STATE OF NEVADA

STANDING COMMITTEE ON JUDICIAL ETHICS AND ELECTION PRACTICES

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ADVISORY OPINION: JE08-014

PROPRIETY OF A SITTING JUDGE HEARING CASES FOR ATTORNEYS WHO ARE HIS TENANTS.

ISSUE

May a judge preside over cases in adult guardianship court for attorneys who are tenants in a commercial building owned by the judge?

ANSWER

No.

FACTS

This written request came from a sitting judge who owns a commercial building occupied by lawyers and his former law partner. All open and closed adult guardianships in the judge’s jurisdiction have been transferred to his department. His former partner and another tenant periodically appear before him on guardianship matters. The judge indicates the guardianship bar is quite small in his jurisdiction and several attorneys who appear opposite his former partner and tenant have asked to waive disqualification in order to remain in the judge’s department.

DISCUSSION

The Nevada Code of Judicial Conduct Canon 3E provides:

(1) A judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to instances where:

(c) the judge knows that he or she, individually or as a fiduciary, has an economic interest ... in a party to the proceeding or has any other more than de minimis interest and could be substantially affected by the proceeding: ...

(2) A judge shall keep informed about the judge’s personal ... economic interests, ...

In applying Canon 3(E), the panel saw no need to consider the waiver issue, given that the Canon precludes this jurist from even hearing matters which are brought before him by his tenants. While the judge does not specify the type of lease he has with his tenants, it is reasonable to believe he has lease contracts. At least two (2) of these tenants have or will eventually be in the judge’s court on adult guardianship matters from which they partially derive the professional income used to pay these leases. This jurist has a “personal economic interest” in the
financial stability of attorneys who rent from him. The conflict or potential conflict is obvious and this judge must disqualify himself from hearing such matters being brought into his court by his tenants.

CONCLUSION

The Committee found the judge must disqualify himself from hearing adult guardianship matters for tenants of his commercial office building.

REFERENCES

Nevada Code of Judicial Conduct, Canon 3E.

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