

TO: Town Clerk
Requesting Party

cc: Greenburgh Town Board

OPINION 2011-2

Background

On February 14, 2011, a member of a Town agency, pursuant to Section 11D(2) of the Code of Ethics, requested that the Board of Ethics give an advisory opinion as to whether the agency member “could serve as Treasurer of a campaign committee for a non-incumbent candidate for judge of the Town Court.” The agency member also “request[ed] that the opinion not identify me by name.”

Opinion

Section 15 of the Code of Ethics, entitled “Sitting Town Justices and Candidates for Town Justice”, provides in relevant part that: “Nothing in Section 570-4A, Standards of Conduct; Gifts and Solicitations, or Section 570-7A, Prohibited Political Activities; Contributions, of this Code of Ethics shall apply to: * * * B. any person acting as a part of a committee established under Part 100.5(A)(5) [of the Code of Judicial Conduct, ‘Incumbent Judges and Others Running for Public Election to Judicial Office’] with respect to activities subject to regulation thereunder.”

The Code of Judicial Conduct was adopted by the New York State Bar Association, effective April 13, 1996, and is “intended to establish standards for ethical conduct of judges.” It parallels the provisions of the Rules of the Chief Administrator of the Courts, 22 NYCRR Part 100, which are promulgated with the approval of the Court of Appeals.. These provisions, in Part 100.5, also cover non-incumbents “running for public election to judicial office”. Part 100.5(A)(5) provides in relevant part: “A judge or candidate for public election to judicial office shall not personally solicit or accept campaign contributions, but may establish committees of responsible persons to conduct campaigns through media advertisements, brochures, mailings, candidate forums and other means not prohibited by law. Such committees may solicit and accept reasonable campaign contributions and support from the public, including lawyers, manage the expenditure of funds for the candidate’s campaign and obtain public statements of support for his or her candidacy. Such committees may solicit and accept such contributions and support only during the Window Period “ (The Window Period is generally defined as (i) beginning nine months before a primary election, judicial nominating convention, party caucus or other party meeting for nominating candidates for elective judicial office and (ii) ending six months after the primary election, convention, caucus or meeting or, if the individual is a candidate in the general election, six months after the general election.)

Based on the specific exception in Section 15 of the Code of Ethics, the Board of Ethics concludes that an agency member is not prohibited by the Greenburgh Code of Ethics from acting as treasurer of a campaign committee for a non-incumbent candidate for justice of the Town Court.

BY THE BOARD OF ETHICS

Adopted at February 15, 2011 Meeting

Mr. Constantine
Mr. Eisen
Mr. McLaughlin
Mr. Scott

Mr. Sigal

Endnote:

1. In addition to regulation under Part 100.5 of the Code of Judicial Conduct/Rules of the Chief Administrator of the Courts, the Board of Ethics understands that the conduct and activities of judicial campaign committees are subject to regulation under the New York Election Law. The conduct and activities of judicial campaign committees may also be subject to other laws and to various ethics standards other than those of the Greenburgh Code of Ethics, such as those referred to in the New York State Bar Association publication “The High Road – Rules for Conducting a Judicial Campaign in New York”. None of these laws and ethical standards, nor issues of recusal if the agency member were to become a litigant in front of the candidate, are the subject of this advisory opinion.