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Judge

COURT OF COMMON PLEAS
THIRTY-FIRST JUDICIAL DISTRICT

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December 22, 2009

The Honorable John C. Uhler, Judge
Court of Common Pleas of York County
Judicial Center
York, PA 17401

Re.: Juvenile Court Ethical Issues

Dear Judge Uhler:

Thank you for your letter of September 29, 2009, addressed to Judge Lazarus. I am responding to it as her successor as chair of the Ethics Committee.

As you know, the Committee generally responds to requests for guidance in one of two ways: By formal opinion for those questions that are frequently asked and may be amenable to statewide application or by informal opinion for those questions that are factually specific to an individual judge. Your letter lacks the factual specificity required for a meaningful, informal response. It does, however, present issues that may arise frequently across the Commonwealth.

As you have alluded, while your inquiry focuses on situations confronting juvenile court judges, the issues raised confront all judges -- family, civil, criminal and orphans' court judges, as well as juvenile court judges -- and the personnel under their supervision who are in the position to recommend or refer litigants to private providers of a wide-range of services, products and programs, including evaluations, detention, in-patient and out-patient rehabilitation, therapy and devices and software to monitor substance use and physical location, that have grown enormously over the years. Some of these providers offer judges, or personnel under their supervision, the opportunity to visit their facilities, partake of their food or entertainment, and endorse their products or

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services. In general, you ask whether, when and under what circumstances may judges, or personnel under their supervision, accept such offers or engage in such activities.

These are extremely broad questions, and recently exposed abuses demonstrate it may be helpful to address them for the benefit of the entire judiciary. The Committee believes the task of doing so is too ambitious for the Committee alone given its other responsibilities and resources, and, for the sake of ensuring a thorough, competent and credible consideration of those issues, would require the participation of a broader cross-section of the judiciary, including juvenile and specialty-court judges, than is represented on the Committee.

Furthermore, the Committee's rules, and the Supreme Court's view of the Committee's mission, are somewhat restrictive when applied to the way in which we understand you may wish for the Committee to pronounce on those issues. Those issues are not presented to us as imminent, prospective ethical concerns within the context of specific factual situations by sitting judges, nor have they been presented frequently enough to warrant a formal opinion summarizing the Committee's holdings on such matters. In addition, there is some concern that the Committee's efforts might be distorted by various interests involved in the Luzerne County matters. Those concerns would be alleviated if the officers of the Pennsylvania Conference of State Trial Judges and the Supreme Court approve the type of participation you are requesting of the Committee.

The Committee would be pleased to be part of the conversation to move that process along. The Committee has the expertise and sensitivity to address the many ethical concerns that will necessarily be part of that discussion. Furthermore, once the process is completed, or even if it is not, judges will, we expect and hope, turn to the Committee for advice as to their prospective conduct.

We would be happy to meet with you and representatives of the Juvenile Court Judges' Commission to discuss how best to meet this need and prepare a proposal to the officers of the Pennsylvania Conference of State Trial Judges and the Supreme Court for their consideration.

Sincerely,



Edward D. Reibman

Cc: Ethics Committee Members