course to teach the civil procedure phase. This course is under the sponsorship of the Delaware Bar Association and the Delaware Law School, both of which are non-profit organizations.

You have also asked us for an opinion respecting the propriety of judges participating on the faculty of continuing legal education programs.

Turning to your first inquiry, it is apparent that this new Bar Review course will be in competition with another similar course which has been conducted for several years as a commercial venture by a member of the Delaware Bar. No Delaware Judge serves as a faculty member of the latter. It is proposed that certain advertising materials will be circulated to members of the Delaware Bar indicating that you are a member of the faculty of the new course.

While we recognize that subject to the proper performance of his judicial duties, Canon 4A permits a judge to speak, write, lecture, teach, and participate in other activities concerning the law, legal system, and the administration of justice, there is a countervailing principal enunciated by Canon 2B that a judge may not lend the prestige of his judicial office to a business enterprise. Because of the commercially competitive aspects of the two Bar Review courses, it is apparent that you would be lending your prestige to an enterprise which is in competition with a commercial venture. It is this circumstance which leads us to conclude that at this time, and under these facts, you cannot with propriety serve on the faculty of the new Bar Review course.

We also note that the Board of Bar Examiners recently addressed this question in connection with the participation of its members, and persons practicing law with them, on the faculty of a Bar Review course. The Board has proposed a Rule, which the Supreme Court will shortly adopt, giving effect to this prohibition. While the conflicts of interest are different, the Board's action is indicative of the Bar's concern for the appearance of impropriety.

Concerning your request for an opinion regarding a judge's participation on the faculty of continuing legal education programs, we recognize that Canon 4A supports such participation. However, your inquiry is so general, and since each case must turn on its specific facts, we must decline to state a blanket rule on the subject.

FOR THE COMMITTEE:
Andrew G. T. Moore, II
CHAIRMAN