

Nebraska Judicial Ethics Opinion 07-3

Question Presented--

- (1) *May a quote by the judge, the judge's name, and the judge's title appear on a letter soliciting funds for a not-for-profit organization?*
 - (2) *If not, should the author of the solicitation letter be asked to remove the judge's quote, name, and title from the letter?*
 - (3) *May the judge make a private donation to the not-for-profit organization in response to the solicitation letter?*
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Conclusion

As a member of the Nebraska judiciary, a judge may not allow the use of the prestige of judicial office for fundraising purposes. Therefore, the judge should demand that his or her quote, name, and title be removed from the fund solicitation letter. However, as a private citizen, the judge is able to make a donation to this nonpolitical organization.

Statement of Facts

A member of the Nebraska Judiciary has received a letter soliciting funds from the Omaha Schools Foundation for a program providing bus tickets for students. The letter was addressed to the judge and contained a quote by the judge, using the judge's name and judicial title. It is unclear whether the quote was utilized for the individual letter to the judge or for all similar fundraising letters. However, it was reported that the individual sending this letter had sent letters to others in the community.

Applicable Code Sections

Neb. Code of Jud. Cond., Canons 2, 4C(3)(b)(iii), 4C(3)(b)(iv), and 5

References in Addition to Nebraska Code of Judicial Conduct

Nebraska Judicial Ethics Opinions 96-1, 00-1, 02-3, and 03-5

Discussion

The Nebraska Code of Judicial Conduct and past Judicial Ethics Opinions have shed much light on the implications of judicial participation in fundraising activities. Canon 4 of the Judicial Code of Conduct mandates that a judge shall not participate personally in a fundraising mechanism for a charitable organization. See Canon 4C(3)(b)(iii). Additionally, the prestige of the judicial title for fundraising purposes is prohibited. See Canon 4C(3)(b)(iv).

The prohibition of personal participation in or use of a judicial title for fundraising activities is supported by the following reasons:

First, the person being solicited may feel obligated to respond favorably to a solicitation because of the judge's authority and control in the judicial arena, particularly where that person is or expects to be involved in a proceeding before that judge or his or her court. Second, publicized association between the judge and the charitable organization may have the effect of lending the prestige of judicial office to the organization's fund-raising activities.

See Nebraska Judicial Ethics Opinion 03-5. Thus, it is improper use of the office of judge for the judge's name, quote, and title to appear on a letter soliciting funds. Even where, as in this instance, the use of the judicial office by title and quote on a solicitation letter are used without the authorization of the judge, this is a form of participation in fundraising and may be

interpreted as a use of the prestige of the judicial office for fundraising. Therefore, the judge is responsible for informing those using his name and title without his permission to cease using his name and title.

Generally, a judge must avoid not only the appearance of direct solicitation of funds, but must also avoid the appearance of impropriety, as stated by Canon 2. Again, this dictates that even if the judge himself has not participated personally in the solicitation, he must act immediately and decidedly in getting his name and title removed from solicitation materials so as to avoid the improper use of the office of judge.

Although a judge may not use or allow his title to be used for solicitation of funds, a judge is allowed to make personal contributions to organizations as a private citizen. Nowhere in the Nebraska Code of Judicial Conduct does it prohibit the private donations of funds, except in support of a political candidate or organization. See Canon 5. Therefore, it is appropriate for the judge to make a donation as a private individual to a nonpolitical cause he deems worthy.

Disclaimer

This opinion is advisory only and is based on the specific facts and questions submitted by the person or organization requesting the opinion pursuant to appendix A of the Nebraska Code of Judicial Conduct. Questions concerning ethical matters for judges should be directed to the Judicial Ethics Committee.

APPROVED AND ADOPTED
BY THE COMMITTEE ON OCTOBER 4, 2007

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