



COMMONWEALTH OF KENTUCKY
ETHICS COMMITTEE OF THE KENTUCKY JUDICIARY

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JUDICIAL ETHICS OPINION JE-55

Formal

- QUESTION:
- (1) May a candidate for District Judge be designated as his own campaign treasurer for purposes of registration with the Registry of Election Finance?
 - (2) May a candidate for District Judge serve as Treasurer of a political committee organized to support his candidacy?

ANSWER: No.

REFERENCES: Canon 7(B)(2), E. Wayne Thode, Reporter's Notes to Code of Judicial Conduct (1973), Donald R. Fretz, Rodney A. Peeples, Thomas C. Wicker, Ethics for Judges (1982).

A majority of the Committee felt that both questions should be answered in the negative. While neither the Code nor the other commentaries specifically prohibit a judicial candidate from serving as his own treasurer, the whole thrust of the provisions touching on this subject was to insulate the candidate as much as possible from the financial aspects of his campaign. Canon 7(B)(2) requires a candidate to have committees to solicit funds for his campaign.

A candidate, including an incumbent, for a judicial office that is filled by public election between competing candidates should not himself solicit campaign funds, but he may establish committees of responsible persons to secure and manage the expenditure of funds for his campaign....

The commentaries to Canon 7(B)(2) provide for additional insulation. "Unless the candidate is required by law to file a list of his campaign contributors, their names should not be revealed to the candidate." Donald R. Fretz, Rodney A. Peeples, Thomas C. Wicker, Ethics for Judges, 72 (1982), and E. Wayne Thode, Reporter's Notes to Code of Judicial Conduct, 30 (1973). Kentucky law requires the list of contributors to be furnished to the Kentucky Registry of Election Finance by the campaign treasurer. KRS 121.180. Therefore a candidate need not know his own contributors unless he is serving as his own treasurer.

Indeed the Special Committee on Standards of Judicial Conduct felt so strongly about insulating judicial officers from the financial aspects of their

campaigns that they would have liked to prohibit fund raising altogether, or at least fund raising from lawyers. But they recognized that such goals were unrealistic.

The Committee was informed of campaigns for judicial office in which the costs ran into the tens of thousands of dollars. Where should this money come from? If candidates must finance their own campaigns, only affluent lawyers and judges can be candidates for judicial office. If outside financing is permitted, then as a practical matter there are only a few sources available; most citizens are not interested in helping finance a campaign for judicial office. Those sources are the coffers of a political organization, lawyers, and those persons who are, or are likely to be, involved in litigation.

The Committee decided that a candidate for judicial office may seek and accept outside funding and that lawyers may contribute to the campaign fund of a candidate for judicial office, a practice not authorized by old Canon 32 but approved in ABA Opinion 226 (1941). In order to insulate the candidate to some extent and thereby reduce the danger of the appearance of a lack of impartiality toward those persons who financially support him, or refuse to support him, the Committee required that soliciting and accepting of funds be performed on the candidate's behalf by a committee or committees....

E. Wayne Thode, Reporter's Notes to Code of Judicial Conduct, 99 (1973).

For these reasons, a majority of the Committee felt that a candidate for district judge could not serve as his own treasurer.

Sincerely,


B. M. Westberry, Chairman
Judicial Ethics Committee