

## Maryland Judicial Ethics Committee

**Opinion Request Number:** 1979-06

**Date of Issue:** January 4, 1980

**O** Published Opinion      **G** Unpublished Opinion      **G** Unpublished Letter of Advice

### Judge May Be Guest of Honor at Nonfundraiser Although Surplus of Ticket Sales Goes to Undesignated Charity

Several months ago you requested an informal opinion from this Committee concerning the propriety of your attending a particular dinner in \_\_\_\_\_ at which you would be one of the honored guests. Additional information about the dinner was given to this Committee by a member of the sponsoring organization. The Committee then gave you an informal oral opinion that your attendance at the dinner would not violate the Maryland Canons or Rules of Judicial Ethics.

Thereafter, you requested that this Committee give you a formal written opinion on the matter. This letter is in response to that request.

The basic facts, as related to us, are as follows. A nonprofit organization in \_\_\_\_\_, having as its purpose the promotion of better relations among the different races, holds an annual dinner at which it honors one or two persons. The honorees are persons who, in the judgment of the sponsoring organization, have made significant contributions to the betterment of relations among the races. At the annual dinner this coming spring, you have been selected as one of the two honorees.

The costs of putting on the annual dinner are raised by the sale of tickets to the event. If there is a monetary surplus after paying all of the costs of the dinner, it is turned over to a charity or some other worthy cause. For example, one year the surplus was donated to a hospital in \_\_\_\_\_, and another year it was given to a needy college student as scholarship aid. The letter invitation to the dinner informs the invitee that any surplus will be donated to a charity or other worthy cause. Nevertheless, the invitation and ticket make it clear that the purpose of the dinner is to honor persons who have contributed to improve race relations. The essential purpose is not to raise money for charities.

The question about the propriety of your attending this dinner arises because of Maryland Canon XXIV and Maryland Rule 9. Canon XXIV provides in relevant part:

“A judge should avoid giving ground for any reasonable suspicion that he is utilizing the power or prestige of his office to persuade or coerce others to patronize or contribute ... to charitable enterprises....”

Rule 9, among other things, states that a judge “shall not personally solicit funds for any purpose, charitable or otherwise.”

The fact that a money surplus, if any, will be turned over to a charity or similar worthy cause, does not, in our judgment, mean that your attendance at the dinner would violate Canon XXIV or Rule 9. Under the plain, ordinary meaning of the language, your attendance at the dinner as an honoree would not amount to utilizing the prestige of your office to persuade others to contribute to charitable enterprises, or constitute the solicitation of funds for charitable purposes. The purpose of the organization, and the dinner, is the betterment of race relations. The dinner is held to honor

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those who have made a contribution to improved race relations. The purpose is not to benefit any charity. No particular charitable enterprise is named on the ticket or letter invitation. The disposition of surplus funds appears to be merely a contingent, incidental aspect of the matter.

In [Opinion Request No. 1974-02], this Committee stated that a judge could attend a testimonial dinner in his honor “so long as the dinner is not directly or indirectly related to a campaign for or solicitation of funds, which would even include a situation where the price of the ticket was in excess of the cost of the dinner.” A similar statement is contained in [Opinion Request No. 1975-01]. We do not believe that the Committee, in these opinions, intended to include in the prohibition every dinner where there might be a surplus which would be donated to a charity. The clause about situations where the ticket price exceeded the cost refers back to “a campaign for or solicitation of funds.” In other words, a judge may not participate in fund raising campaigns or the solicitation of money, including dinners which are held as parts of such campaigns or solicitations. A judge may not attend a testimonial dinner in his honor if it is part of or related to a fund raising campaign.

Of course, no single, simple test can be devised which will readily provide the answer in all situations. In determining whether attendance at a function would violate the prohibition in Canon XXIV and Rule 9, concerning charitable campaigns or solicitations, various factors must be considered, as well as the circumstances surrounding each particular function. The purpose of the function, the degree of charitable involvement, and the extent to which a charity may financially benefit, are included among the pertinent considerations.

In light of the facts given to us concerning the dinner at which you will be an honoree, we conclude that your attendance will not violate the Maryland Canons or Rules of Judicial Ethics.