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STATE OF NEVADA

STANDING COMMITTEE ON JUDICIAL ETHICS AND ELECTION PRACTICES

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PROPRIETY OF JUDGE APPEARING AS A SPEAKER AT A CONTINUING LEGAL EDUCATION EVENT WHICH ALSO SERVES AS A FUND-RAISER.

ISSUE

1. May a judge appear as a speaker at a CLE luncheon where a fee is charged to benefit a pro bono organization?

Answer: Yes

FACTS

A judge has been asked to participate as a speaker at a Continuing Legal Education luncheon hosted by a pro bono organization which will be charging a fee for the luncheon as part of ongoing fund raising activities. The judge's only involvement will be as a speaker and not in soliciting attendance for the luncheon or appearing in promotional material as a member of a "host committee".

DISCUSSION

Nevada Code of Judicial Conduct Canon 4B states in pertinent part as follows:

Avocational Activities. A judge may speak, write, lecture, teach and participate in other extra-judicial activities concerning the law, the legal system, the administration of justice, and non-legal subjects, subject to the requirements of this code.

The commentary to Canon 4B provides as follows:

As a judicial officer and

person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that time permits, a judge is encouraged to do so, either independently or through a bar association, judicial conference or other organization dedicated to the improvement of the law.

Canon 4C(3)(b)(i) further provides in pertinent part as follows:

(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 of the organization's funds, but shall not personally participate in 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.

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Canon 4C(b)(iv) states:

A judge as an officer, director, trustee or non-legal advisor or as a member or otherwise...(iv) 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 solicitation is to avoid the potential misuse of judicial office. The Canon addresses the fear 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, Section 9.06, page 289.

Merely appearing as a speaker at a continuing legal education event does not create a potential for misuse of judicial office.

The commentary to Canon 4C3(b) suggests that a judge may not be a speaker at an organization's fund-raising event, but mere attendance at such an event is permissible if otherwise consistent with the Code. The Committee does not consider this commentary to be inconsistent with this decision or with those portions of Canon 4 quoted above. A judge is prohibited by this commentary only from being a speaker or guest of honor at a fund raising event unrelated to the law, the legal system or the administration of justice.

CONCLUSION

A judge may be a speaker or lecturer at a fund-raising event for an organization concerned with the law, the legal system or the administration of justice. However, the judge may not personally engage in fund-raising activities or solicitation of attendance

for the event.

REFERENCES

Nevada Code of Judicial Conduct: Preamble and Canons 4B, 4C(3)(b)(i), 4C(3)(b)(iv) and Shaman, Judicial Conduct and Ethics, Section 9.06, page 289.

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