



## STATE COMMISSION ON JUDICIAL CONDUCT

### PUBLIC STATEMENT

#### No. PS-2002-1

As a result of recent complaints concerning judges soliciting funds from attorneys and attending public fund raisers for the express purpose of hiring lobbyists to represent their respective interest before the legislature, the State Commission on Judicial Conduct believes that the interests of the judiciary and the public would be best served by issuing this public statement clarifying the scope of Canon 2B of the Texas Code of Judicial Conduct.

The Commission wishes to communicate to all members of the Texas judiciary its view that participation in fund raisers given to solicit monies to hire lobbyists to represent the interest of the judiciary reflects adversely on the integrity and impartiality of the judiciary and, therefore, is expressly prohibited by the following standards of judicial conduct:

Canon 2B of the Texas Code of Judicial Conduct, which states in pertinent part: "A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge."

The Commission, also a Constitutionally created body, recognizes the judiciary's difficulty.<sup>1</sup> However, the Commission feels compelled to address two specific instances that have resulted in State-wide publicity.

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<sup>1</sup> Justice Spears, who spoke on the issue of the legislature's responsibility for adequately funding the judiciary, said in *Mays v. Fifth Court of Appeals*, 755 S.W.2d 78, 82 (Tex. 1988): "The process of allocating public resources is complex. Both state and local legislative bodies make difficult decisions when faced with competing priorities. Political and economic considerations often result in the relatively unassertive requests of the judiciary being neglected. However, unlike state agencies, courts cannot reduce services. The judiciary can only delay or postpone the disposition of justice."

In the first, the Texas Association of State Judges recruited the assistance of lawyers to contribute to its efforts to employ lobbyists to assist the judiciary before the legislature on several issues.<sup>2</sup> The solicitation letter contained the names of actively sitting judges as members and officers. The solicitation letter was sent over the signature of well known participating lawyers to other lawyers practicing in their area.<sup>3</sup> The letter invited the lawyers to attend a fund raising reception to be attended by members of the judiciary encouraging lawyers that the function would be a great time to visit personally with the judges. Several judges attended these functions.

In the second, actively sitting judges encouraged the formulation of the Friends of the Metropolitan Courts, another group designed to raise money to hire a lobbyist. Although no judges directly solicited contributions from lawyers on behalf of this group by mail, judges did attend a fund raising reception to make personal pleas to lawyers for contributions.

In both instances, the negative publicity resulting from the fund raisers has cast discredit upon the judiciary. The Commission wishes to communicate that it is not the hiring of the lobbyist that is seen as unfavorable by the public. Rather, it is the solicitation by judges of lawyers who frequently appear before the court or may have cases currently pending before the court to directly assist the judges in their legislative issues. It is the public appearance that those lawyers may stand in a special position to influence the judges. Accordingly, the Commission finds such activities are in violation of Canon 2B of the Texas Code of Judicial Conduct.

The Commission issues this public statement pursuant to the authority granted to it by Article V, Section 1-a(10) of the Texas Constitution.

This public statement is intended to help preserve the integrity of all judges in the State of Texas, to promote public confidence in the judiciary, and to encourage judges to maintain high standards of professional conduct.

Signed this 5<sup>th</sup> day of November, 2001.

**ORIGINAL SIGNED BY**

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L. Scott Mann, Chair  
State Commission on Judicial Conduct

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<sup>2</sup> In Ethics Opinion No. 201 (1996), the Ethics Committee of the Judicial Section of The State Bar of Texas addressed this very issue.

The question was asked whether a committee of the Texas Association of District Judges could send a letter to the members of the association or those eligible for membership in the association soliciting monies to hire a lobbyist to assist the efforts of the association before the Legislature. In its answer, the Committee opined that while Canon 4C(2) prohibited judges from soliciting funds for any "educational, religious, charitable, fraternal or civic organization," such Canon would not prohibit such activity so long as the letter was restricted to members of the Texas Association of District Judges or those eligible for membership in the association. The Committee expressly stated that it would not be proper for the association to solicit monies by sending a letter accompanying correspondence from another group formed to raise money.

By making membership honorary for all judges, thus involuntary, and by enlarging the membership to members of the bar, the Texas Association of State Judges violated the intent and spirit, if not the letter, of Ethic Opinion No. 201 to the discredit of the judiciary.

<sup>3</sup>The Commission does not criticize any lawyer who in good faith attempted to assist the judiciary in its quest for adequate funding.