

**South Dakota
Special Committee
on Judicial Election
Campaign
Intervention**

500 East Capitol Avenue
Pierre, SD 57501-5070



Committee Members:

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Retired Circuit Judge
Rodney Steele (Vice-Chair)
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Honorable Harvey Wollman
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January 28, 2014

OPINION #14-02

Dear [REDACTED]:

You have requested an advisory opinion from the Special Committee on Judicial Election Campaign Intervention:

Whether a candidate's immediate family member can contribute more than \$1,000 to their judicial election.

The Committee answers in the negative.

Canon 5C(2) provides guidance on judicial elections and the contribution limits. This Canon specifically provides that a judicial candidate's campaign committee can "solicit and accept only such campaign contributions as are reasonable, in any event not to exceed one thousand dollars (\$1,000) in the election year per individual or organization[.]" It goes on further to provide:

A judicial candidate subject to public election may personally solicit campaign contributions from members of the judge's family

Notably, this provision does not provide that the campaign contribution limit does not apply to family.

Furthermore, the Commentary to the Canon set forth above directs that the campaign committee follow the reporting requirements in SDCL 12-72-22 and SDCL 12-27-24 thru -28. They are also required to follow SDCL 12-27-15.

[REDACTED] cites to SDCL 12-27-8 in inquiring whether family members are limited by the \$1,000 contribution. This statute provides:

If the contributor is a person, no candidate for legislative or county office or the candidate's campaign committee may accept any contribution which in the aggregate exceeds one thousand dollars during any calendar year. A candidate campaign committee may accept contributions from any candidate campaign committee, political action committee, or political party. The limitation on any contribution from a person in this section does not apply to any contribution by

the candidate or the candidate's immediate family. A violation of this section is a Class 1 misdemeanor.

This statute, however, applies to candidates running for legislative or county office. There is nothing in the Canons which incorporate its use into judicial elections. Thus, it does not apply to judicial elections and contributions in judicial elections are limited to \$1,000 per individual, including family members.

██████████ also inquires as to the following:

Whether a candidate can contribute more than \$1,000 to their judicial election.

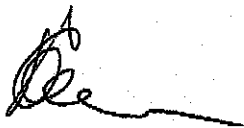
The Committee answers in the affirmative.

The Canon set forth above refers throughout to the "judicial candidate." Notably, when it restricts the contributions to \$1,000 it is applied to an "individual" or "organization." If the intent was to apply this to the candidate himself, it could have been easily stated.

Judicial elections were originally intended to be different from elections for representative offices. Judges are expected to conduct themselves as fair and impartial. They do not represent constituents and are nonpartisan. Contributions are limited per individual or organization to protect the public's confidence in the judiciary and to safeguard the impartiality of the judiciary. A candidate's contributions of personal funds to his/her own campaign does not diminish the integrity of the judicial process.

With this letter, the Committee considers this matter concluded and has elected to treat this as a formal opinion. This opinion, however, is advisory in nature and should be regarded as such.

For the Committee,



Robert A. Miller, Retired Chief Justice
Committee Chair

The Committee is a non-partisan group dedicated to preserving the dignity and integrity of this state's judicial system. We believe judicial candidates should aspire to the highest ethical standards to promote public trust and confidence in the fairness and impartiality of this state's courts. We do not endorse candidates, and this opinion is not intended to announce support for, or opposition to, any candidate. Instead, we strive to educate the candidates, the media, and the public about judicial campaign conduct.