

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 92-05
(April 7, 1992)

Membership on Bank Board of Directors

Issue

May a full-time city magistrate hold a position on the board of directors of a local bank.

Answer: No.

Facts

A full-time city magistrate serves on a board of directors of a local bank in organization. As a city magistrate, the judge can only hear cases involving petty offenses, misdemeanors and violations of city ordinances.

Discussion

Canon 5C(2) provides that "a judge may hold and manage investments, including real estate, and engage in other remunerative activity, but should not serve as an officer, director, manager, advisor, or employee of any businesses other than a closely held business."

While there are some limited exemptions such as in family or closely held businesses, judges are strictly prohibited from serving as an officer, director, manager, advisor or employee of businesses. Although many states have adopted a modified canon in situations where judicial salaries are low to allow judges the opportunity to earn extra income, the Arizona Supreme Court has adopted a flat prohibition against judges serving as directors of businesses, other than a closely held business. *See* Jeffrey M. Shaman et al. *Judicial Conduct and Ethics* 177 (1990). The fact that the judge would never have an actual conflict because of the court's limited jurisdiction is not a consideration. The prohibition is absolute. An Ohio Bar Opinion lends some insight into this hard and fast rule by stating in effect that "to serve (as a director of a business) would give reasonable grounds for suspicion that the judge is using the prestige of office to persuade others to patronize that business." *See* Ohio Bar Opinion 19 in Debora L. Solomon, ed. *The Digest of Judicial Ethics Advisory Opinions at* 448 (1990).

Applicable Code Sections

Arizona Code of Judicial Conduct, Canon 5C(2) (1985).

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Other References

Ohio Bar Opinion 19 in Debora L. Solomon, ed. *The Digest of Judicial Ethics Advisory Opinions* at 448 (1990).

Jeffrey M. Shaman et al. *Judicial Conduct and Ethics* 177 (1990).