



## Advisory Committee on the Code of Judicial Conduct

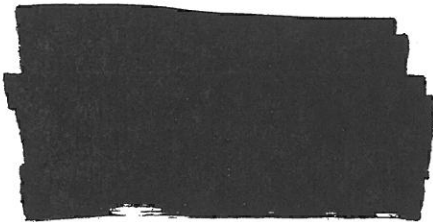
RECEIVED

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

JUL 19 2013

SUPREME COURT  
LAW LIBRARY

June 27, 2013



**Re: Judicial Advisory Opinion No. 13-03**

Dear 

You are a member of the board of directors of a non-profit organization that provides safe housing alternatives for homeless youth. The organization has a website that includes information about the mission of the organization, statistics, and other data. It has photos and short biographies of the board members. It additionally has a PayPal link so that people viewing the website can make a donation. You have requested an opinion of the Advisory Committee on the Code of Judicial Conduct as to whether the Code of Judicial Conduct permits you to add your biography and photo to the website. Specifically, you have inquired whether Rule 21-307 NMRA precludes your taking such action.

A judge may engage in extrajudicial activities that are not prohibited by law or the Code. Rule 21-301 NMRA. In fact, judges are encouraged to become involved in "appropriate" extrajudicial activities "[t]o the extent that time permits, and judicial independence and impartiality are not compromised." Rule 21-301, comment 1.

Rule 21-307 addresses a judge's participation with educational, religious, charitable, fraternal, and civic organizations. It permits a judge to assist a charitable organization such as the organization for which you are a board member in fundraising activities in limited ways. A judge may assist the organization in planning fundraising activities and may even speak or receive an award at, or permit the judge's title to be used in connection with a fundraising event for the organization provided that the judge does not "personally or expressly solicit financial support" either during such an event or from persons other than the judge's family or "from judges over whom the judge does not exercise supervisory or appellate authority." Rule 21-307(A)(1)-(3). A judge's solicitation of funds for a charitable organization would violate Rule 21-103 NMRA, which prohibits

a judge from abusing “the prestige of judicial office to advance the personal or economic interests of the judge or others.”

From these provisions of Rule 21-307 concerning a judge’s involvement in a charitable organization’s fundraising activity, the Committee does not believe that your photo and biography on the organization’s website conflicts with the Code. Websites provide a common method for charitable organizations to promote their activities and to solicit funds. The inclusion of your photo and biography on the website is similar to, and even more indirect than, a judge’s participation at a fundraising event that is permitted under Rule 21-307(A)(3). In this context, we understand that the inclusion of your photo and biographical information is incidental to, not directly related to, the solicitation of funds. As a result, we believe that the Code itself, rather than comment 4 to Rule 21-307 that states that “[a] judge’s title or name shall not appear on a letter that solicits funds or membership,” governs the response to your inquiry. We advise you to ensure that the website design does not make it appear that you are personally soliciting funds for the organization.

Very truly yours,



James J. Wechsler  
Chair

JJW:alm

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