

Maryland Judicial Ethics Committee

Opinion Request Number: 2017-11

Date of Issue: June 9, 2017

■ Published Opinion □ Unpublished Opinion □ Unpublished Letter of Advice

**A Full-Time Judicial Appointee’s Secondary
Employment By A Private Business**

Issue: May a District Court Commissioner accept secondary employment as a security guard for a private security service?

Answer: No.

Facts: The Requestor is a full-time District Court Commissioner who has asked the Committee’s advice as to whether the Commissioner may accept secondary employment as a part-time security guard for a business (the “Company”), which provides security services to individuals, schools, places of worship, and institutions. The locations at which the Requestor may work are located in an adjacent county and are not government facilities. In addition to providing security, the Requestor will have duties such as directing traffic within the site, monitoring security cameras and collecting tickets for special events. Finally, one or more of these locations at which the Requestor will work are “armed sites.” We understand this to mean that some or all of the security guards at those locations carry firearms. The Requestor has confirmed this and states that he/she has the necessary certifications to lawfully carry a concealed weapon. The Requestor states that he or she will not act as a special police officer.

The Requestor indicates that any work as a security guard will be scheduled so as to not interfere with his/her duties as a Commissioner.

The Company’s website indicates that it is a sole proprietorship. The Requestor has indicated that the owner of the Company is not a member of the Requestor’s “family,” as that term is defined in the Maryland Code of Conduct for Judicial Appointees.¹

¹ See Md. Rule 18-200.3(b):

“Member of judicial appointee’s family” means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or individual with whom the judicial appointee maintains a close familial relationship.

Discussion:

Commissioners are judicial appointees and are subject to the provisions of the Maryland Code of Conduct for Judicial Appointees (the “Code”), found at Md. Rules 18-200.1 through 18-204.5. Md. Rule 18-203.11 states:

RULE 18-203.11. FINANCIAL, BUSINESS, OR REMUNERATIVE ACTIVITIES

(a) A judicial appointee may hold and manage investments of the judicial appointee and members of the judicial appointee's family.

(b) Except as permitted by Rule 18-203.7,^[2] a full-time judicial appointee shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that a judicial appointee may manage or participate in:

(1) a business closely held by the judicial appointee or members of the judicial appointee's family; or

(2) a business entity primarily engaged in investment of the financial resources of the judicial appointee or members of the judicial appointee's family.

(c) A judicial appointee shall not engage in financial activities permitted under sections (a) or (b) of this Rule if they will:

(1) interfere with the proper performance of the judicial appointee's official duties;

(2) lead to frequent disqualification of the judicial appointee;

(3) involve the judicial appointee in frequent transactions or continuing business relationships with attorneys or other persons likely to come before the appointing court; or

(4) result in violation of other provisions of this Code.

Because Rule 18-203.11(b) prohibits a full-time judicial employee (such as Requestor) from working for a business entity other than one controlled by the

² Rule 18-203.7 pertains to a judicial appointee’s participation in educational, religious, civic and charitable organizations and activities and is not relevant to Requestor’s inquiry.

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judicial appointee or members of the appointee's family, the Requestor may not accept employment with the Company.

Application: The Judicial Ethics Committee cautions that this Opinion is applicable only prospectively and only to the conduct of the Requestor described herein, to the extent of the Requestor's compliance with this opinion. Omission or misstatement of a material fact in the written request for opinion negates reliance on this Opinion. Additionally, this Opinion should not be considered to be binding indefinitely.

The passage of time may result in amendment to the applicable law and/or developments in the area of judicial ethics generally or in changes of facts that could affect the conclusion of the Committee. If the request for advice involves a continuing course of conduct, the Requestor should keep abreast of developments in the area of judicial ethics and, in the event of a change in that area or a change in facts, submit an updated request to the Committee.