



COMMONWEALTH OF KENTUCKY
ETHICS COMMITTEE OF THE KENTUCKY JUDICIARY
403 WAPPING STREET
FRANKFORT, KENTUCKY 40601

ANTHONY M. WILHOIT
Court of Appeals

THOMAS J. KNOPF
District Court

JOSEPH H. ECKERT
Circuit Court

B. M. WESTBERRY, CHAIRMAN
Attorney

UHEL O. BARRICKMAN
Attorney

Judicial Ethics Opinion

JE-68

Formal

Question: Whether a master commissioner may be ethically appointed as a domestic relations commissioner when his name is associated with that of a local law firm.

Answer: Yes, provided he forfeits his domestic relations practice in the circuit in which he is a commissioner, and he does not sit as commissioner in any case in which his law firm is involved.

References: "Compliance with the Code of Conduct" (A)(2). To the extent that Judicial Ethics Opinions JE-33 and JE-61 are inconsistent with this opinion, they are overruled.

Opinion

The Judicial Ethics Committee has received a letter from a Master Commissioner concerning the following issue. May a master commissioner be appointed domestic relations commissioner when his name is associated with that of a local law firm? A majority of the Committee answer in the affirmative, provided that the Commissioner forfeit his domestic relations practice in the circuit in which he sits as a Commissioner. A majority of the Committee bases this response upon an interpretation of section (A)(2) of the "Compliance with the Code of Conduct." The relevant portions of this rule read as follows:

- A. Part-time Judge. A part-time judge is a judge who serves on a continuing or periodic basis, but is permitted by law

to devote time to some other profession or occupation and whose compensation for that reason is less than that of a full-time judge. A part-time judge:

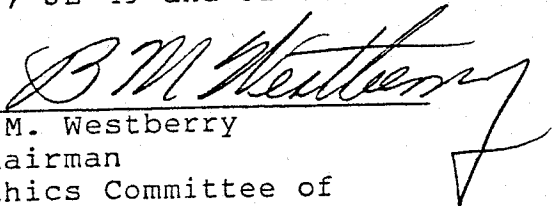
(1)

(2) should not practice law in the court on which he serves or in any court subject to the appellate jurisdiction of the court on which he serves, or act as a lawyer in a proceeding in which he has served as a judge or in other proceeding related thereto. This provision shall not, however, prevent a trial commissioner of the District Court or a commissioner of the Circuit Court from practicing in a court of which he is a commissioner so long as he has not taken and does not take any action as such commissioner with respect to the matter or matters in which he practices as an attorney. (Emphasis added.)

Compliance with the Code of Judicial Conduct, (A)(2), Code of Judicial Ethics, SCR 4.300.

The phrase "matter or matters in which he practices as an attorney" refers not to specific cases but to the area of the law with which the Commissioner deals. A majority of the Committee believes that placing this restriction upon commissioners is the best policy to pursue. To the extent that Judicial Ethics Opinions JE-33 and JE-61 are inconsistent with this interpretation of the Code, they are overruled.

It goes without saying that the Domestic Relations Commissioner must disqualify himself in any case in which his law firm is involved. See Judicial Ethics Opinions JE-44, JE-47 (Informal), JE-49 and JE-61.


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