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August 30, 2021

VIA U.S. MAIL AND ELETRONIC MAIL

Hon. Roslynn R. Mauskopf
Director
Administrative Office of the
United States Courts
One Columbus Circle, NE
Washington, D.C. 20544

Hon. Ralph R. Erickson
Chair, Committee on Codes
of Conduct
U.S. Court of Appeals for the
Eighth Circuit
Quentin N. Burdick U.S.
Courthouse
655 First Avenue North
Fargo, ND 58102

Hon. Sidney R. Thomas
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Ninth Circuit
James R. Browning U.S.
Courthouse
95 Seventh Street
San Francisco, CA 94103

Hon. Roger L. Gregory
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U.S. Court of Appeals for the
Fourth Circuit
Lewis F. Powell, Jr. U.S.
Courthouse
1100 East Main Street
Suite 501
Richmond, VA 23219

Hon. Priscilla R. Owen
Chief Judge
U.S. Court of Appeals for the
Fifth Circuit
John Minor Wisdom U.S.
Court of Appeals Building
600 Camp Street, Room 100
New Orleans, LA 70130

Hon. Timothy M. Tymkovich
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U.S. Court of Appeals for the
Tenth Circuit
Byron White U.S. Courthouse
1823 Stout Street
Denver, CO 80257

Hon. Jeffrey R. Howard
Chief Judge
U.S. Court of Appeals for the
First Circuit
John Joseph Moakley U.S.
Courthouse
1 Courthouse Way, Ste. 2500
Boston, MA 02210

Hon. Jeffrey S. Sutton
Chief Judge
U.S. Court of Appeals for the
Sixth Circuit
Potter Stewart U.S.
Courthouse
100 East Fifth Street, Rm.
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Cincinnati, OH 45202

Hon. William H. Pryor, Jr.
Chief Judge
U.S. Court of Appeals for the
Eleventh Circuit
Elbert P. Tuttle U.S. Court of
Appeals Building
56 NW Forsyth Street
Atlanta, GA 30303

Hon. Debra Ann Livingston
Chief Judge
U.S. Court of Appeals for the
Second Circuit
Thurgood Marshall U.S.
Courthouse
40 Foley Square
New York, NY 10007

Hon. Diane S. Sykes
Chief Judge
U.S. Court of Appeals for the
Seventh Circuit
U.S. Courthouse
219 South Dearborn Street
Room 2722
Chicago, IL 60604

Hon. Srikanth Srinivasan
Chief Judge
U.S. Court of Appeals for the
District of Columbia Circuit
E. Barrett Prettyman U.S.
Courthouse
333 Constitution Ave., NW
Washington, D.C. 20001

Hon. D. Brooks Smith
Chief Judge
U.S. Court of Appeals for the
Third Circuit
U.S. Courthouse
601 Market Street
Philadelphia, PA 19106

Hon. Lavenski R. Smith
Chief Judge
U.S. Court of Appeals for the
Eighth Circuit
Thomas F. Eagleton U.S.
Courthouse
111 South Tenth Street
Suite 24.327
St. Louis, MO 63102

Hon. Kimberly Ann Moore
Chief Judge
U.S. Court of Appeals for the
Federal Circuit
Howard T. Markey National
Courts Building
717 Madison Place, NW
Washington, D.C. 20439

Dear Judge Mauskopf, Judge Erickson, and Chief Judges of the United States Circuit Courts of Appeal,

The Ethics in Government Act of 1978 requires senior government officials—including the President and Vice President, officers and high-level employees of the executive branch, Members of Congress, and judicial officers—to disclose outside income, gifts, and reimbursements annually. The Judicial Conference Committee on Codes of Conduct financial disclosure and gift acceptance regulations¹ seem significantly less stringent than the executive and legislative branch rules, particularly the judiciary’s interpretation of the Ethics in Government Act’s “personal hospitality” exception. The Senate, for instance, defines “personal hospitality” to encompass food, lodging, and entertainment provided by an individual only “at that person’s residence,” whereas the Judicial Conference appears to allow a broader range of venues.

To help us assess what disclosures by judicial officers are required by the judicial branch’s “personal hospitality” disclosure standards and federal law, I request responses to the following questions. Because each chief judge has oversight responsibilities within his or her circuit, I am interested in their responses to these questions for each Circuit, in addition to the views of the Administrative Office and the Codes of Conduct Committee. All these questions presume that the judge is not paying for the hospitality, but is receiving it as a gift or emolument.

¹ See 2 JUDICIAL CONFERENCE OF THE U.S., GUIDE TO JUDICIARY POLICY ch. 6 (2019).

1. General Scope of Personal Hospitality. Is hospitality to a judge from any person subject to exemption from any reporting so long as the person has invited the judge to receive the hospitality at any property the person owns?
2. Personal Hospitality at Commercial Properties.
 - a. Is a judicial officer permitted to decline to disclose “personal hospitality” received at a commercial property, such as a commercial resort which ordinarily charges visitors for hospitality?
 - b. For example, if the owner of a commercial resort has invited the judge to the resort, which guests ordinarily pay to visit, may the judge treat that hospitality as “personal”?
3. “Personal Hospitality” from Persons Not Known to the Judge. If the person invites a judge to a commercial property the person owns, and has no preexisting personal relationship with a judge, is hospitality received by that judge at the commercial property nevertheless exempt from disclosure as “personal hospitality”?
4. Solicitation of Personal Hospitality. May judges directly or indirectly solicit invitations from owners of commercial properties, and then claim exemption from disclosure on grounds that the owner invited the judge to a property the person owns? Would the solicitation of such an invitation to a commercial property be reportable?
5. Solicitation of Personal Hospitality from Persons Not Known to the Judge. May judges directly or indirectly solicit invitations from owners of commercial properties if there is no preexisting personal relationship with the judge, and then claim exemption from disclosure as “personal hospitality” on grounds that the owner invited the judge to a property the person owns?
6. Third-Party Reimbursement. If a judge solicits or receives an invitation from an owner of a commercial property, and then claims exemption from disclosure on grounds that the owner has invited a judge to a property the person owns, what are the responsibilities of the judge where a third party reimburses the commercial property for the cost of the hospitality extended to the judge? Is the third party’s reimbursement of the commercial property for hospitality provided to the judge reportable as a gift to the judge, even though the judge was invited to a property the person owns?
7. Acceptance and Disclosure of Gifts from Those Seeking Official Action from or Doing Business with the Court. Does the judicial branch’s prohibition on the acceptance of gifts from persons who are seeking official action from or doing business with the court extend to gifts in the form of invitations to property the person owns? Does it extend to corporations or organizations owned or controlled by the person that has business before the court, or vice versa? For example, if an individual is not personally seeking official action or doing business before the court but owns a company with a case pending before the court, or if a person who is seeking official action extends hospitality to the judicial officer at property the person owns through a corporation, do the Judicial Conference’s

rules permit the judge to accept hospitality from the person at property the person or their company owns without disclosing it?

Your timely responses will help us understand in a practical way your interpretation of the “personal hospitality” exemption from disclosure as applied in your circuits. Thank you for your attention to this request.

Sincerely,



SHELDON WHITEHOUSE

Chair, Senate Judiciary Subcommittee on Federal
Courts, Oversight, Agency Action, and Federal
Rights