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JUDICIAL ETHICS OPINION JE-12

Informal

QUESTION #1: May a judge serve on a county merit board which conducts hearings on disciplinary matters?

ANSWER: No.

QUESTION #2: May a judge receive compensation for service on the board of a nonprofit corporation which grants loans to minority business ventures?

ANSWER: Yes.


REFERENCE: SCR 4.300, Canon 5B, Canon 5E and Canon 6.

OPINION: (August 1980):

The answer to the first question is found in Canon 5E, which states that "a judge should not act as an arbitrator or mediator." Since membership on the county merit board involves activity which is essentially that of arbitration and mediation, Canon 5E forbids such membership. If the merit board deals with issues of fact or policy, membership thereon would be prohibited by Canon 5G.

To answer the second question it is first necessary to decide whether a judge may serve on the board of the type of organization here described. Canon 5B specifically permits membership on the board of a civic organization. Although Canon 5B(3) states that the judge "should not give investment advice to such an organization," it goes on to state that he may serve on the board "even though it has the responsibility for approving investment decisions." We therefore conclude that membership on the board of the corporation here described is permitted.

This being so, Canon 6 permits the judge to "receive compensation and reimbursement of expenses," but two caveats should be mentioned. First, Canon 6 states that the source of such payments must not "give the appearance of influencing the judge in his judicial duties or otherwise give the appearance of impropriety," and subsection A of the same Canon provides that compensation "should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity." Subject to these limitations, a judge may receive compensation for service on the board of a civic non-profit organization.



B. M. Westberry, Chairman
Ethics Committee of the Kentucky Judiciary