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JANETTE M. BLOOM
CLERK OF SUPREME COURT

BY _____
DEPUTY CLERK

STATE OF NEVADA
STANDING COMMITTEE ON JUDICIAL
ETHICS AND ELECTION PRACTICES

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PROPRIETY OF JUDGE SIGNING A
LETTER SOLICITING FUNDS

Issue

May a judge, serving as an officer of a judicial district pro bono foundation, sign a letter addressed to attorneys soliciting them to contribute to the foundation as a means of fulfilling their voluntary goal of providing pro bono legal services or monetary donations in lieu thereof? Answer: No.

Facts

The Nevada Supreme Court has adopted Supreme Court Rule 191 which states that a lawyer should render public legal service. The Rule states that in fulfilling this responsibility, a lawyer should provide a minimum of 20 hours a year in professional legal services at no fee to persons of limited means or through pro bono organizations, or by providing a minimum of 60 hours a year in professional services at reduced fees to persons of limited means. Alternatively, the lawyer may contribute a minimum of \$500.00 annually to a group providing pro bono legal services. SCR 191.1(a), (b) and (c). The goals set forth in Rule 191 are "aspirational" and not "mandatory". SCR 191.2

In furtherance of the objective of Rule 191, the Rule provides that the chief judge or each judicial district shall appoint a Pro Bono Committee made up of members of the bench and bar, as well as representatives of pro bono services and community organizations. SCR 191.3(a).

One of the committees or foundations created pursuant to SCR 191.3(a) drafted a proposed letter to be sent to lawyers in the judicial district covered by the foundation

notifying them of the provisions of SCR 191.1. The letter advises the lawyers that they may make a donation directly to any organization of their choice or to the foundation which will then distribute the donations among providers of pro bono services in that judicial district. The letter further points out that donations to the entities or the foundation are tax deductible. The letter concludes with a request for "your help."

The letterhead of the form letter identifies the judge, by name, as the president of the foundation and precedes his/her name by the title "Hon." Other judges who are trustees of the foundation are similarly identified by the title "Hon." before their names. The other non-judicial members or trustees of the foundation are listed on the letterhead, but their professions or occupations are not identified. The signature line of the letter provides that it is to be signed by the judge as "Chairperson" of the foundation.

Discussion

Nevada Code of Judicial Conduct, Canon 4C(3) states in pertinent part as follows:

"(3) A judge may serve as an officer, director, trustee or non-legal advisor of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice or of an educational, charitable, fraternal or civic organization not conducted for profit subject to the following

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limitations, and the other requirements of this Code."

Section 4C(3)(b)(i) further provides:

"(b) A judge as an officer, director, trustee or non-legal advisor, or as a member or otherwise:

(i) may assist such an organization in planning fund-raising and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds, or other fund-raising activities, except that a judge may solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority."

Section 4C(3)(b)(iii) further states that a judge may not personally participate in member solicitation if the solicitation might reasonably be perceived as a fund-raising mechanism. Section 4C(3)(b)(iv) states that a judge shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation.

The purpose of the prohibition against judges personally engaging in fund-raising or membership solicitation is to avoid the potential misuse of judicial office. The Canon addresses the dual fears that potential donors either may be intimidated into making contributions when solicited by a judge or that they may expect future favors in return for their largesse. See Shaman, Judicial Conduct and Ethics, Sect. 9.06, page 289.

There is no indication that in adopting Supreme Court Rule 191 and in authorizing the creation of Pro Bono Committees in each

judicial district in which judges will participate as members or officers, the Supreme Court intended to create an exception to Canon 4C(3) to permit judges to personally participate in fund-raising activities for such committees or foundations.

The Commentary Canon 4C(3) also states as follows:

"Use of an organization letterhead for fund-raising or membership solicitation does not violate Section 4C(3)(b) provided the letterhead lists only the judge's name and office or other position in the organization, and if comparable designations are listed for other persons, the judge's judicial designation..."

The foundation's proposed letterhead conflicts with this Commentary designating the judge trustees of the foundation by the designation "Hon.", thereby indicating their judicial office, but not providing comparable designations for the other members, such as "Esq." for attorney trustees or the professional or occupational designations for the other trustees. To comply with the Canon, it is recommended the "Hon." designations for the judge trustees be eliminated or, if feasible, that the other trustees designations also be listed.

Conclusion

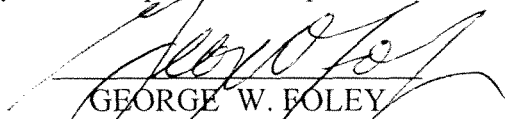
A judge may serve as an officer, director, trustee or other non-legal advisor to a Pro Bono Committee or Foundation established pursuant to SCR 191. However, a judge may not personally engage in fund-raising activities of the foundation. It is recommended that foundation letters which solicit contributions on behalf of the foundation or for other pro bono organizations be signed by an officer of the foundation who

is not a judicial officer. In addition, foundation letterhead used for solicitation purposes should not selectively identify the judge trustees of the foundation by their judicial titles or designations unless the other foundation trustees are also identified by their professional or occupational designations.

References

Nevada Code of Judicial Conduct: Canons 4C(3), 4C(3)(b)(i), 4c(3)(b)(iii), 4C(3)(b)(iv); SCR 191, SCR 191.1, SCR 191.1(a), (b) and (c), SCR 191.2, SCR 191.3(a); Shaman, Judicial Conduct and Ethics, Sect. 9.06, page 289.

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GEORGE W. FOLEY
Committee Vice-Chairman