

JUDICIAL STANDARDS COMMISSION  
STATE OF NORTH CAROLINA

**FORMAL ADVISORY OPINION: 2009-01**

February 13, 2009

**QUESTION:**

May a newly installed judge maintain the position of manager of a Professional Limited Liability Company (PLLC)? Prior to being installed into judicial office, the judge worked as an attorney in private practice, as a solo practitioner, organized as a PLLC under N.C.G.S. §57C-2-01(c). As such, the attorney is required to serve as both a member and manager of the PLLC. The judge desired to place the PLLC in an inactive status so that in the event the judge is not re-elected in the future, the judge would not need to reorganize nor lose the use of the entity's name.

**COMMISSION CONCLUSION:**

The Judicial Standards Commission determined it would be inappropriate for judges to serve as an officer, director or manager of any business.

**DISCUSSION:**

Canon 5C(2) of the North Carolina Code of Judicial Conduct provides “[s]ubject to the requirements of subsection (1), a judge may hold and manage the judge's own personal investments or those of the judge's spouse, children, or parents, including real estate investments, and may engage in other remunerative activity not otherwise inconsistent with the provisions of this Code but should not serve as an officer, director or manager of any business.”

The language included in the relevant portion of Canon 5C(2) includes “... but should not serve as an officer, director or manager of any business.” This language precludes judges from serving in an official capacity for any business concern. The Code does not contain any exception for a wholly owned or closely held family business. Canon 4C of the Code allow judges to engage in certain quasi-judicial activities, including service as member, officer or director of an organization or governmental agency concerning cultural or historical activities and activities concerning the economic, educational, legal, or governmental system, or the administration of justice, and to participate in its management and investment decisions. Similarly, Canon 5B of the Code permits judges to engage in extra-judicial activities, specifically including serve as an officer, director, trustee, or non-legal advisor of an educational, religious, charitable, fraternal or civic organization.

The Commission observed the clear distinction in the Code between civic/charitable/cultural entities and business entities. The Commission also noted that service in any official capacity of a business entity has the potential to reflect adversely on impartiality, demean the judicial office, and interfere with the proper performance of judicial duties, without any counter balancing public benefit. Such service could also create an appearance of impropriety and lead to the misuse of the prestige of judicial office.

References:

North Carolina Code of Judicial Conduct  
Canon 4C  
Canon 5B  
Canon 5C(2)