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TRACIE K. LINDEMAN  
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DEPUTY CLERK

**STATE OF NEVADA**

**STANDING COMMITTEE ON  
JUDICIAL ETHICS AND ELECTION PRACTICES**

**DATE ISSUED: February 26, 2010**

**ADVISORY OPINION: JE10-001**

PROPRIETY OF A CANDIDATE FOR ELECTION TO NEVADA JUDICIAL OFFICE ACCEPTING A CAMPAIGN CONTRIBUTION FROM A PARTISAN POLITICAL ORGANIZATION.

of Judicial Conduct. *Rule 5 Governing the Standing Committee on Judicial Ethics & Election Practices.* Accordingly, this opinion is limited by the authority granted by Rule 5.

**ISSUE**

May a candidate for election to Nevada state judicial office accept a campaign contribution from a partisan political organization?

Rule 4.1 to Canon 4 of the Nevada Code of Judicial Conduct (the "NCJC") states in pertinent part:

**ANSWER**

Yes.

(a) Except as permitted by law, or by Rules 4.2 and 4.4, a judge or a judicial candidate shall not . . . seek, accept, or use endorsements or publicly stated support from a political organization . . .

**FACTS**

A partisan political organization – for instance a county central committee – has offered a campaign contribution to a person who has declared his or her candidacy for election to an elective state judicial office in Nevada. The candidate has inquired whether he or she may accept the proffered campaign contribution and whether the amount of the proposed contribution – as an example \$100.00 or less – influences the analysis of this issue.

Nevada Code of Judicial Conduct, Canon 4, Rule 4.1(A)(7).

The commentary to Canon 4 observes:

**DISCUSSION**

The Committee is authorized only to render an opinion that evaluates compliance with the requirements of the Nevada Code

Public confidence in the independence and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence. A judge or candidate for judicial office retains the right to participate in the political process as a voter, be a member of a political organization, and contribute personal funds to a candidate or political organization.

....



A judge or judicial candidate's donation to a candidate or political organization that is otherwise permitted by state or federal law is not considered a public endorsement of a candidate for public office.

Relevant portions of NCJC Rule 4.2 state:

(A) A judicial candidate in a public election shall:

(2) comply with all applicable election, election campaign, and election campaign fund-raising laws and regulations of this jurisdiction;

.....

(5) report contributions received and campaign expenses in accordance with NRS Chapter 294A.

.....

(B) A candidate for elective judicial office may, unless prohibited by law:

.....

(4) in accordance with Rules 4.2(C), 4.2(D) and other applicable law, solicit and accept campaign contributions, either personally or through a campaign committee.

(5) seek, accept, or use endorsements from any person or organization other than a partisan political organization.

Nevada Code of Judicial Conduct, Canon 4, Rule 4.2(A)(2), (5) & 4.2(B)(4)-(5).<sup>1</sup>

Considering the applicable provisions of Rule 4.1 and 4.2, and in light of the commentary to Rule 4.1, a candidate for election to Nevada state judicial office may accept a campaign contribution from a partisan political organization unless prohibited by other state or federal law.<sup>2</sup> Rule 4.2 and the commentary to Rule 4.1 demonstrate that the Supreme Court of Nevada recognizes a distinction between campaign contributions from a partisan political organization and endorsements for partisan political organization. The latter is unequivocally prohibited by Rule 4.2(B)(5), while Rule 4.2(B)(4) places no comparable restriction on a judicial candidate accepting campaign contributions from such organizations. Moreover, the Rule 4.1 commentary establishes that the Supreme Court of Nevada does not equate acceptance of a campaign contribution with acceptance of an endorsement.

In this regard, we note that the amount of the campaign contribution does not influence the analysis of the specific question presented, although the amount of any contribution may affect the manner in which the candidate for elective judicial office complies with reporting requirements in accordance with Rule 4.2(A)(2) and

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<sup>1</sup> The provisions of Rules 4.2(C) and 4.2(D) are inapplicable to our evaluation of the question presented here.

<sup>2</sup> As noted at the outset of our advisory opinion, under Rule 5 the Committee only has jurisdiction to evaluate compliance with the requirements of the NCJC.

4.2(A)(5). That said, the Committee further notes that the amount of a campaign contribution from a partisan political organization may in a particular instance be in an amount that could erode public confidence in the independence and impartiality of the judiciary by creating the perception that a judge or judicial candidate is subject to political influence.

We also observe that while the candidate for elective judicial office may accept the campaign contribution from a partisan political organization, the fact of such contribution may not be used by the candidate in any manner as an endorsement of such organization, which is affirmatively proscribed by Rule 4.2(B)(5).

Our opinion does not evaluate in any respect whether and in what circumstances the acceptance of a campaign contribution from a partisan political organization by a person who is a candidate for elective judicial office may be a basis for disqualification of that person if he or she is an elected and serving member of the judiciary.

#### **CONCLUSION**

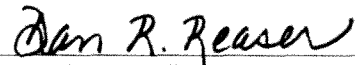
A candidate for election to Nevada state judicial office may accept a campaign contribution from a partisan political organization.

#### **REFERENCES**

Rule 5 Governing Standing Committee On Judicial Ethics & Election Practices; Nevada Code Of Judicial Conduct, Canon 4, Rules 4.1(A)(7), 4.2(A)(2), (5) & 4.2(B)(4)-(5) & *Commentary [4]* to Rule 4.1.

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*This opinion is issued by the Standing Committee on Judicial Ethics and Election Practices. It is advisory only. It is not binding on the courts, the State Bar of Nevada, the Nevada Commission on Judicial Discipline, any person or tribunal charged with regulatory responsibilities, any member of the Nevada judiciary, or any person or entity requesting the opinion.*



**Dan R. Reaser, Esq.**  
*Committee Chairman*