

### ISSUE

May a judge's image, name, and title be featured on a billboard as part of an advertising campaign by one of the University of Wisconsin System campuses?

### ANSWER

No.

### FACTS

The judge has been asked by one of the campuses in the University of Wisconsin System if he will agree to let his image, name, and title be used on billboards promoting the campus. The billboards are part of an ongoing advertising campaign featuring former students. The most prominent words on the billboards are: "I got my start at [a specifically named University of Wisconsin System campus]."

As suggested by the message on the billboard, the judge attended the University of Wisconsin System campus as a college student. The judge believes his education at the campus was of high quality and an excellent means to begin a college education. He has remained supportive of the campus for the last thirty years. Understandably, the judge would like to assist the campus in its current campaign.

### DISCUSSION

The issue presented is controlled by the following provision of the Code of Judicial Conduct:

**SCR 60.05** A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations.

A. **SCR 60.05(4)(c)2.** states:

A judge may not serve as an officer, director, manager, general partner, advisor or employe of any business entity affected with a public interest, including a financial institution, insurance company, and public utility, and may not participate in or permit the judge's name to be used in connection with any business venture or commercial advertising that indicates the judge's title or affiliation with the judiciary or otherwise lends the power or prestige of office to promote a business or commercial venture.

SCR 60.05 requires judges to conduct their extra-judicial activities so as to minimize the risk of conflict with judicial duties. We focus our attention on the following language of subsection (4)(c)2.: “A judge ... may not participate in or permit the judge’s name to be used in connection with any ... commercial advertising that indicates the judge’s title or affiliation with the judiciary....” We conclude, for purposes of the Code, that the advertising at issue here is “commercial advertising.”

Our review of commonly used dictionaries discloses that the term “commercial” is not limited to the activities of private businesses. For example, in *Webster’s II New College Dictionary* (1999), “commercial” is defined as “[o]f or relating to commerce” and one definition of “commerce” is “[t]he buying and selling of goods, esp. on a large scale.” Here, the University of Wisconsin System campus provides an education in exchange for tuition, much like private schools. We discern no reason why this activity does not fit within the meaning of “commercial” as that term is used in the Code.

Furthermore, a readily apparent purpose of the advertising campaign is to enhance the campus’s reputation and to attract students. The judge has supplied us with an example of the campaign billboards’ format. This example features a medical doctor. The billboard shows the doctor in doctor’s garb, identifies her by name, and identifies her as an “M.D.” at Marshfield Clinic. The most prominent words on the billboard read: “I got my start at [a specifically named University of Wisconsin System campus].” From the judge’s letter to the Committee, the letter he has attached from a campus dean, and this billboard example, we assume that the campus intends to use the same format, except that the doctor’s photograph and identifying information would be replaced by the judge’s photograph and identifying information. Thus, the judge would be identified not only by name, but also as a judge. Obviously, the campus hopes that viewers of this advertisement will believe that this University of Wisconsin System campus is a good place to start a successful career.

In sum, the judge has been asked to permit his image, name, and title to be used in “commercial advertising.” We conclude that this activity would violate SCR 60.05(4)(c)2.

We do not address advertising in connection with activities by a judge associated with speaking, writing, lecturing, teaching, and participating in extra-judicial activities concerning the law, the legal system, or the administration of justice. SCR 60.05(2) states:

**Avocational Activities.** A judge may speak, write, lecture, teach and participate in other extra-judicial activities concerning the law, the legal system, the administration of justice and nonlegal subjects, subject to the requirements of this chapter.

## CONCLUSION

A judge's image, name, and title may not be featured on a billboard as part of an advertising campaign by a University of Wisconsin System campus because this activity is "commercial advertising," an activity prohibited by SCR 60.05(4)(c)2.

## APPLICABILITY

This opinion is advisory only, is based on the specific facts and questions submitted by the petitioner to the Judicial Conduct Advisory Committee, and is limited to questions arising under the Supreme Court Rules, Chapter 60 – Code of Judicial Conduct. This opinion is not binding on the Wisconsin Judicial Commission or the Supreme Court in the exercise of their judicial disciplinary responsibilities. This opinion does not purport to address provisions of the Code of Ethics for Public Officials and Employees, subchapter III of Ch. 19 of the statutes.

I hereby certify that this is Formal Opinion No. 05-1 issued by the Judicial Conduct Advisory Committee for the State of Wisconsin this 10<sup>th</sup> day of March 2005.

/s/ George S. Curry

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Honorable George S. Curry  
Chair