### NEBRASKA JUDICIAL ETHICS COMMITTEE

### Established for Larragement will be ADVISORY OPINION 93-4

## unio die legate di see terrorey di nere **FACTS**hessin (14)

The State of Members of the Nebraska Judiciary poses the following question: The Members of the State of the

"When an attorney leaves the practice of law to go on the bench and sells his interest in the firm to partners, how do you handle the contingency fee case with another law firm, wherein the agreement between your firm and their firm is a division of whatever recovery there may be, if any?"

### NEBRASKA CODE OF JUDICIAL CONDUCT SECTIONS

"CANON 2. A Judge Shall Avoid Impropriety and the Appearance of Impropriety in all of the Judge's Activities."

A. A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

"CANON 3 A Judge Shall Perform the Duties of Judicial Office of Impartially and Diligently."

A Judge Shall Perform the Duties of Judicial Office of Judicial Office

Figure en tell elle eller en en betten i matte, for bligge en la legende par

# in describing the company of the com

- (1) A judge shall not participate in any proceeding in which the judge's impartiality reasonably might be questioned, including, but not limited to, instances where,
- (b) a judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge has been a material witness concerning it...
- "CANON 4. A judge shall so conduct all extra-judicial activities as to minimize the risk of conflict with judicial obligations."

#### Financial Activities D.

silven servenen sent beines

- A judge shall not engage in financial and business dealings that
  - reasonably may be perceived to exploit the judge's judicial position; or
- proved that the so(b) winvolve the sjudge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves. of make distance
  - ess of (2) A judge may, subject to the requirements of this Code, hold and manage investments of the judge and members of the judge's family, including real estate, and engage in other remunerative activity.
- a reason (4) A judge shall manage the judge's investments and other financials interest to minimize the number of cases in which the judge is disqualified. Lande ber val date delle

va vergenz 19**ada** ojs

### An yurification and the statutory sections as

THOUGHT IN STRAIGHT GRADERED TO LEAD AND LEWIS

Disqualification of judge or Neb. Rev. Stat. Section 24-739. justice; grounds. A judge or justice is disqualified from acting as such in the county, district or Supreme Court, except by mutual consent of the parties, in any case wherein he or she is a party or interested, or where he or she is related to either party by consanguinity or affinity within the fourth degree, or where any attorney in any cause pending in the county or district court is related in the degree of parent, child, sibling, in-law, or is the copartner of any attorney related to the judge in the degree of parent, child, or sibling, or where he or she has been attorney for either party in the action or proceeding, and such mutual consent must be in writing and made a part of the record; or where said judge was in copartnership, at the time of his or her election, winethe law business, with a practicing attorney in the district in which the said judge was elected, and which said copartnership continued in the practice of law in the district and occupied the same office or rooms which were occupied by the late copartnership, consisting of the presiding judge and his or her ex-copartner, at the time of his or her election, and where said judge or justice continues to his or the same office or rooms with occupy ex-copartner, the said judge of justice shall be prohibited and disqualified from acting as such, in any proceedings litigation in which said ex-copartner of said judge is retained or in anywise interested, and the said judge or justice shall be

disqualified, as aforesaid, in all proceedings or litigations in which the ex-copartner is retained or interested, so long as said judge or justice occupies the same room with his or her ex-copartner, which said partnership occupied prior to said judge's election.

e de la finación de entre les estables.

#### DISCUSSION

The member of the judiciary posing the above question stated that he had entered into a binding contract with his former law firm, regarding its purchase of his interest in that law firm, including any cases in which the former practitioner had been handling on a contingency fee basis in association with another The initial consideration is, accordingly, not a law firm. matter of judicial ethics, but instead a matter governed by the Code of Professional Responsibility, and specifically, Ethical Considerations 2-20 and 2-22. Those Ethical Considerations permit the utilization of contingency fee arrangements in civil cases, and additionally, allow the association by one lawyer with another lawyer outside of the first lawyer's firm, provided that the consent of the client is first secured, and provided further that any fee derived from the handling of the case is divided in proportion to the services performed and the responsibility assumed by each lawyer.

> how much compensation the question of his former firm, as practitioner will receive from contingency fee cases are resolved in the future, is thus not a matter of judicial ethics. The negotiations that the former practitioner would have entered into with another lawyer outside his former firm, and the negotiations that the practitioner would have entered into with his former regarding compensation for those contingency fee cases, would have been matters subject to the Code of Professional Responsibility, and not matters of judicial ethics.

> Once the former practitioner is sworn in, then the Canons cited above come into play, with the primary emphasis being placed on Canon 4 and its sections as cited above. question, the judge must recuse himself from any case involving not only his former firm, but also the other or outside law firm judge had previously associated, the whom practitioner, in the contingency fee cases. For as long as the judge's former firm is required to pay him compensation, as a result of the sale by the judge of his interest in that law firm, or until a remittal of his disqualification occurs, the judge must disqualify himself from serving in any case involving any member of the judge's former firm. The financial interest receive the agreed-upon judge in continuing to itself to require sufficient compensation, is Moreover, until such time as all of the contingency fee cases with respect to which the judge had associated himself, as a

practitioner, with another, firm are resolved, the judge must similarly recuse himself from serving in any case involving any member of that other law firm. tad sa tud dika senta senta seli astigento eta selj se opeta

SINGLESS CONTRACTOR

Albert Service

#### CONCLUSION

lika kuju zakus kulgusep gistule esaj kulu ilijuliju

COLTE HEROTELE

Elican (1918) Southern Clare,

Societa Carampia Carambida Calaba Calaba Grand

The value placed upon a lawyer's interest in a contingency fee case, when that lawyer leaves the practice of law prior to the conclusion of the contingency fee case is not a matter that is controlled by the Nebraska Code of Conduct.

In any event, a judge shall not participate in any case involving the judge's former firm or the associated firm for as long as the judge has a financial interest in either firm, or in litigation pending in either firm. This opinion does not address other factors which may or could require recusal of the judge from hearing cases involving the former firm under the Nebraska Code Editive of Judicial Conduct. 1 81 for the time and the forest at see a second conduct to the conduct of the con

SECTION AND AND SECTION OF THE PARTY OF THE Approved and adopted by the committee on 1993. 

ATC SAS

address in the second control of the control of the control of the second of the secon success at the street and entire and in the control and in the control and the Santanti - Alianda politica da mistra la esta della politika od i se od 1988. od da i skapaliki kojitika i padaki kojitika i sobili i se od 1990. da od i Bruta eral ablendad from a reliko ado preta braik junte elembro elle ji or de j se the confidence of the best to be to the profession of the section of the secti gas no process as and in the company and process and in the company of the compan wish sand as assertance with the more than the second of the second of the second ential in terroproper in a pula entalla consequente, interfer alla interferencia di la Colonia i in terroprope Bushing the most was his happen and in the party of the bound of the contract properties and the second of t 的。在1966年代,1967年代,1967年(1967年) - 1967年(1967年) - 1967年) - 1967年(1967年) - 1967年(1967年) - 1967年(1967年) - 1967年) - 1967年(1967年) - 1967年) - 1967年(1967年) - 1967年) - 1967年)

and the first of the second of the second

s up literate house poses has expect been pulled on conface the

a lan euss eussa et lesseaux less est lessalers au par posse est que

rania est cultural de secondoris est. Acide Cale Allo como range i mado ante ante a mado Cale Magnetica de comparta esta esta a mado Cale wayadi dis diina bersarregen es rail de composit de la composit de composi

Carlina, Contralled to areastan care resemble 100 for enemal.