



COMMONWEALTH OF KENTUCKY
ETHICS COMMITTEE OF THE KENTUCKY JUDICIARY

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JUDICIAL ETHICS OPINION JE-54

Formal

Question: Is it proper for a trial commissioner (who is a lawyer) to practice law in and use as his private law office the office provided in the courthouse for the district judge and/or trial commissioner?

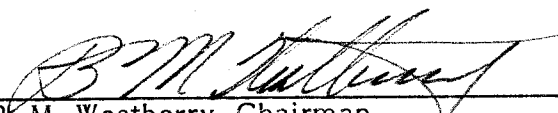
Answer: No.

References: Canon 2; Compliance Section of Judicial Code of Ethics, Part A(2); SCR 5.060.

Trial commissioners are allowed to practice law privately by the Supreme Court Rules which establish their office (see SCR 5.060), and by the Judicial Code of Ethics which considers them to be part-time judges. (See the Compliance Section of the Code, Part A(2)). But in being allowed to practice law privately, they are subject to a number of restrictions. They may not personally engage in the practice of criminal law in the district where they serve as trial commissioner nor may they act in civil matters as an attorney where they have previously acted as a trial commissioner. SCR 5.060. If a trial commissioner has acted in a matter as an attorney, then he may not sit as a trial commissioner in that case. Code of Judicial Ethics, Compliance Section, Part A(2).

Practicing law out of the office of the district judge and the office provided by the state for the trial commissioner gives the impression that the law practice and the office of trial commissioner are very much intertwined. This is the appearance of impropriety as defined by Canon 2 of the Code of Judicial Ethics.

Additionally, the conduct of the trial commissioner adversely affects the district judge. District judges are not permitted to practice law at all, but the fact that a private law practice is being conducted in the district judge's office gives the impression that the district judge is also involved even if, in fact, he is not.



B. M. Westberry, Chairman
Ethics Committee of the Kentucky Judiciary