

COMMITTEE ON CODES OF CONDUCT
ADVISORY OPINION NO. 40

Membership in Such Organizations as the Anti-Defamation League of B'nai B'rith, the Sierra Club and the National Association for the Advancement of Colored People.

Our opinion has been requested with respect to the propriety of the service of members of the judiciary as officers or directors of such organizations as the Anti-Defamation League of B'nai B'rith, the Sierra Club and the National Association for the Advancement of Colored People. With the inquiry there were attached exhibits suggesting that these organizations, in pursuit of their goals, tend to become involved in federal court litigation.

Canon 5B(1) affirms the propriety of judicial participation in civic and charitable activities, and service as officer, director, trustee, or non-legal advisor in such organizations. Certain reservations and limitations, however, are appended. The first is that such activities may not reflect adversely upon the judge's impartiality or interfere with the performance of the judge's judicial duties. The second limitation is that "[a] judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court."

The application of these unambiguous principles must be in accord with the good judgment of each individual. It may well be that in a given time and place it will not be likely that one or more of these organizations will be engaged in proceedings which would ordinarily come before the judge who serves on such an organization, and the first half of the caveat of the canons may not be applicable.

It should be recognized, however, that the three organizations named have frequently appealed to the courts in furtherance of their stated goals. This fact gives rise to the probability that these organizations will be regularly engaged in adversary proceedings in various courts. If such is the case, the second half of the caveat of Canon 5B(1) applies to bar judicial participation in the affairs of these groups.

The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which he or she is affiliated to determine if it is proper to continue a relationship with it.

The judges involved with these groups are better able to determine whether their organizations are likely to be engaged in proceedings that will ordinarily come before them or will be regularly engaged in adversary proceedings in any court. If the answer to either of these questions is yes, the judge should resign his or her office in them.

Finally, the applicable canon here is limited by its terms to service as an officer, director, trustee or non-legal advisor. In the Committee's deliberations upon the matter, it was their view that the same considerations are applicable to and govern membership in such organizations.

January 10, 1975
Revised January 16, 1998

Note:

1. See also Advisory Opinion Nos. 15 and 82.