

JUDICIAL STANDARDS COMMISSION
STATE OF NORTH CAROLINA

FORMAL ADVISORY OPINION: 2007-04

October 12, 2007

QUESTION:

May a judge accept a position, from a private consulting firm which administers contract seminars and judicial education on behalf of the U. S. State Department, to teach and lecture foreign judicial officials in their native country. The judge would be part of a team of lawyers and judges that would lecture and conduct seminars on judicial administration, the importance of rule of law in commercial transactions, and other similar topics.

The Commission understood that the trip would last 10 days and the team members travel expenses would be paid by the private consulting firm. In addition the private consulting firm would pay compensation to the team members at the rate of \$500 per day .

COMMISSION CONCLUSION:

The Judicial Standards Commission approved the request for the judge to accept a position, if offered, to teach and lecture foreign judicial officials in their native country.

DISCUSSION:

The inquiry involves several provisions of the North Carolina Code of Judicial Conduct. Canon 4 of the Code provides in part “A judge may participate in cultural or historical activities or engage in activities concerning the legal, economic, educational or governmental system, or the administration of justice.” It further states “a judge, subject to the proper performance of the judge’s judicial duties, may engage in the following quasi-judicial activities, if in doing so the judge does not cast substantial doubt on the judge’s capacity to decide impartially any issue that may come before the judge: A judge may speak, write, lecture, teach, participate in cultural or historical activities, or otherwise engage in activities concerning the economic, educational, legal, or governmental system, or the administration of justice.”

A similar requirement is found in Canon 2A of the Code, which requires that a judge “act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”

A basic inquiry is whether this, extra-judicial activity casts any doubt on the judge’s capacity to act impartially as a judge. The judge asserted that there was very little likelihood that he would hear any matters involving the foreign country in question pursuant to his regular judicial duties.

In the same vein Canon 5A of the Code provides a judge should regulate his or her extra-judicial activities to ensure that they do not prevent the judge from carrying out the judge’s judicial duties. It in part states “a judge may write, lecture, teach and speak on legal or non-legal subjects, engage in the arts, sports, and other social and recreational activities, if such avocational activities do not substantially interfere with the performance of the judge’s judicial duties.

The Commission determined that if the judge was offered the position to teach and lecture foreign judicial officials in their native country and with assurances from the judge that the judge’s work

schedule could easily accommodate the time required to travel and participate in the teaching seminar, then the judge's participation would not be a violation of Canon 5 of the Code.

In addition a judge who accepts compensation and/or travel reimbursement for quasi-judicial and extra-judicial activities must be mindful to comply with the requirements of Canon 6 of the Code. Canon 6A of the Code requires any compensation to be reasonable. Canon 6B of the Code includes language to the effect that any expense reimbursement in excess of the actual cost of travel, food and lodging is considered compensation. Finally, Canon 6C of the Code requires regular reporting of compensation received by judges for quasi-judicial and extra-judicial activities.

Reference:

North Carolina Code of Judicial Conduct

Canon 4A

Canon 5A

Canon 6A, 6B and 6C