

Maryland Judicial Ethics Committee

Opinion Request Number: 1972-02

Date of Issue: July 14, 1972

O Published Opinion **G** Unpublished Opinion **G** Unpublished Letter of Advice

Judge Not to Render Accounting Services to Clients

The Ethics Committee of the Maryland Judicial Conference has considered the question raised by your letter of June 26: whether you may with propriety continue to act as an accountant for four clients, involving some 4 to 6 hours of your time each month.

It seems clear to the Committee that the amount of time involved is not likely to interfere with the performance of your judicial duties and would not constitute a breach of Canon XXIII of the Maryland Canons of Judicial Ethics

The real problem, however, is found in the interplay of certain of the Opinions of the American Bar Association Committee on Professional Ethics and Maryland Rule 6, which relates to the business activities of judges. A reading of the Ethics Committee's Formal Opinion No. 297, dated February 24, 1961, as amplified by Formal Opinion No. 305, dated March 22, 1962, both of which appear in "Opinions, Committee on Professional Ethics," at pages 652 and 670, respectively, American Bar Foundation (1967), makes it clear that a lawyer may not hold himself out to be both a lawyer and an accountant and if he avails himself of his accounting expertise he does so in his capacity as an attorney at law. Obviously, a judge is not permitted to engage in the practice of law in the absence of explicit legal sanction.

On the other hand, if one takes the approach that a lawyer, upon his appointment to judicial office, is no longer engaged in the practice of law and that his part-time activity in accounting work is that of an accountant, we are confronted with the restraint imposed by Maryland Rule 6, which prohibits extrajudicial activity in an activity affected with the public interest. We have concluded in other instances that an activity affected with the public interest is one which is subject to governmental regulation or to licensing, supervision and control, see Code (1957, 1969 Repl. Vol.) Article 75A, §§ 1-20.*

We therefore conclude that it is not permissible for you to continue to render the accounting service referred to in your letter.

* As of the editing date [July 10, 2006], Maryland Code, Business Occupations and Professions Article, Title 2.