

Section 112.314(2), *id.*, provides that no state employee shall have personal investments in any enterprise which will create a substantial conflict between his private interests and the public interest. A state highway patrolman would officially have nothing to do with a tire distributorship. Because of this, this section is also inapplicable.

The only other provision of the Standards of Conduct Law, *supra*, which might be applicable is §112.313(2), F. S., which provides that when a state employee is a director of, or "owns a controlling interest" (more than 10 percent) in, a company which is subject to the regulations of, or which has substantial business commitments from, any state agency, county, city, or other political subdivision, he shall file a sworn statement disclosing such interest with the secretary of state. Although the corporate franchise in which you are interested does not contract directly with the state and other public agencies for tires, the contracts with such public agencies by the national company whose products the corporation distributes apparently contemplate the fulfillment of some of those contracts through the agency of such corporate distributor. If the corporate dealer or franchiser is named in such contracts, it would seem that the distributor corporation might be said to have substantial business commitments from such agencies, indirectly even though not directly; and I am inclined to the view that, to comply with the spirit and intent of the law, a sworn statement disclosing your interest in the distributor corporation should be filed in accordance with §112.313(2).

073-358—September 21, 1973

#### JUDGES

#### FILING REPORTS OF FINANCIAL CONTRIBUTIONS

To: Robert M. Deehl, Dade County Judge, Miami

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

#### QUESTION:

Are county court judges required to file the sworn statement required by §111.011(2)(a), F. S., listing contributions and expenditures thereof?

#### SUMMARY:

Financial reports of gifts, other than campaign contributions, are to be made by judges under Canon 6 of the Code of Judicial Conduct and not under §111.011, F. S. A judge should continue to report campaign contributions in accordance with the requirements of law.

Section 111.011(2)(a), *supra* [adopted by Ch. 70-230, Laws of Florida], requires each "elected public officer" to file a sworn statement containing a list of

. . . all contributions received by him or on his behalf, if any, and expenditures from, or disposition made of, such contributions by such officer *which are not otherwise required to be reported by chapter 99*, with the names and addresses of persons making such contributions or receiving payment or distribution from such contributions and the dates thereof. . . . (Emphasis supplied.)

The statements are required to be made semiannually for the periods July 1 through December 31, and January 1 through June 30, each year.

In the same year in which this statute was adopted, the Supreme Court adopted an amendment to Rule 25 of the Code of Ethics for Judges (*see* Petition of

Committee on Standards of Judicial Conduct, 242 So.2d 711, filed December 21, 1970) which, among others, required a judge to file annually with the Judicial Qualifications Commission a financial report containing a copy of his federal income tax return, a verified statement of his assets and liabilities, and "a statement of the source and amounts of all income, including gifts and bequests, received by him during the preceding year." An amendment to the quoted rule, adopted December 1, 1971 (254 So.2d 788), provides the following exception: "excluding gifts received from a judge's immediate family and *all campaign gifts which are reportable under Chapter 99, Florida Statutes, F.S.A.*" (Emphasis supplied.) (The amendment also excluded from the report of assets and liabilities an individual trade account which does not exceed two hundred dollars in any month, such as sums owed monthly to oil company credit cards, department store charges, utility bills, etc.)

On July 25, 1973, the court adopted a new Code of Judicial Conduct in lieu of the existing Canons of Judicial Ethics (*see In re: The Florida Bar—Code of Judicial Conduct*, opinion filed July 25, 1973, effective September 30, 1973). In the new Code the Florida Supreme Court included without change, as Canon 6, the provisions of former Rule 25 of the Code of Ethics for Judges referred to above relating to judges' financial reports. The court's statement in its opinion of its intent in adopting this rule (now Canon 6) is decisive of your question. It reads as follows:

We point out that Canon 6 requires the manner and method of filing financial reports. A compliance with Canon 6 supersedes the requirements of any statute relating to financial reporting and *it will not be necessary for the justices and judges to file reports under any statute* since such reports are filed under Canon 6. (Emphasis supplied.)

In light of this clear expression of intent, I have the view that the financial reports of gifts or "contributions," as defined by §111.011(1)(c), F. S., other than those required to be reported as *campaign* contributions under the provisions of former §99.161, F. S. 1971 (*see Ch. 73-128, Laws of Florida, which repealed §99.161, supra*), are to be made by justices and judges in accordance with the requirements of Canon 6 and not under §111.011, *supra*.

Accordingly, your question is answered in the negative.

073-359—September 21, 1973

#### DUAL OFFICEHOLDING

#### APPOINTMENT OF MEMBER OF APPOINTING BODY TO SECOND OFFICE

To: David E. Bruner, Collier County Attorney, Naples

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

#### QUESTION:

May a member of a board of county commissioners be appointed to serve as a supervisor of a water and sewer district?

#### SUMMARY:

The dual-office prohibition, Art. II, §5, State Const., does not apply to a special-district office. However, an appointment by a board of county commissioners of one of its own members to serve as supervisor of a water and sewer district would be contrary to the common-law rules of public policy that a public body may not appoint one of its own members to a remunerative position, and a person may not hold two