
ISSUE

May a judge participate as a celebrity judge in a fund-raising event for a charitable organization?

ANSWER

No.

FACTS

A judge has been asked to serve as a “VIP Celebrity Judge” at a fund-raising event for a non-profit charity. Eight or more prominent citizens, who are designated “Celebrity Judges,” attend a “VIP Reception” at the start of this event. At this reception, the celebrity judges sample cuisine entered by participating restaurants, and award first, second, and third places to the restaurant chefs’ entries. Photographs of the celebrity judges may be taken during the VIP reception. Immediately following the VIP reception, the fund-raising event continues with a public reception and an auction of food and entertainment packages provided by the same restaurants to raise money for the charity. The entire event is advertised to the public, takes place at a public location, and has corporate sponsorship. A program distributed to persons in attendance lists the celebrity judges by name, but not by title. It is the stated desire of the charity to promote this event through advertising and publicity.

DISCUSSION

The Committee concludes that the issue presented involves provisions of SCR 60.05(3)(c), 60.01(4), and 60.03(2).

A. *SCR 60.05 and 60.01*

SCR 60.05(3)(c)2.a states that:

2. A judge, in any capacity:
 - a. May assist ... [a nonprofit charitable] organization in planning fund-raising activities ... but may not personally participate in the solicitation of funds or other fund-raising activities....

Participation as an invited “VIP Celebrity Judge” at the “VIP Reception” constitutes personal participation in a fund-raising activity, since this reception is part of the same event whose main purpose is to raise funds for the organization. The only discernible purpose of the judge’s participation in the “VIP Reception” is to enhance the prestige and public relations value of the event as a whole, thus improving the ability of the charity to raise money. Further, because those in attendance at the auction event immediately following the “VIP Reception” will be asked for contributions by purchasing the auctioned items, there is a linkage between the “VIP Reception” and subsequent solicitation of contributions.

SCR 60.05(3)(c)2.d states that:

2. A judge, in any capacity:
- ...
- d. May not use or permit the use of the prestige of judicial office for fund raising....

The judge has been invited to attend this “VIP Reception” and is listed in the program because, in the words of the letter of invitation, he is one of a number of “high profile people.” The Committee interprets this to mean that the judge has earned the invitation because of his status as a judge. Thus, participation in this activity would constitute use of the prestige of judicial office to enhance a fund-raising event. The lengthy Comment to SCR 60.05(3)(c)2.d states, in part, that:

SCR 60.05 should not be read as proscribing participation in de minimis fund-raising activities so long as a judge is careful to avoid using the prestige of the office in the activity.

The term “de minimis” is defined in SCR 60.01(4):

“De minimis” means an insignificant interest that does not raise reasonable question as to a judge’s impartiality or use of the prestige of the office.

Admittedly, the proposed activity will not per se significantly enhance the ability of the organization to raise funds. However, to constitute a “de minimis” activity, use of the prestige of the judicial office must be avoided. Therefore, the proposed activity does not constitute a “de minimis fund-raising activity,” and is proscribed.

A later portion of the Comment to SCR 60.05(3)(c)2.d states that:

A judge may be a speaker or guest of honor at an organization's fund-raising event provided there is no advertising of the judge as speaker or guest of honor in order to encourage people to attend and make contributions and provided that any contributions at the event are made prior to the judge's speech or presentation as guest of honor....

Participation as a "VIP Celebrity Judge" is equivalent to being a guest of honor. Contributions at the event are solicited through the auction subsequent to the judge's presentation at the "VIP Reception" as a guest of honor; the above comment thus indicates that the proposed participation is proscribed.

For the variety of reasons presented in the preceding analysis, the Committee concludes that the proposed activity is proscribed by SCR 60.05(3)(c).

B. SCR 60.03

SCR 60.03(2) states, in part, that:

A judge may not lend the prestige of judicial office to advance the private interests of the judge or of others or convey or permit others to convey the impression that they are in a special position to influence the judge....

At the "VIP Reception," the "Celebrity Judges" participate in the awarding of first, second, and third places to participating restaurants. Receipt of such recognition could reasonably be acknowledged by the restaurants at a future time, since they are commercial enterprises and the fund-raising event is intended to be prestigious. In the analysis in Part A, the Committee has established its belief that participation as a celebrity judge constitutes use of the prestige of judicial office. The Committee further concludes that the circumstances of the event could also result in use of the prestige of judicial office to advance the private interests of the restaurants receiving recognition. Although the awards are made as a result of the consensus of a group, of which the judge is part, the Committee does not believe that a judge may participate in an activity in a group when the same activity would be proscribed if the judge participated in it individually.

CONCLUSION

The Committee concludes that a judge may not participate in a “VIP Reception” as a “VIP Celebrity Judge” as part of a fund-raising event for a charitable organization.

APPLICABILITY

This opinion is advisory only, is based on the specific facts and questions submitted by the petitioner to the Judicial Conduct Advisory Committee, and is limited to questions arising under the Supreme Court Rules, Chapter 60 -- Code of Judicial Conduct. This opinion is not binding upon the Wisconsin Judicial Commission or the Supreme Court in the exercise of their judicial discipline responsibilities. This opinion does not purport to address provisions of the Code of Ethics for Public Officials and Employees, subchapter III of Ch. 19 of the statutes.

I hereby certify that this is Formal Opinion No. 98-1 issued by the Judicial Conduct Advisory Committee for the State of Wisconsin this 19th day of February, 1998.

Thomas H. Barland
Chair