

Maryland Judicial Ethics Committee

Opinion Request Number: 1977-05

Date of Issue: June 27, 1977

O Published Opinion **G** Unpublished Opinion **G** Unpublished Letter of Advice

Judge May Recommend Lawyer for Martindale-Hubbell;
May Recommend Applicant to Educational Institution Using Judicial Stationery

You have requested the opinion of the Judicial Ethics Committee on the following questions:

1. May a judge give a recommendation for an attorney, who may practice before him, when requested to do so by the Martindale-Hubbell, Inc., legal directory? I am sure you are familiar with the form, where a judge would be requested to rate the attorney as to his legal ability and general recommendations.
2. May a judge give a recommendation for an acquaintance, who could be a relative or a neighbor with whom he is very familiar, for an appointment to a military academy or for similar types of recommendations? If he were allowed to make such a recommendation, should it be on his personal stationery which would not indicate that he was a judge or could it be on his judicial stationery?

The Martindale Hubbell Law Dictionary (1977 Ed.) was certified on August 13, 1976, by the American Bar Association as being in compliance with its rules and standards. It is thus conclusively established as reputable pursuant to the Code of Professional Responsibility, DR 2-102(A)(6), Appendix F, Maryland Rules of Procedure*.

A review of the directory indicates that the publication solicits recommendations from judges and lawyers for a legal ability rating and a general recommendation rating, which solicitation prominently mentions that it is confidential and states that all responses will be treated with strict confidence. The form containing the request sets forth the criteria upon which each rating is made.

Volume 1 of the directory sets forth prominently on the inside front cover the statement that all information is confidential; that the absence of rating characters should not be construed as unfavorable as the publisher does not undertake to publish ratings for all lawyers; that ratings are based upon confidential recommendations from lawyers and judges in the city or area where the lawyer practices and at times from sources elsewhere; and that the rating action reflects the confidential recommendations received.

By responding to this inquiry you will be one of many responding relative to each lawyer; the rating of the lawyer will be due only in part to your response; only the publisher will know what part you played in the final rating afforded the lawyer; and the lawyer may decline the rating and may decline to be listed at all.

We have examined the proscriptions in Canon XXIV and in Rule 9 of the Rules of Judicial Ethics against engaging in or lending the influence of his name or the prestige of his office by a judge

* On January 1, 1987, the Maryland Rules of Professional Conduct replaced the former Code of Professional Responsibility.

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to advance the success or welfare of private business ventures and consider these proscriptions inappropriate as your name is not to be used nor will the prestige of your office. You will be one of many unnamed judges from unnamed courts playing a role in rating lawyers, which role will never be fully disclosed.

It is the opinion of the Committee that there is no proscription contained in either the Canons of Judicial Ethics or the Rules of Judicial Ethics which would prevent your responding to a confidential request for a recommendation from Martindale-Hubbell.

Your second question involves considerations not raised by the first. In the second instance you are responding at the request of either the institution or the applicant, presumably in the normal course of admission, and with the knowledge of both parties.

Maryland Canon IV provides as follows:

Avoidance of Impropriety

“A judge’s official conduct should be free from impropriety and the appearance of impropriety; he should avoid infractions of law; and his personal behavior, not only upon the Bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach.”

A recommendation given in the normal course of application to an educational institution is something which is done in ordinary daily situations and does not indicate any impropriety or appearance of impropriety. It is a prerequisite to the proper operation of many institutions that recommendations be received from a cross section of the population and there is no reason to exclude judges. An important part of any recommendation is a description of the person giving it and use of judicial stationery would not be inappropriate.

It is therefore the opinion of the Committee that giving such a recommendation on your judicial stationery is not prohibited by the Canons of Judicial Ethics or the Rules of Judicial Ethics.