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STATE OF NEVADA

STANDING COMMITTEE ON  
JUDICIAL ETHICS AND ELECTION PRACTICES

**DATED ISSUED: January 31, 2008**

**OPINION: JE08-001**

PROPRIETY OF A JUDGE SERVING ON AN ADVISORY BOARD RELATED TO THE CONSTRUCTION OF A FOR PROFIT ENTERPRISE.

**Issue**

May a judge serve on an advisory board related to the construction of a for profit enterprise, with or without compensation?

**Answer**

No.

**Facts**

A judge asks whether it is appropriate for the judge to serve on an advisory board related to the construction of a for profit commercial enterprise. The advisory position may or may not be for compensation.

**Discussion**

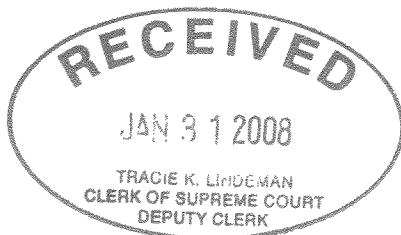
Canon 4D(3) of the Nevada Code of Judicial Conduct generally provides that "a judge shall not serve as an officer, director, manager, general partner, advisor or employee of any business entity ...." That Canon includes two exceptions which allow judges, in limited circumstances, to manage and participate in "a business closely held by the judge or

members of the judge's family" or "a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family." Those limited exceptions do not apply here. The prohibition of Canon 4D(3) applies whether or not the advisory position is a paid or an unpaid position.

The Commentary to that very clear Canon is focused entirely on the two exceptions to the general prohibition. However, the Commentary to Canon 4D(1), which is broader in scope than Canon 4D(3), provides the rationale for an absolute prohibition. That Commentary explains that participation by judges in financial and business dealings has the potential to reflect adversely on impartiality, demean the judicial office, or interfere with the proper performance of judicial duties. Moreover, such participation can give rise to the appearance of impropriety, as well as to the misuse of the prestige of judicial office.

**Conclusion**

Canon 4D(3) prohibits a judge from serving on an advisory board related to the construction of a commercial for profit enterprise, whether or not the advisory position comes with or without remuneration.

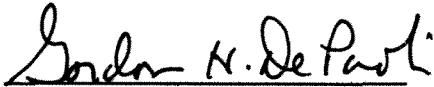


**References**

Nevada Code of Judicial Conduct,  
Canon 4D(1), Canon 4D(3).

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