

**JUDICIAL ETHICS ADVISORY COMMITTEE
OF THE
STATE OF DELAWARE**

The Hon. Joseph R. Slight, Chair
The Hon. Mardi F. Pyott, Vice Chair
The Hon. Kenneth S. Clark, Jr., Secretary
The Hon. Donald F. Parsons, Jr.
The Hon. Mary M. Johnston
The Hon. Robert B. Coonin
The Hon. Sheila G. Blakely

March 5, 2007

JEAC 2007-1

Honorable [redacted]
[redacted]
[redacted]
Dover, DE 19904

Re: Request for Advisory Opinion

Dear Judge [redacted]:

You have requested an opinion from the Judicial Ethics Advisory Committee (the "Committee") on the following issue: Whether, now that you are a judicial officer, you may continue your prior fundraising activities as a member of the Camden-Wyoming Little League ("CWLL"), and in particular serve as its live auctioneer at the annual CWLL Silent/Live Auction and Dinner.

Upon review of Canon 5B of the Delaware Judges' Code of Judicial Conduct (the "Code"), its comments and other interpretive opinions, and the information you have provided about this event, it is the Committee's opinion that you may not engage in any fundraising activities on behalf of CWLL, and that you may not serve as the auctioneer at the annual auction and dinner.

Canon 5B of the Code provides that a judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of judicial duties. It further states that "a judge may serve as an officer, director, trustee, or non-legal advisor of an educational, religious, charitable, fraternal or civic organization not conducted for the economic or political advantage of its members," subject to several limitations set forth in Canon 5B.

It is clear from the information you have provided the Committee that the CWLL is a charitable and civic organization. You further indicated that you have been an active member of the CWLL for thirteen years, and have served as a “manager, coach, umpire, league VP, VP of Baseball, manager of State Championship teams, and a fundraiser.” With the exception of the position of “fundraiser,” the Committee equates your various other roles in the CWLL with the permitted roles of “officer, director, trustee or non-legal advisor” enumerated in Canon 5B, and you may continue in such roles, with the caveat that you may not engage in conduct or activities in such roles that violate other provisions of the Code.

Fundraising activities, however, are specifically proscribed by Canon 5B (2): “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 the judicial office for that purpose, but the judge may be listed as an officer, director, or trustee of such an organization. A judge should not personally participate in member solicitation if the solicitation might reasonably be perceived as coercive or is essentially a fund-raising mechanism.”

You have informed the Committee that, prior to your investiture, you were very involved in the annual CWLL Silent/Live Auction and Dinner, and served as the live auctioneer at the event. You indicate that if you could continue in this role, you would not be referred to as “Judge” or “Honorable” during the event, or listed as a judge in the event program. However, it must be assumed that, as a public official appointed by the Governor and confirmed by the Senate, many if not all of the attendees at the event would be aware of your judicial position. Thus, the Committee initially is concerned that serving as the auctioneer would amount to permitting the CWLL to use “the prestige of the judicial office” for the purpose of fundraising. Further, it is the Committee’s understanding that the general role of an auctioneer is to encourage or solicit bidders to continue bidding on items to increase the sale price, and raise greater funds. Your participation as an auctioneer would directly contravene Canon 5B (2).

Further guidance is provided in the Comment to Canon 5B, which states that “a judge may attend fund-raising activities of the organization although the judge may not be a speaker, a guest of honor, or featured on the program of such an event.” If you were to serve as an auctioneer, you would be a “speaker” at the fundraising event.

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In summary, it is the advice of the Committee that, under the Code, you should not serve as an auctioneer at the CWLL fundraising event. The Committee further advises that, although you may attend the fundraising event as a member of the organization, you should not otherwise be involved in soliciting funds for the organization.

For the Committee:

Kenneth S. Clark, Jr.

Cc: Liaison Justice
JEAC Members