

JUDICIAL ETHICS COMMITTEE

Opinion 01-01

An advisory ethical opinion has been requested to determine whether or not it is a violation of the Code of Judicial Conduct to allow a judicial candidate's finance committee members to personally satisfy a political campaign deficit created by an unsuccessful bid for judicial election in the summer of 2000.

In order to determine whether or not it is an ethical violation for a judicial candidate's finance committee to retire a political campaign debt incurred in the summer of 2000, it is necessary to consider any time limitations on the solicitation of political campaign funds and any time limitations on the acceptance of political campaign funds in the Code of Judicial Conduct.

The ethical considerations for financing political campaigns for judicial office is governed by Canon 5C(2)(a) of the Code of Judicial Conduct. Canon 5C(2)(a) of the Code of Judicial Conduct provides as follows:

A candidate* shall not personally solicit or accept campaign contributions. A candidate may personally solicit publicly stated support and establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums, and other means not prohibited by law. Such committees may solicit and accept campaign contributions, manage the expenditure of funds for the candidate's campaign, and may also obtain public statements of support for his or her candidacy. Such committees are not prohibited from soliciting and accepting campaign contributions and public support from lawyers. A candidate's committees may solicit contributions for the candidate's campaign no earlier than 180 days before an election and no later than 90 days after the last election in which the candidate participates during the election year. A

candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

Under Canon 5C(2)(a) there would be no violation of the Code of Judicial Conduct if the unsuccessful judicial candidate's finance committee solicited and agreed among themselves within ninety (90) days after the judicial election to retire any outstanding campaign debt through personal contributions. This would also be true of any unsolicited campaign contributions whether from finance committee members or others. [See, Judicial Conduct and Ethics, Shaman, Lubet, and Alfini, p.399, 2000; Ky. Judicial Ethics Comm., Adm. Office of the Cts., Op. JE-42; Fla. Sup. Ct. Comm. on Standards of Conduct Governing Judges, Op. 82-10 (1982)].

There is no time limitation on the acceptance of political campaign funds under Canon 5C(2)(a). The 90 day limitation set forth in Canon 5C(2)(a) applies only to the solicitation of political campaign funds for a judicial candidate. The acceptance of campaign funds solicited within 90 days after the election and any unsolicited campaign funds can be accepted after the 90 day limitation has run. The rule limits the time for the solicitation of campaign funds only. It does not limit the time a finance committee for a judicial candidate can accept political campaign funds on behalf of a judicial candidate.

FOR THE COMMITTEE:

Brenda J. Waggoner, Judge