

MINUTES OF CONFERENCE CALL
JD ETHICS COMMITTEE
SEPTEMBER 19, 2007

PARTICIPATING WAS: AJC: Justice Marc Amy
Justice Randy Holland
Justice John Martin
Justice Tom Wine
Justice Burrell Carter

LC: Marla Greenstein

ALJ: Judge Ronnie Yoder

SCJ: Judge Bob Pirraglia

Sue Campbell
John Holtaway
ABA Center for Professional Responsibility

DISCUSSION: A). The meeting began with each participant introducing himself/herself which included the mention of his/her past ABA activities, including service on The JD Ethics Committee. There were some new members to the Committee and some veterans, a mix of experience and “fresh blood”.

B). The Committee took up what they perceived as The Mission of the Committee. All agreed that the committee should help promulgate and market The Model Code but Marla Greenstein suggested adding language that made clear that the Committee acknowledged that the adoption and distribution of the Code was the prerogative of the judicial leadership of each of the fifty states.

In the course of discussing the Committee’s Mission, Judge Yoder pointed out that the nation’s ALJs had a somewhat different role from that of state judges and that there was a separate model code for ALJs that had/will be presented to these judges. Judge Yoder said this should be kept in mind when talking to ALJs about The ABA Model Code.

After further discussion, the Committee agreed that the “targets” of the Committee’s informational/marketing efforts should include: the members of the JD, other ABA judicial members and ABA lawyer members, non-ABA judges/lawyers and the public. Regarding this outreach effort, Marla Greenstein recommended partnering with the lawyer members of the ABA, especially The LC of the JD and The litigation Section. Regarding outreach to the public, there was discussion that contact be made with The ABA Division for Public Information which yearly works with state judiciaries re Law Day Programs. The theme for Law Day 2008 is The Rule of Law. Judge Pirraglia said he would make that contact.

C). Sue Campbell briefed the Committee on those judges, courts, judicial and judicial-related entities that had received copies of the Code. She said these

included the Chief Justice and the Associate Justices of the United States Supreme Court, the Chief Judge and each of the Judges of the U.S. Circuit Courts of Appeal, The Chief Justice and the Associate Justices of each of the fifty state Supreme Courts, the Court Administrators, the Judicial Education Officers and the Judicial Disciplinary Councils of the fifty states, The BOG of the ABA, the Presidents of the fifty state bar associations, the fifty State Delegates to the ABA House of Delegates, the JD, etc.

Ms. Campbell said that twenty states are currently reviewing the Model Code. She said she would provide a list of these states to the Committee for follow up.

She said a number of states had not established committees to undertake a review of the Code and the Committee discussed the ways available to encourage them to do so.

Justice Holland recommended contacting non-moving states and the Committee discussed possible persons who could be recruited to work with the Committee in this regard. KY Supreme Court Justice Minton, New York Chief Justice Judith Kaye and the Justice/Justices who provided The ABA Model Code Study Commission input from The Conference of Chief Justices (CCJ) were mentioned.

Judge Pirraglia recommended that he and Justice Holland discuss the matter with JD Chair, Justice Jim Wynn. He said he would contact the Judge and arrange a telephone conference with him to talk the matter through. Judge Pirraglia asked Sue Campbell to provide him with the name/names of the Justice(s) who provided the Code Study Commission with the input of The CCJ.

D). John Holtaway informed the Committee that by January 08 a history of the discussions and decisions by The Model Code Study Commission would be made available to the Committee and other ABA/allies entities for use in the marketing of the Code to the fifty states. Sue Campbell said a short version is currently available on the internet along with other information of the Code and she promised to send these links to Committee members (which she did following the conference call).

E). Judge Pirraglia then outlined his proposals for Committee action for 2007-8 and referred Committee members to a copy of the e-mail he sent to Professor Steven Gillers, Chair of The CPR's (Code) Implementation Committee that listed his recommendations.

1). the establishment of a close working relationship between the CPR, more especially, The Gillers Committee to ensure the sharing of information and the coordination of efforts. In that regard, he informed the Committee that he had been added to The Center's list serve and he had added Center leaders to the Committee's new list serve;

2). the identification, upon request, of JD Members who could accompany CPR representatives on visits for meetings with those state judicial entities that were reviewing the Model Code;

3). the marketing to the fifty state judicial education officers of a ethics educational program based on the Model Code developed by he and Florida Circuit Judge Karl Grube. Entitled, "The Ethics of Judicial Communication and Outreach and the

Model Code”, through several real-life scenarios, this program would illustrate the several “judge friendly” features of the Code that state judicial leaders and judges should know about. Judge Pirraglia said this program would be “field tested” in Seattle in October at an educational symposium sponsored by The ABA Traffic Court Committee and he said he had submitted a proposal to put on this same program to The ABA Program Committee at Midyear;

4). Pirraglia also informed the Committee of his phone and e-mail contact with Attorney Bill Allen of Arkansas who was appointed by ABA President Bill Neukom to coordinate a fifty state “Domestic Rule of Law Program”. The Judge said he recommended to Allen that a portion of these state Rule of Law Meetings be devoted to outlining-in lay terms- the close nexus between judicial power and accountability and the relationship between the Canons of Judicial Ethics, more especially, the Model Code and the preservation of the rule of law and the individual rights guaranteed all Americans in our federal and state Bills of Rights. He said he would follow up with Allen in the next few days and would suggest partnering with his Committee in devising and implementing the state Rule of Law Meetings.

UPDATES: A). Tom Fitzpatrick, who served on The ABA Model Code Study Commission and who engineered the adoption of the Code by The HOD in February will attend and participate in the Seattle Ethics Program that will be co-presented by Judges Pirraglia and Grube next month;

B). Subject to the availability of lodging at the meeting hotel, Judge Pirraglia will attend a meeting of The CPR Implementation Committee in Chicago on October 20, 2007.

COMMITTEE MEMBER FOLLOW UPS: A). Sue Campbell will provide the Committee with a list of the twenty states where a Committee/Commission is reviewing the Code;

B). Judge Pirraglia requests that the committee be provided early notice of CPR visits with members of these Committees/ Commissions so that, if requested, local judge(s) can be identified by the Committee to partner with the CPR representative at the state meeting;

C). Marla Greenstein will provide wording re the committee’s Mission statement along the lines she recommended during the conference call. She had agreed to and will act as liaison between the Committee and The Association of Judicial Disciplinary Counsel. In that regard, Judge Pirraglia asked her to provide the Committee with an internet link with The Association’s web page-and is asking her in her capacity as liaison with this group to inquire of said Association members whether their states have/are/will be taking up the review of the Model Code and how the Committee can help provide information through them/separately to these review bodies. Finally, Marla is asked to contact the Chair of The JD LC and The Litigation Section to explore whether they would be interested in working with the Committee to develop ways to communicate with the public re judicial accountability, the

Model Code and the direct relationship between the two and the rule of law/ the protection of individual rights;

D). Judge Yoder is asked to provide the Committee with a copy of the Model Code specific to ALJs;

E). Justices Amy, Holland, Martin, Wine and Carter are asked to advise the Committee of efforts, if any, in their states to review the Model Code and they are asked to provide the Committee with the name/names of state Supreme Court Justices in the fifty states with whom they have a relationship/acquaintance to be a part of a Committee contact list that after further Committee member discussion could be contacted to work with us and The CPR to obtain an early consideration of the Model code in their jurisdictions.

CONCLUSION: If I have omitted items discussed by the committee during the conference call, items have been included that were not discussed or if errors are noted, please let me and the other Committee members know.

Thank you.

Bob Pirraglia