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STATE OF NEVADA
STANDING COMMITTEE ON JUDICIAL
ETHICS AND ELECTION PRACTICES

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OPINION: JE01-003

PROPRIETY OF JUDGES SERVING ON AN "HONORARY COMMITTEE" OF A CHARITABLE FUND-RAISING EVENT IN MEMORY OF A DECEASED JURIST

Issue

May judges serve or be listed on an "Honorary Committee" for a charitable organization's fund-raising dinner in memory of a deceased jurist who was the founding president of the charitable organization?

Answer: No, except in limited circumstances as explained herein.

Facts

A charitable organization is planning its annual fund-raising dinner. The nature or purpose of the organization is to support a specific type of medical research. The founding president of the organization was a judge who has since died. The organizers of the fund-raising dinner desire to issue invitations to the dinner which will list "guests of honor" who are not judicial officers. The invitations will also state that the dinner is "in memory of" the deceased jurist and founding president of the charitable organization.

The invitation and a letter on the organization's letterhead, relating to the dinner, also propose to list the charitable organization's "Committee," the members of which apparently are not judicial officers. The invitation and letter also list an "Honorary Committee" or "Honorary Dinner Committee," which will consist of judges from the same court or community in which

the deceased judge presided and practiced law. The judicial positions of "Honorary Committee" members will apparently be indicated by use of the abbreviation "Hon." before their name. (Even if no such designation is used, they are reasonably likely to be recognized as judges through their individual names.) It does not appear that the judges, who will serve or be listed on the "Honorary Committee" or "Honorary Dinner Committee" are otherwise officers or members of the governing committee of the charitable organization.

Discussion

The Nevada Code of Judicial Conduct sets forth the applicable standards from which our judges are provided guidance for ethical conduct.

Canon 4C(4) of the Nevada Code of Judicial Conduct governs a judge's participation in civic and charitable organizations other than law-related organizations, as follows:

(4) *Other Civic and Charitable Organizations.* A judge may serve as an officer, director, trustee or non-legal advisor of an educational, religious, charitable, fraternal or civic organization not conducted for profit, subject to the following limitations and other requirements of this Code.

(a) a judge shall not serve as an officer, director, trustee or non-legal advisor if it is likely that the

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organization:

(i) will be engaged in proceedings that would ordinarily come before the judge, or

(ii) will be engaged frequently in adversarial proceedings in the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

Canon 4C(4)(b) further provides:

(b) a judge as an officer, director or non-legal advisor, or as a member or otherwise;

(i) may assist such 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;

(ii) shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or, except as permitted in section 4C(4)(b)(i), if membership solicitation is essentially a fund-raising mechanism;

(iii) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation.

The Comment to subdivision C(4)(b) states as follows:

“A judge shall not be a speaker or guest of honor at an organization's event that is primarily for fund-raising or membership solicitation purposes. However, a judge may speak or be honored at other events or meetings held by the organization. A judge should not serve on an honorary dinner committee for an organization's fund-raising or member solicitation event, unless the judge is a member of the organization or has a close personal relationship with the organization or the event being celebrated, or is a close personal friend of the person being honored. The judge should not use his or her title when serving on such a committee, unless comparable designations are listed for other persons.”

Shaman, Lubet, and Alfini, *Judicial Conduct and Ethics*, 2nd Ed., page 289, states that the restrictions in Canon 4(C)(4)(b) on judicial participation in fund-raising activities are meant to address the dual fears that potential donors either may be intimidated into making contributions when solicited by a judge, or that donors may expect future favors in exchange for making donations. It is thus clear that a judge may not personally solicit charitable contributions, except from other judges over whom he or she exercises no authority.

An Advisory Opinion by the Indiana Commission on Judicial Qualifications, #1-96, indicates, however, that some lesser degrees of participation in fund-raising is permissible “so long as the activities do not cast reasonable doubt on the judge's capacity to act

impartially, do not demean the judicial office and do not interfere with the proper performance of judicial duties.” The Indiana Commission stated that whether or not a judge should participate in or allow his or her name to be used in conjunction with a fund-raising activity is something that a judge must determine on a case by case basis. The Indiana Commission stated that the essential inquiry is whether it is likely that donors will be motivated to contribute by the fact that a judge is a participant. The Commission stated that a judge may not be the guest of honor at a fund-raising event because typically the presence of the guest of honor is intended to motivate potential donors to attend. The Indiana Commission was less troubled by judges being listed as committee members or honorary committee members for a fund-raising event. However, the Indiana Commission stated that in order to militate against the potential that donors will be motivated to contribute by virtue of the judge’s participation, all committee members’ titles should be listed if the judge’s title is listed and judges should not make up a majority of the committee members.

This Committee takes a somewhat stricter view of the prohibitions in Canon 4C(4)(b) on judicial participation in fund-raising activities than that indicated by the Indiana Commission’s advisory opinion. For the reasons stated in *Judicial Conduct and Ethics, supra*, it is the opinion of this Committee that judges should generally refrain from personal participation in fund-raising activities, including allowing their names to be listed as “honorary committee” or “honorary dinner committee” members.

This Committee is also concerned that if judges are generally authorized to allow themselves to be listed on such “honorary committees,” judges will be more often

subjected to requests that they lend their names to various “worthy causes.”

The Comment to Canon 4C(4)(b) allowing judges to be listed on such honorary committees in certain limited circumstances are intended to be exceptions to the general rule against personal participation in fund-raising events in which the prestige of judicial office is used for fund-raising solicitation. Thus judges should not allow their names to be listed on “honorary committees” where the event is primarily for fund raising purposes unless:

- (1) the judge is a member of the organization; or
- (2) has a close personal relationship with the organization or the event being celebrated; or
- (3) is a close personal friend of the person being honored.

This Opinion cannot address each and every circumstance in which one or more of these exceptions will be applicable. In general, however, these exceptions should be narrowly construed and one or more of them should be clearly the reason for the judge’s decision to permit his or her name to be listed. In regard to the event that is the subject of this advisory opinion, there may be judges who reasonably qualify under one or more of these exceptions and whose participation on the “honorary committee” or “honorary dinner committee” is completely in compliance with the Canon.

Even under the somewhat more lenient standard adopted by the Indiana Commission, it would appear, however, that judges should not permit their names to be listed on the “honorary dinner committee” or “honorary

committee” or “honorary dinner committee” members will be judges. The Committee agrees with the Indiana Commission advisory opinion that even if it is otherwise proper for a judge to allow his or her name to appear on an “honorary committee,” he or she should not do so if a majority of the committee are judges who will be listed by their judicial designations or titles, such as “Honorable” or “Hon.”

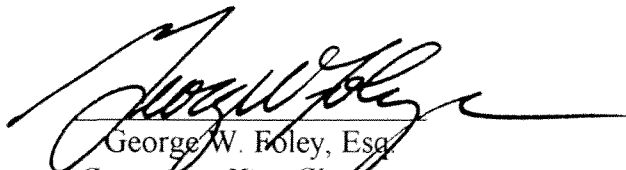
Conclusion

Based on the foregoing, the Committee concludes that a judge, except in limited circumstances, may not allow his or her name to be listed on an “honorary committee” for a primarily fund-raising activity or event.

References

Nevada Code of Judicial Conduct; Canon 4C(4)(b); Shaman, Lubet, and Alfini, *Judicial Conduct and Ethics*, 2nd Ed.; Indiana Commission on Judicial Qualifications, Advisory Opinion #1-96,

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