

Maryland Judicial Ethics Committee

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Judge May Not Engage in Business That Would Likely Involve Prestige of Office

A judge asked the Committee's opinion with regard to the propriety of his continuing a multi-level marketing business which he currently operates with his wife.

The judge and his wife have been sales/marketing distributors since February of 1987, prior to the judge's appointment to the bench. The judge explains that in a multi-level marketing distribution system, goods are manufactured or procured by a servicing corporation which then distributes these goods to a network of distributors. Profits are made by purchasing goods and services through an "up-line" distributor and then selling those goods and services to retail customers and "down-line" distributors who are individuals who have been sponsored in the business. As a sponsor, the judge has exposed the "down-line" distributors to the multi-level marketing concept and agreed to help them start and build a business in exchange for their agreement to purchase goods and services through the judge's distribution chain. Distribution networks are created when individuals who are sponsored in the business, in turn sponsor others, a process which is described as integral to the business. The judge makes himself and his expertise available to the newly sponsored distributor and offers support which may consist of giving information to the new distributor about the best methods to operate the business, as well as by making presentations for the new distributor to people whom the new distributor would like to sponsor. According to the judge, he and his wife routinely present this marketing concept to prospective sponsors.

The activities described implicate the prohibitions of Canon 2B which provides that "[A] judge should not use the prestige of judicial office to advance the private interest of others" as well as Canon 4(D)(1) which provides that "[A] judge should refrain from financial and business dealings that use the judge's position or involve the judge in frequent transactions with lawyers or persons likely to come before the court on which the judge serves." The judge is actively involved in sales, presentation of the marketing concept, recruitment of sponsors and assisting those sponsors to recruit others. He states that he is careful to refrain from identifying himself as a judge. However, judges are prominent community figures and the likelihood of recognition either by name or by face is great. The judge's activity as a sales/marketing distributor may give rise to reasonable suspicion that the office is being used to persuade or coerce others to patronize him and his "down-line" distributors.

The Committee concludes that the judge's continuation as a sales/marketing distributor is proscribed.