



**JUDGE JEFF S. TAYLOR**  
COURT OF APPEALS

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COMMONWEALTH OF KENTUCKY  
**JUDICIAL ETHICS COMMITTEE**  
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**JUDGE JEAN CHENAULT LOGUE**  
CIRCUIT COURT

**JUDGE JEFFREY SCOTT LAWLESS**  
DISTRICT COURT

**FORMAL**  
**JUDICIAL ETHICS OPINION JE-126**

August 13, 2014

This opinion addresses the following question:

**MAY A JUDGE BE A MEMBER, AND BE ON THE BOARD, OF A GROUP WHICH WILL SEEK APPROVAL AND FUNDING FOR A "RECOVERY KENTUCKY" CENTER LOCATED IN A COUNTY IN WHICH THE JUDGE SITS?**

Answer: No.

A judge has requested an opinion from the Judicial Ethics Committee regarding membership in a group, and service on the board of a group, which will seek approval and funding for a Recovery Kentucky Center located in a county in which the judge sits. The judge advises the Committee that Recovery Kentucky is a residential program that helps Kentuckians recover from chronic substance abuse, and that it supplies supportive housing, a stable place to live and a support system. The judge advises the Committee that placement in a Recovery Kentucky Center is the only available opportunity for meaningful long-term residential treatment for many drug court participants.

The judge advises the Committee that the program is a joint effort by the Department for Local Government, the Department of Corrections and the Kentucky Housing Corporation. The judge advises the Committee that funding is provided from a combination of Low Income Housing Tax Credits, the Affordable Housing Trust Fund, HOME funds, Federal Home Loan Bank funds, Community Development Block Grants, cost savings to the Department of Corrections, Food Stamps, community fund raising/grants, and Project-Based Section Eight housing funds.

As noted by the judge, Recovery Kentucky is a joint effort by the Department for Local Government, the Department of Corrections, and Kentucky Housing Corporation. The Department for Local Government is a governmental agency under the Office of the Governor of the Commonwealth. Likewise, the Department of Corrections is a governmental agency. Kentucky Housing Corporation is a public corporation of the Commonwealth of Kentucky administratively attached to the Finance and Administration Cabinet. A portion of Kentucky

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Housing Corporation's funds are derived from the interest earned through the sale of tax-exempt mortgage revenue bonds. Thus, membership on a board seeking approval and funding for such a center would constitute holding an office in a non-judicial governmental entity.

Canon 4C(2) of the Kentucky Code of Judicial Conduct provides:

A judge shall not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system or the administration of justice. \* \* \*

In Judicial Ethics Opinion JE-117, based on the foregoing Canon, the Committee stated that a judge could not serve as a Trustee of a public university. The Supreme Court denied review of that Opinion, 2009-SC-000225-OA. The Committee believes that JE 117 applies to the proposed participation and that the judge may not serve as a member or board member of the Recovery Kentucky Center. Specifically, JE-117 provides that under Canon 4 (C)(2), service in a governmental position unconnected with the improvement of the law, the legal system or the administration of justice is prohibited. Recovery Kentucky's stated corporate purposes primarily include reduction of chronic homelessness and to assist Kentuckians with chronic drug and substance abuse problems, including the facilitation of counseling and treatment. While these are worthy purposes and no doubt service on Recovery Kentucky's Board would be a noble endeavor as would be service on many public quasi governmental not for profit boards, it nonetheless would be service in a governmental position that is not connected with the improvement of the law or the legal system and otherwise fails to directly assist with the administration of justice.

Another reason the Committee concludes that the service under discussion is not allowed is that circuit judges potentially have a great deal of interaction with such programs and a judge should avoid the appearance of impropriety, as prohibited by Canon 2A of the Kentucky Code of Judicial Conduct. The Recovery Kentucky Center is not part of the court system, as are the operations of "drug courts."

Likewise, Canon 4C(3) contains several provisions that militate against such service. That Canon allows a judge to serve as a member of a civic organization not conducted for profit, but 4C(3)(a)(iii) prohibits such service if

by reason of its purpose, will have a substantial interest in other proceedings in the Court in which the judge is a member....

Finally, the Committee also believes that participation by the judge in seeking funding for the center would violate Canon 4C(3)(b)(i), which provides that a judge:

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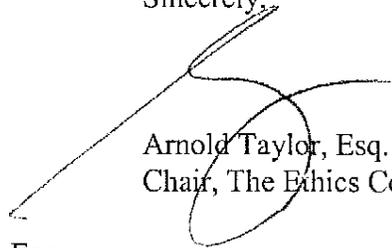
...shall not personally participate in the solicitation of funds or other fund-raising activities....

The Committee acknowledges that this program is certainly a needed and well-founded program, but for the foregoing reasons the Committee is of the opinion that the suggested service is prohibited.

One member concurs in the result of opinion JE-126 on the basis of JE-117, but submits that JE-117 has not been reviewed by the Kentucky Supreme Court and does not believe it is a correct interpretation and application of Canon 4(C)(2) and (3). But for JE-117, this member believes the judge's participation in Kentucky Recovery should be permissible under Canon 4(C)(3) as a not for profit entity subject to the express limitations set forth therein in subsections (a) and (b). This member further believes JE-117 should be set aside and JE-64 reinstated since JE-117 effectively prohibits all service by judges to all quasi-governmental or any government related organizations outside of the judicial branch of government, including those that are not for profit educational, charitable and civic entities.

Finally, please be aware that opinions issued by or on behalf of the Committee are restricted to the content and scope of the Canons of Judicial Ethics and legal authority interpreting those Canons. The fact situation on which an opinion is based may be affected by other laws or regulations. Persons contacting the Judicial Ethics Committee are strongly encouraged to seek counsel of their own choosing to determine any unintended legal consequences of any opinion given by the Committee.

Sincerely,



Arnold Taylor, Esq.  
Chair, The Ethics Committee of the Kentucky Judiciary

cc: Donald H. Combs, Esq.  
The Honorable Jeff Taylor, Judge  
The Honorable Jean Chenault Logue, Judge  
The Honorable Jeffrey Scott Lawless, Judge  
Jean Collier, Esq.