



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-70

Formal

Question: May a Master Commissioner sell property belonging to his own clients or the clients of his partner when neither he nor his partner represented the client in the foreclosure action in which the Master Commissioner is involved?

Answer: No. Canon 3C(1)(a).

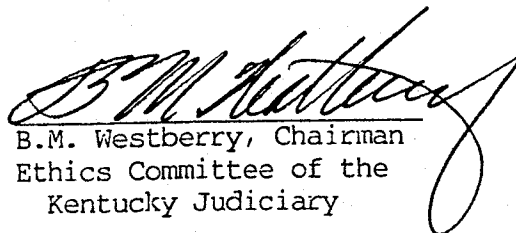
This letter comes to the Judicial Ethics Committee from a Master Commissioner in Circuit Court. He asks questions concerning several situations in which he is involved in selling property belonging to his own clients or clients of his partner. The twist on the fact situation is that in the foreclosure action in which he is involved as Master Commissioner neither he nor his partner represented the client. Is he barred from acting as a Master Commissioner in these foreclosure actions?

The Committee believes the answer is yes. Judicial Ethics Opinions JE-49 and JE-63 touch on the question as does Canon 3C(1)(b). The question is answered, however, by Canon 3C(1)(a) which reads:

A judge should disqualify himself...where:

- (a) He has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.

Where the matter involves one of the firm's clients how could the Commissioner help but be biased in favor of the client? Or where the Commissioner or his firm represented the client in a bankruptcy action, how could he help but learn facts about the foreclosure proceeding? Additionally, we believe the appearance of impropriety provision of Canon 2 is applicable.

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