

## JUDICIAL ETHICS COMMITTEE

### ADVISORY OPINION NO. 03-02

The Committee has been asked to render an ethics opinion as to whether a Commissioner of the Tennessee Claims Commission may continue to serve as a public interest director to the board of the Federal Home Loan Bank (FHL Bank) of Cincinnati. The newly-appointed commissioner was appointed a member of the FHL Bank Board in 1994. This marks the tenth year of service on the board, and her term on the board terminates at the end of this year. The commissioner has advised this Committee that she will not seek reappointment. However, her duties this year do involve attendance at six board meetings through November 20, 2003.

The Federal Home Loan Bank of Cincinnati is part of the Federal Home Loan Bank System. The FHL Bank is privately owned and operated by member stockholders and does not receive taxpayer funding. The FHL Bank provides loans and other banking services to community-based financial institutions to expand housing and economic development opportunities. The FHL Bank of Cincinnati serves member financial institutions in Kentucky, Ohio and Tennessee. The Board of the FHL Bank is comprised of nine directors elected by member stockholders and six directors appointed by the FHL Bank as public interest directors. The position of public interest director is not honorary; directors receive fees for their services.

A commissioner of the Tennessee Claims Commission is subject to the Code of Judicial Conduct. *See* Sup. Ct. R. 10, Canon 5, *Application of the Code of Judicial Conduct*, (A). Canon 4(D)(3), Rule 10, Rules of the Supreme Court, provides:

A judge **shall not** serve as an officer, director, manager, general partner, advisor, or employee of any business entity. . . .

(Emphasis added). We conclude that the FHL Bank is a “business entity,” and therefore, the Commissioner may not ethically continue to serve as the public interest director. Although exceptions to the Canon do exist, *see* Sup. Ct. R. 10, Canon 4(D)(3)(a)-(b), neither exception is applicable to the present case.

Accordingly, the Committee concludes that a Commissioner with the Tennessee Claims Commission may not serve as a director on the board of a financial institution.

FOR THE COMMITTEE:

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David G. Hayes, Judge

CONCUR:

CHANCELLOR THOMAS R. FRIERSON II  
JUDGE CHERYL A. BLACKBURN  
JUDGE JAMES F. RUSSELL  
JUDGE THOMAS L. MOORE, JR.