

Congress of the United States
Washington, DC 20510

April 18, 2022

VIA U.S. MAIL AND ELECTRONIC MAIL

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

Hon. Jennifer Walker Elrod
Chair, Committee on Codes
of Conduct
U.S. Court of Appeals for the
Fifth Circuit
Bob Casey U.S. Courthouse
515 Rusk Ave., Rm. 12014
Houston, TX 77002

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

Hon. Michael Chagares
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Third Circuit
James A. Byrne
U.S. Courthouse
601 Market Street
Philadelphia, PA 19106

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

Hon. Priscilla R. Owen
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600 Camp Street, Rm. 100
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Hon. Jeffrey S. Sutton
Chief Judge
U.S. Court of Appeals for the
Sixth Circuit
Potter Stewart U.S.
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Hon. Diane S. Sykes
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Seventh Circuit
Everett McKinley Dirksen
U.S. Courthouse
219 S. Dearborn Street
Chicago, IL 60604

Hon. Lavenski R. Smith
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U.S. Court of Appeals for the
Eighth Circuit
Thomas F. Eagleton
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111 S. Tenth Street, Ste.
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St. Louis, MO 63102

Hon. Mary H. Murguia
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Ninth Circuit
James R. Browning U.S.
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95 Seventh Street
San Francisco, CA 94103

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

Hon. William H. Pryor, Jr.
Chief Judge
U.S. Court of Appeals for the
Eleventh Circuit
Elbert P. Tuttle U.S. Court of
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56 NW Forsyth Street
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Hon. Srikanth Srinivasan
Chief Judge
U.S. Court of Appeals for the
District of Columbia Circuit
E. Barrett Prettyman U.S.
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333 Constitution Ave., NW
Washington, D.C. 20001

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 Elrod, and Chief Judges of the United States Circuit Courts of Appeals:

I write to follow up on my August 30, 2021, letters to each of you requesting information regarding the judiciary's interpretation of the Ethics in Government Act's "personal hospitality exception." After more than seven months, neither the Administrative Office, the Code of Conduct Committee, nor any Circuit's chief judge has responded. I hope this unanimous failure to respond does not signal a lack of concern for judicial ethics issues, much less a coordinated effort to ignore a congressional request.

Representative Hank Johnson, the Chairman of the Courts subcommittee in the House, joins me in renewing this request. The Twenty-First Century Courts Act, which we recently introduced, seeks to address issues related to judicial travel and personal hospitality, and additional information from the judiciary is crucial to ensuring our bill addresses the full scope of the problem.

We therefore repeat the previous request for responses to the specific questions in the enclosed letter. Please respond no later than May 2, 2022. After much delay, we look forward to your timely attention to this request.

Sincerely,



SHELDON WHITEHOUSE
Chairman, Senate Judiciary Subcommittee on
Federal Courts, Oversight, Agency Action,
and Federal Rights



HENRY C. "HANK" JOHNSON, JR.
Chairman, House Judiciary Subcommittee
on Courts, Intellectual Property, and the
Internet

Enclosure

SHELDON WHITEHOUSE
RHODE ISLAND

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August 30, 2021

VIA U.S. MAIL AND ELETRONIC MAIL

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One Columbus Circle, NE
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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