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Advisory Committee on the Code of Judicial Conduct

Hon. James J. Wechsler, Chair
~~XXXXXXXXXX~~
Hon. Kevin L. Fitzwater
Paul L. Biderman, Esq.
Prof. Robert L. Schwartz
Freddie J. Romero

June 19, 2012



Re: Judicial Advisory Opinion No. 12-06

Dear Judge 

You have asked the Advisory Committee on the Code of Judicial Conduct for an opinion as to whether you may write a letter of recommendation on behalf of a lawyer who appears before you. This lawyer has applied to the Office of the Public Defender to serve as a contract lawyer. You understand that the Public Defender requires all lawyers applying for a contract to submit a letter from a judge in connection with their application.

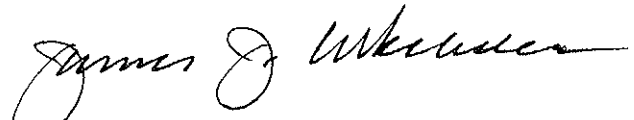
Rule 21-103 NMRA of the Code of Judicial Conduct prohibits a judge from abusing the prestige of judicial office "to advance the personal or economic interests of the judge or others[.]" Comment 2 to Rule 21-103 provides the guidance that a judge may generally "provide a reference or recommendation for an individual based on the judge's personal knowledge."

The Committee believes that the situation you describe is permitted by the Code. Although your writing on behalf of an applicant may be advancing the

interests of the applicant, you are not abusing your judicial office by writing the recommendation. The Public Defender wishes to screen its contract applicants and knows that judges have information that would be helpful in their screening process. Your letter would not have any greater influence because of your office than that of another judge on behalf of another applicant.

Nor does the Committee believe that your writing the letter would improperly bear on the appearance of your ability to be fair and impartial in any case involving the lawyer. *See* Rule 21-202 NMRA (“A judge shall uphold and apply the law and shall perform all duties of judicial office fairly and impartially.”); Rule 21-100 NMRA (“A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety.”). It is within the public’s perception that the judiciary’s support of competent counsel for indigent defendants is best for the criminal justice system.

Very truly yours,


James J. Wechsler
Chair

JJW:ow

cc: Hon. Kevin L. Fitzwater
Hon. Freddie J. Romero
Paul L. Biderman
Professor Robert L. Schwartz