



## *Judicial Ethics Advisory Committee*

MEMBERS:

Hon. Edwin Alderson  
Municipal Judge Retired

Prof. Howard W. Brill

Hon. John Plegge  
Circuit Judge Retired

### P R E S S   R E L E A S E

POINT OF CONTACT: DAVID A. STEWART

PHONE: 682-1050

FOR IMMEDIATE RELEASE

January 15, 2009

The Arkansas Judicial Ethics Advisory Committee issued an advisory opinion to Judge L.T. Simes of Helena, Arkansas.

The Judicial Ethics Advisory Committee addressed his concerns in the enclosed advisory opinion.

A copy of the advisory opinion is attached.



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January 13, 2009

The Honorable L. T. Simes, II  
Circuit Judge  
Post Office Box 2595  
Batesville, Arkansas 72503-3821

Re: 2009-02

Dear Judge Simes:

Your request for an advisory opinion stated that you, your wife and son have organized an Arkansas non-profit corporation, Holy Spirit 777, Inc., and that a central purpose of this organization is to sell recordings of your gospel music and to use the funds for charitable purposes through the non-profit corporation. You stated that you have set up a "temporary" website at <http://holyspirit.sciberus.com> and that you have removed from the site all photographs of you in your judicial robe and all references to your position as Circuit Judge.

Canon 4(C)(3) states as follows:

(3) A judge may serve as an officer, director, trustee or non-legal advisor of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice or of an educational, religious, charitable, fraternal or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Code. (*Emphasis supplied*)

(a) A judge shall not serve as an officer, director, trustee or non-legal advisor if it is likely that the organization

(i) will be engaged in proceedings that could ordinarily come before the judge, or

(ii) will be engaged frequently in adversary proceedings in

the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court or which the judge is a member.

*Commentary:*

*The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which the judge is affiliated to determine if it is proper for the judge to continue the affiliation. For example, in many jurisdictions charitable hospitals are now more frequently in court than in the past. Similarly, the boards of some legal aid organizations now make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.*

(b) A judge as an officer, director, trustee or non-legal advisor, or as a member or otherwise:

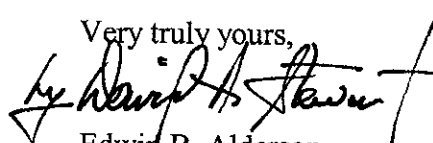
(i) may assist such an organization in planning fund-raising and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds from other judges over whom the judge does not exercise supervisory or appellate authority;

(ii) may make recommendations to public and private fund-granting organizations on projects and programs concerning the law, the legal system or the administration of justice;

(iii) shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or, except as permitted in Section 4C(3)(b)(i), if the membership solicitation is essentially a fund-raising mechanism;”

We find nothing in the Code that would prohibit you from engaging in the activities you have described as long as you comply strictly with the other provisions of the Code. You are reminded that the use of permissive language does not relieve a judge from the other requirements of the Code that apply to the specific conduct. For instance, Canon 2(B) provides that a judge shall not lend the prestige of judicial office to advance the private interests of the judge or others. Your engaging in these permissive activities requires you to be ever diligent in seeing to it that in so doing you never violate any other provisions of the Code, for instance interfering with the proper performance of judicial duties. Canon 4 A (3).

Very truly yours,



Edwin B. Alderson  
For the Committee