

Committee on Judicial Ethics
Teleconference
Thursday, June 23, 2010

Members present via teleconference: Justice Barry R. Schaller, Chair, Judge Robert J. Devlin, Jr., Judge Francis X. Hennessy and Associate Professor Jeffrey A. Meyer. Staff present: Martin R. Libbin, Esq., Secretary, Viviana L. Livesay, Esq., Assistant Secretary

MINUTES

- I. With the above noted members present, Justice Schaller called the meeting to order at 9:30 a.m. Although publicly noticed, no members of the public attended.
- II. The Committee unanimously approved the draft Minutes of the June 10, 2010 meeting.
- III. The Committee considered Judicial Ethics Informal Opinion 2010-19 concerning whether a Judicial Official has a duty to disclose and/or recuse himself or herself when the attorney that the Judicial Official recommended and who has continuously represented the condominium association that the Judicial Official served on the board of directors of appears before the Judicial Official at least 15 years after the Judicial Official ceased to be a member of the condominium association or its Board. Based upon the information provided, including that the Judicial Official originally recommended the attorney to the condominium association board, the attorney has continuously represented the association with respect to its legal matters, including foreclosures for unpaid common charges, the Judicial Official has no personal relationship with the attorney, the attorney has never personally represented the Judicial Official and the Judicial Official had been disclosing the above information which resulted in only two requests for recusal, both of which occurred in the past year, the Committee members present unanimously determined that the Judicial Official did not have a duty to recuse himself or herself or to notify parties of the prior representation by the attorney for the condominium association subject to the following conditions: (1) the Judicial Official does not believe that he or she has any personal bias (favorable or unfavorable) involving the attorney or the condominium association if the attorney is representing that entity, (2) the representation is not with respect to a matter involving the condominium association that was pending when the Judicial Official was a member of its Board of Directors, and (3) the representation does not involve a policy or practice of the condominium association that the Judicial Official helped to formulate. In rendering its decision, the Committee considered Canons 1, 2, and 3 of the Code of Judicial Conduct, C.G.S. § 51-39, as well as opinion in JE 2008-21 (holding that a Judicial Official who had served as a part-time corporation counsel did not have to recuse himself or herself from civil or

criminal cases in which the former municipal employer is a party provided specified conditions are met and further noting that the Judicial Official needed to disclose for a reasonable period of time, which was not less than two years, the prior employment relationship). Finally, the Committee noted that even under Rule 2.11 of the Code of Judicial Conduct that will take effect on January 1, 2011, recusal and disclosure are not required on the facts of this inquiry provided that the conditions set forth above are complied with.

II. The meeting adjourned at 9:47 a.m.