

ADVISORY OPINION 97-09
(July 30, 1997)

**Limited Role of Judge in Applying for
Donations or Grants as an Officer
Of a Charitable Organization**

Issues

1. Is there a distinction between a judge directly soliciting lawyers for funds for a charitable purpose, and a judge sitting on the board of a non-profit corporation and acting as an officer of that board when it is soliciting funds from another charitable organization?

Answer: Yes.

2. As president of the board, can the judge be the contact person or sign a grant application to another charitable organization?

Answer: No.

3. As president of the board, can a judge answer questions from a prospective grantor about the non-profit corporation's activities as long as the other board members make the active solicitation for funds? In other words, can a judge participate in fact-finding in connection with a funding solicitation?

Answer: Yes.

Facts

A judge belongs to the board of a non-profit corporation formed in 1992 to establish a Head Start program, a health clinic and a youth community center. This year, the judge was elected president of the board, and the board has solicited funds from charitable foundations for these projects. One of the foundations has asked board members to meet with its officials to review the grant application. The judge, who has been with the corporation since its inception, knows the history of the organization and, as president, is a logical choice to meet with the foundation.

Discussion

The answers to all three issues are governed by Canon 4C(4)(b), which states, in pertinent part, that "A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of office for that purpose, but a judge may be listed as an officer, director, or trustee of such an organization, so long as the listing is not used for fund-raising purposes."

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Issue 1

On the basis of the facts submitted, it is the opinion of this committee that the provisions of the canon are not violated with regard to the first issue since the judge is not directly involved in the solicitation of funds, and there is no indication that the listing of the judge as an officer of the organization is being used for fund-raising purposes.

Issue 2

In response to the second issue, it is the opinion of the committee that allowing the judge, as president of the board, to be the contact person or to sign a grant application to another charitable organization would place the judge in a position where the judge would be directly involved in the solicitation of funds or could be viewed as using the judge's judicial position to influence fund raising for the charitable organization. Therefore, the judge should not be the contact person and should not sign a grant application to another charitable organization.

Issue 3

Finally, it is the committee's opinion that the judge can participate in fact-finding in connection with a funding solicitation and can answer questions from a prospective grantor about the non-profit corporation's activities, as long as other board members make the active solicitation of funds. The canon does not prohibit a judge from being an active participant in the charitable organization so long as the judge does not solicit funds nor use the judicial position for fund-raising purposes. As we understand the facts, the judge's participation in fact-finding in connection with the funding solicitation will not amount to the judge soliciting funds nor using the judicial position for fund-raising purposes.

Applicable Code Sections

Arizona Code of Judicial Conduct, Canon 4C(4)(b) (1993).