

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

CHAMBERS OF
ANDRE M. DAVIS
UNITED STATES DISTRICT JUDGE

U.S. COURTHOUSE
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February 28, 2005

Judicial Conference of the United States
Committee on Codes of Conduct
ATTN: Ms. Marilyn J. Holmes
Associate Director and General Counsel
Administrative Office of the U.S. Courts
7-290 Thurgood Marshall Federal
Judiciary Building
One Columbus Circle, N.E.
Washington, DC 20002

Dear Mr. Chairman and Members of the Committee:

On August 6, 2004, Community Rights Counsel filed a complaint against me, by its Executive Director, Douglas Kendall, with the Circuit Council of the United States Court of Appeals for the Fourth Circuit alleging that my service on the Board of Trustees of the Foundation for Research on Economics and the Environment ("FREE") constitutes a violation of 28 U.S.C. § 351 (and related Canons of the Code of Conduct for United States Judges) as "conduct prejudicial to the effective and expeditious administration of the business of the courts." I became a member of the FREE Board in the Spring of 2004. A copy of the complaint, together with the attachments thereto, is enclosed. A copy of the complaint is available at www.communityrights.org/TaintedJustice/DavisPetition.pdf. The attachments to the complaint are available at <http://tripsforjudges.org/crc.pdf>. The complaint is careful to note that it does not allege that I have actually committed an improper act, but that it is based on the appearance of impropriety.

As the within complaint notes, substantially identical complaints have been filed against the other federal judges on the FREE Board: Chief Judge Douglas Ginsburg of the Court of Appeals for the District of Columbia Circuit; Chief Judge Danny Boggs of the Court of Appeals for the Sixth Circuit; and Circuit Judge Jane Roth of the Court of Appeals for the Third Circuit.

I have briefly discussed this complaint with Chief Judge Wilkins, speaking on behalf of the Judicial Council. He and I agreed that I should request an advisory opinion from the Code of Conduct Committee as to its view on the propriety of my service on the FREE Board of Trustees. Needless to say, I can discern no impropriety in my service, as I have discerned no impropriety in my attendance at FREE's seminar series for federal judges. Indeed, it is difficult to me to reconcile attendance at FREE seminars with the notion that service on FREE's Board (whose role it is, in part, to ensure a balanced and comprehensive presentation of views by seminar leaders) is improper. If the latter is not appropriate, it seems to me that the former is likewise inappropriate.

The Committee's view in this matter is hereby requested. I will abide by any recommendation that might be forthcoming. I am pleased to provide any and all additional information that might be desired by the Committee.

Very truly yours,



Andre M. Davis
United States District Judge

cc: Honorable William A. Wilkins w/o enclosure