

ADVISORY COMMITTEE
ON STANDARDS OF JUDICIAL CONDUCT

OPINION NO. 12 - 2019

RE: Propriety of a full-time magistrate, who is also a trained mediator specializing in family mediation, owning a limited liability company that provides mediation services.

FACTS

A full-time magistrate judge is also a trained mediator specializing in family mediation. The judge inquires into the propriety of owning a limited liability company (“the LLC”), providing general mediation and family court mediation for compensation. The judge seeks an opinion as to whether the judge may own the LLC and conduct mediations himself/herself as well as whether the judge may own the LLC and employ other mediators.

CONCLUSION

A full-time judge may not own a limited liability company that provides mediation services, whether through the judge himself/herself, or through other mediators employed by the LLC.

OPINION

Canon 4F of the Code of Judicial Conduct, Rule 501 SCACR, specifically states that a “judge shall not act as an arbitrator or mediator....” In Opinion 3-2011, we found that a part-time magistrate could conduct mediations for compensation (provided certain other restrictions were met) because the status of a “Continuing Part-Time Judge” exempted the judge from compliance with Canon 4F. Here, however, there is no such exemption as the inquiring judge is a full-time magistrate. Thus, the judge cannot own an LLC through which the judge conducts mediations

personally. The more difficult question is whether a judge may own an LLC that conducts mediations through non-judge employees/mediators. Canon 2 provides that a judge “shall not lend the prestige of judicial office to advance the private interests of the judge or others.” We believe that by owning a mediation center, the judge is lending the prestige of office to a private business venture. Moreover, since a full-time judge cannot conduct mediations personally, allowing a judge to skirt the rule by owning a business with mediator/employees would create the appearance of impropriety in violation of Canon 2.

s/ Letitia H. Verdin
LETITIA H. VERDIN, CHAIR

s/ Usha Jeffries Bridges
USHA JEFFRIES BRIDGES

s/ Keith M. Babcock
KEITH M. BABCOCK

September 9, 2019