



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 West 10th
Topeka, Kansas 66612-1507

(913) 296-2256

JUDICIAL ETHICS ADVISORY PANEL

Judicial Ethics Opinion JE-32

March 27, 1990

Topic

May a judge engage in the business of writing and selling law-related computer programs?

A District Court Judge has acquired expertise in writing computer programs for use by clerks of district courts. He states that the programs maintain the appearance dockets, act as an indexing system of cases, and maintain the court docket for the offices.

To this date he has furnished the programs to any clerk of the district court who desires the same without cost except travel expense for delivering the programs.

He is now considering the charging of a licensing fee for furnishing the computer programs to clerks of the district courts. He states that he writes the programs in his spare time before and after business hours in the courthouse and at home and that he uses equipment of his own and that furnished by the counties in which he sits.

The judge has submitted four questions pertaining to his proposed activities.

Question: 1. Would such business transactions with the offices of Clerk of District Court constitute an exploitation of my judicial position under Paragraph C.(1) of Canon 5 of the Code of Judicial Conduct?

Answer: The question presented falls within the provisions of subsections C(1) and C(2) of Canon 5. Subsection (2) specifically provides that a judge may engage in a remunerative activity, including the operation of a business, subject to the requirements of subsection (1). Under the facts stated, the judge is not exploiting his judicial position.

Question: 2. Would the sums received from such transactions be compensation as defined by Paragraph A. of Canon 6 of the Code of Judicial Conduct?

Answer: If the income received, other than reimbursed expense paid for by the State or county, is in the amount of \$100.00 or more from any single payor, the answer is "yes."

"Income" includes license fees, sale of computer programs, and personal services in writing, delivering and installing the programs

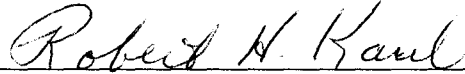
Additionally, the judge is considering writing a computer program which computes Worksheet A under Supreme Court Administrative Rule 59, and sell licenses to attorneys to use such programs. In this connection, the judge asks:


Question: 3. Would the selling of law related computer programs to attorneys be involvement in frequent transactions with lawyers or persons likely to come before the court on which I serve under the provisions of Paragraph C.(1) of Canon 5 of the Code of Judicial Conduct?

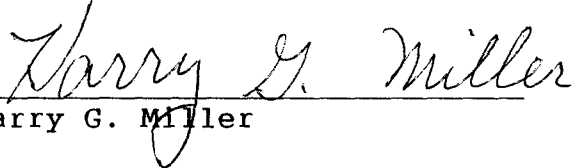
Answer: Yes. This activity is prohibited by the provisions of Canon 5, C(1).

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Question 4 is in hypothetical form and does not set forth sufficient facts from which we can reach a conclusion. We therefore decline to comment thereon.


Robert H. Kaul, Chairman


John W. Brookens


Harry G. Miller