

40-70
Rev. 1/88

FINANCIAL DISCLOSURE REPORT
FOR CALENDAR YEAR 1997

Report Required by the Ethics Reform Act of 1989, Pub. L. No. 101-194, November 30, 1989 (5 U.S.C. App. 4, 101-112)

1. Person Reporting (Last name, first, middle initial) Porteous (Jr.), Gabriel T.	2. Court or Organization United States District Court Eastern District of Louisiana	3. Date of Report 5/13/98
4. Title <i>(Article III Judges indicate active or senior status; magistrate judges indicate full- or part-time)</i> ACTIVE United States District Court Judge	5. Report Type (check appropriate type) ___ Nomination, Date _____ ___ Initial <input checked="" type="checkbox"/> Annual ___ Final	6. Reporting Period 1/1/97 - 12/31/97
7. Chambers or Office Address United States District Court 500 Camp St., C206 New Orleans, Louisiana 70130	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	

I. POSITIONS. *(Reporting individual only; see pp. 9-13 of Instructions.)*

POSITION	NAME OF ORGANIZATION/ENTITY
<input checked="" type="checkbox"/> NONE (No reportable positions.)	
1	
2	
3	

RECEIVED
 MAY 15 2 51 PM '98
 FEDERAL BUREAU OF INVESTIGATION
 U.S. DEPARTMENT OF JUSTICE

II. AGREEMENTS. *(Reporting individual only; see pp. 14-16 of Instructions.)*

DATE	PARTIES AND TERMS
<input checked="" type="checkbox"/> NONE (No reportable agreements.)	
1	
2	
3	

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of Instructions.)*

DATE	SOURCE AND TYPE	GROSS INCOME <small>(yours, not spouse's)</small>
<input type="checkbox"/> NONE (No reportable non-investment income.)		
1		
1997	State of Louisiana (Department of Employment Security) (S)	\$
2		\$
3		\$
4		\$
5		\$

SC00227

HP Exhibit 103(a)

FINANCIAL DISCLOSURE REPORT

Name of Person Reporting Porteous (Jr.), Gabriel T.	Date of Report 5/13/98
--	---------------------------

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.

(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of Instructions.)

	SOURCE	DESCRIPTION
<input checked="" type="checkbox"/>	NONE (No such reportable reimbursements.)	
1		
2		
3		
4		
5		
6		
7		

V. GIFTS. *(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)*

	SOURCE	DESCRIPTION	VALUE
<input checked="" type="checkbox"/>	NONE (No such reportable gifts.)		
1			\$
2			\$
3			\$
4			\$

VI. LIABILITIES. *(Includes those of spouse and dependent children; indicate, where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)*

	CREDITOR	DESCRIPTION	VALUE CODE*
<input checked="" type="checkbox"/>	NONE (No reportable liabilities.)		
1			
2			
3			
4			
5			
6			



FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Porteous (Jr.), Gabriel T.	Date of Report 5/13/98
------------------------------------	--	---------------------------

VII. Page 1 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*



<input type="checkbox"/>	NONE (No reportable income, assets, or transactions.)												
	Fidelity Investments												
1	Fidelity Management Trust-IRA	E	Distrib.	K		None							
	Noble Drilling Corp.		None	J		None							
2	Common Stock		None	J		None							
	Oberweis FDS		None	J		None							
3	Emerging Growth Mutual Fund		None	J		None							
4													
5													
6													
7													
8													
9													
10													
11													
12													
13													
14													
15													
16													
17													
18													



FINANCIAL DISCLOSURE REPORT

Name of Person Reporting

Porteous (Jr.), Gabriel T.

Date of Report

5/13/98

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS (Indicate part of Report)**IX. CERTIFICATION.**

In compliance with the provisions of 28 U.S.C. § 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. 4, § 501 et. seq., 5 U.S.C. § 7353 and Judicial Conference regulations.

Signature



Date 5/13/98

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. App. 4, § 104.)



SC00230

Financial Disclosure Report

**Filing Instructions
for Judicial Officers
and Employees**

**Financial Disclosure Office
Administrative Office of the U.S. Courts
One Columbus Circle, N.E., Suite 2-301
Washington, D.C. 20544
202-273-4626
January 2, 1998**

HP Exhibit 103(b)

**Major Changes to Financial Disclosure
Instructions for 1997**

There are few substantive changes from last year's filing requirement. However, the Instructions concerning the reporting of individual assets contained in brokerage accounts, trusts, estates, and IRAs have been further clarified, especially for filers listing a position as executor, trustee, or similar position in Part I of the report.

The Committee continues to find it difficult to close reports that attach financial statements in lieu of completing Part VII, Investments and Trusts, of the Financial Disclosure Report (AO Form 10). Such reports often fail to provide the required information and lack a consistent and uniform format necessary for Committee review. Moreover, they often provide confidential information that is not required, such as account numbers, Social Security numbers, and home addresses. Accordingly, each filer should ensure that the appropriate entries concerning investments and trusts are entered in Part VII of their Financial Disclosure Report (AO Form 10).

Specific changes and their page numbers are listed below:

- 1. Part IV, Reimbursements of Transportation, Lodging, Food, and Entertainment, page 25, has been clarified, so that this part deals exclusively with reimbursements of travel related expenses reporting person, spouse, and dependent children. There are no substantive changes with respect to the items to be reported or how they will be reported.*
- 2. Part V, Gifts, page 29, has been clarified, so that this part deals exclusively with gifts received by the reporting person, spouse, and dependent children. There are no substantive changes with respect to the items to be reported or how they will be reported.*
- 3. The reporting requirements for investment clubs in Part VII, page 51, have been clarified as follows:*

Report the holdings and sources of income from private investment clubs or investment partnerships. In these arrangements, the basic rule is that the income, value, and transactions of the holdings of any investment club or similar arrangement in which you, your spouse, or dependent child have a beneficial interest must be reported if the investment club or partnership had ownership of any asset having a value of \$1,000 at the end of the reporting period, regardless of the value of your, your spouse, or dependent child's individual share. Your listing of assets requires the completion of Columns A, B, and C for each asset owned by the investment club having a value in excess of \$1,000 and the completion of Column D for any club transaction in excess of \$1,000.

SECURITY ISSUES

Every filer should be aware that the Ethics Reform Act of 1989 makes your Financial Disclosure Report a **PUBLIC DOCUMENT**. This means that a person seeking to harm or harass you and your family can get a copy of your Financial Disclosure Report. There have been instances of such misuse of information provided by filers.

The Committee makes the following recommendations so that you can satisfy the requirements of the Ethics Reform Act while accommodating appropriate security concerns:

(1) When filing your report, enter your **CHAMBERS OR OFFICE ADDRESS** in block 7. Do **NOT** use your home address for any purpose in connection with your Financial Disclosure Report.

(2) In Part VII, do **NOT** provide more financial detail than is required by the Instructions. For example, for bank accounts, provide only the name of the institution and the city and state in which it is located. For certificates of deposit, provide only the name of the institution that issues the certificate. For rental properties, provide only the city (or county) and state in which the property is located. If you have more than one rental property in a particular location, you may identify the properties as "Rental Property #1, Cincinnati, Ohio," "Rental Property #2, Cincinnati, Ohio," and so on.

(3) It is not necessary to report your personal residence or residences in Part VII (unless a portion of your residence is rented to a third party). Similarly, do not report any mortgage, equity loan, or line of credit secured by a personal residence, vehicle, boat, or motor home in Part VI.

(4) In addition, some filers wish to provide their federal income tax return. Paradoxically, this method provides too much information, and at the same time not enough information. The tax return shows interest and dividends in Schedule B and sales of assets in Schedule D in specific detail, but it does not provide the protection of the income and value codes and does not include lists of your current holdings. Therefore, a tax return does not meet the requirements of the Ethics Reform Act.

If your Financial Disclosure Report is requested, you will be notified by mail when it is released. If you have any concerns or questions about the release of your report, please call the Financial Disclosure Office at (202) 273-4626 or discuss the matter with your Marshal.

**FINANCIAL DISCLOSURE INSTRUCTIONS FOR
JUDICIAL OFFICERS AND EMPLOYEES**

TABLE OF CONTENTS

	Page
INTRODUCTION	1
WHO MUST FILE, WHEN AND WHERE	1
Extensions of Time to File	3
Filing Fee	3
Where to File	4
Amendments	4
Waivers	5
GENERAL INSTRUCTIONS	5
"None" Box	5
Disclosure Concerning Family Members	5
Extra Pages; Attachments	6
Alternative Format For Reporting	6
Reconciliation with Prior Reports	7
INSTRUCTIONS FOR COMPLETING EACH PART	9
I. Positions	9
II. Agreements	14
III. Non-investment Income	17
A. General Non-investment Income	17
B. Outside Employment and Honoraria	19
C. General Provisions	21
IV. Reimbursements of Transportation, Lodging, Food, Entertainment	25
V. Gifts	29
VI. Liabilities	33
VII. Investments and Trusts	36
1. General	36
2. Description of Assets	38
3. Income	42
4. Value	44
5. Transactions	47
6. Trusts and Similar Entities	50
VII. Explanatory Comments	55
IX. Certification and Signature	55
COMPLIANCE AND SANCTIONS	56
ETHICAL STANDARDS	56
PUBLIC ACCESS	56
APPENDIX I - INITIAL REPORTS	58
Who Must File and When	58
Instructions for Completing Each Part	58
Identifying Information	58

I. Positions	59
III. Non-investment Income	59
IV. and V. Reimbursements and Gifts	59
VI. Liabilities	59
VII. Investments and Trusts	59
APPENDIX II - FINAL REPORTS	60
Who Must File and When	60
Instructions for Completing Each Part	60
Identifying Information	60
Parts I. - VII.	60
APPENDIX III - Additional References.	61
INDEX	62

INTRODUCTION

Three types of Financial Disclosure Reports--initial, annual, and final--are required by the Ethics Reform Act of 1989, published in Title 5 of the United States Code Annotated, Appendix 4, Sections 101-112.

These Instructions govern the preparation and filing of AO Form 10, which is to be used by judicial officers and employees for all Reports due after January 1, 1998. The body of the Instructions covers reporting requirements for annual Reports, which in some cases also apply to initial and final Reports. Where requirements for initial and final Reports differ from the annual reporting requirements, specific information can be found in Appendices I and II, respectively, of these Instructions.

The Act requires that the Committee on Financial Disclosure review each Report to assure that, on the basis of the information provided, the reporting person is in compliance with applicable laws and regulations. Section 106(b)(1). The Committee also reviews reports to determine potential conflicts of interest or ethical problems.

Questions concerning the reporting requirements (and suggestions for improving the AO Form 10 or these Instructions) should be addressed to: Committee on Financial Disclosure, Administrative Office of the United States Courts, One Columbus Circle, N.E., Suite 2-301, Washington, D.C. 20544.

WHO MUST FILE, WHEN AND WHERE

JUDICIAL OFFICERS AND JUDICIAL EMPLOYEES are required to file an annual Report by May 15 following each calendar year in which they performed their duties for more than sixty (60) days. Section 101(d). Filing before the due date is encouraged to ease the burden on members of the Committee on Financial Disclosure who review the Reports, as required by the Act.

JUDICIAL OFFICERS are defined in the Act as the Chief Justice and Associate Justices of the Supreme Court, and the judges of United States courts of appeals, United States district courts, including the district courts in Guam, the Northern Mariana Islands, and the Virgin Islands, Court of International Trade, Tax Court, Court of Federal Claims, Court of Veterans Appeals, United States Court of Appeals for the Armed Forces, and any court created by an Act of Congress, the judges of which are entitled to hold office during good behavior. Section 109(10).

A JUDICIAL EMPLOYEE is any employee, other than a JUDICIAL OFFICER of the judicial branch of Government, of the United States Sentencing Commission, of the Tax Court, of the Court of Federal Claims, of the Court of Veterans Appeals, or of the United States Court

of Appeals for the Armed Forces, who

- (a) is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, e.g., bankruptcy judges and magistrate judges; or
- (b) who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule.

Section 109(8).

Persons whose obligation to file Reports may vary from year to year, e.g., a senior judge, or recalled bankruptcy judge or magistrate judge who may perform more than 60 days of service in one year but not in another, should certify their exempt status to the Committee on Financial Disclosure by May 15th, if they are exempt from filing for the prior year. This will avoid an inquiry from the Committee concerning failure to file. When they file their next Reports, they should explain any apparent inconsistencies resulting from the "gap" between the two reporting periods.

For information on who must file initial and final Reports, and when they must be filed, see Appendices I and II, respectively.

Commentary

The General Counsel of the Administrative Office has determined that the term "basic pay" within the definition of a judicial employee does not include locality pay or geographic cost-of-living allowance (COLA) received by some employees in Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands. Geographic COLAs are considered additional allowances for the cost of living rather than part of the basic rate of pay. Similarly, there is no express statutory authority permitting court employees to receive locality pay. Payment is based upon the Director of the Administrative Office's authority to set compensation and is treated in the same manner that locality pay is treated in the Executive Branch, which does not consider locality pay as a part of basic pay.

In addition, the Committee has held that the "rate of basic pay" to be used to determine whether a reemployed annuitant who is not authorized to perform adjudicatory functions must file a Report does not include the annuity. Part-time employees without adjudicatory functions are deemed to satisfy the filing threshold if the money earned meets the statutory minimum. Thus, the "rate of basic pay," rather than total pay, should be used to determine the need to file a Report.

A part-time magistrate judge whose annual salary level is less than 16.4% of the salary of a full-time magistrate judge will normally perform the duties of his or her office for less than sixty-

one (61) days each year and accordingly is not required to notify the Committee of his or her exempt status.

Extensions of Time to File

The Committee on Financial Disclosure may grant reasonable extensions of time for filing initial, annual, and final Reports. Requests for extension should be submitted in writing to the Committee before the due date and should explain why the extension is necessary. The maximum extension permitted by the Act is 90 days. Section 101(g).

Emergency requests for extension may be made by telephone to the Committee staff if the reason for the request could not have been reasonably anticipated. A letter confirming the request should be sent promptly to the Committee. A letter confirming the oral response will be sent promptly by the Committee.

Commentary

The authority to grant an extension has been delegated to the Committee Counsel by the Committee.

Filing Fee

The statute requires a person to file a timely Report. One who files a Report more than thirty (30) days after the date the Report was due may be assessed a filing fee of \$200.00. If for good reason it is necessary to request a delay in filing, extensions of time of up to 90 days may be granted by the Committee on Financial Disclosure. The statute states that extensions beyond 90 days are not permissible. Absent a waiver, those granted a full 90 day extension will have to pay the fee if they do not file by the 120th day. Section 104(d)(1).

The Committee may waive the filing fee for extraordinary circumstances. Requests for waivers must be submitted in writing to the Committee with explanation of the reason(s) the Report was not filed on time. Section 104(d)(2).

Commentary

When a Report is filed more than 30 days after the date it is due, the filer is assessed a late filing fee of \$200. The fee is deposited in the United States Treasury. If a filer requests a waiver of the fee due to extraordinary circumstances, the Committee has delegated the authority to approve waivers involving failure of the postal system or physical incapacity of the filer to the Subcommittee on Compliance. Requests for waiver of the fee for any other "extraordinary circumstance" require a decision by the Committee as a whole. Please note, that Reports are deemed to have been filed five (5) days prior to physical receipt for the purpose of determining whether the Report has been timely filed.

Where to File

Effective January 1, 1991, the original and three copies of the Report, and of any amendments (including amendments in response to letters of inquiry) are to be filed with:

Committee on Financial Disclosure
Administrative Office of the United States Courts
One Columbus Circle, N.E., Suite 2-301
Washington, D.C. 20544

Section 103(h)(1)(B).

The additional copies of the Report may be made by photocopying the original, rather than by retyping or using carbons.

Commentary

Reports are not considered to have been received unless they are physically received in the Financial Disclosure Office and contain an original signature. Reports will be date stamped as soon as they are received by the Financial Disclosure Office. Reports sent to the Financial Disclosure Office by facsimile or other electronic means are not considered to be received until a copy with an original signature is received.

Amendments

A Report may be amended by filing an amended AO Form 10 for that year, fully explaining items added to, or changed from, the original submission.

Alternatively, additional information may be submitted by a separate letter addressed to the Committee. You should identify the Report(s) and Part(s) being corrected and provide complete information for the item(s) being corrected. Sign the letter personally, which will constitute your certification to the accuracy and completeness of the Report(s) as amended.

Regardless of which method is used, you should file amendments in the same manner as for the original, i.e., a signed original and three copies with the Committee.

Commentary

Self-initiated amendments will be certified in the same manner as an original Report. Each reviewer will complete block 8 on the AO Form 10 for each amendment as amended.

Waivers

The Committee may grant a request for a waiver of any reporting requirement for one who is expected to perform the duties of the office or position less than one hundred and thirty (130) days in a calendar year, but only if the Committee determines that:

- (1) the person is not a full-time employee of the Government;
- (2) the person is able to provide services specially needed by the Government;
- (3) it is unlikely that the person's outside employment or financial interests will create a conflict of interest; and
- (4) public financial disclosure by the person is not necessary under the circumstances.

Any request for such a waiver must be directed in writing to the Committee with a detailed explanation of the facts upon which the Committee can make the determinations required under the Act. All such requests are available to the public. Section 101(i).

GENERAL INSTRUCTIONS

The Report should be legible. Its format has been designed to be completed on most typewriters. The name of the person and date of the Report should appear on each page. Financial Disclosure Report software is available upon request from the Office of the Committee.

"None" Box

Parts I through VII of the Report must be completed. If you have no reportable items in any of these parts, do not simply leave it blank or mark it as "N/A," but instead mark the "None" box as an affirmative declaration of the fact.

Disclosure Concerning Family Members

A reporting person is required to disclose financial information concerning a spouse and dependent children, and the form is designed for inclusion of this information. Section 102(e)(1). The requirement to disclose trust information for a spouse and dependent children only when a beneficial interest exists is found on pages 50 and 51. The Act does not require disclosure of the financial interests of other family members, nor is it required with respect to a spouse who is living separate and apart with the intention of terminating the marriage or permanently separating. Section 102(e)(2).

The Act defines a dependent child as a "son, daughter, stepson, or stepdaughter . . . who--
(A) is unmarried and under age 21 and is living in the household of the reporting person; or
(B) is a dependent of the reporting person within the meaning of section 152 of the Internal Revenue Code of 1986." (26 U.S.C. § 152)
Section 109(2).

When reporting information about a spouse or dependent children, add the parenthetical "(S)" or "(DC)" to signify the person(s) to whom it relates. The parenthetical "(J)" should be used to signify an item jointly held or owned by you and your spouse.

Extra Pages: Attachments

If more space is needed for any Part than is provided on the form, make the additional entries on a new page and include it as a numbered attachment. The identifying information (name and date of Report) must appear on each attachment page. If you make these entries on other than a photocopy of a page from the form, make sure that the Part being continued is indicated and that all the required information is given.

Alternative Format For Reporting

The computer program available from the Administrative Office provides an acceptable format for reporting.

It is permissible in exceptional circumstances to provide the required information in any Part of the Report in an alternative format but only upon a specific written determination by the Committee that such alternative reporting is acceptable. Those wishing to use alternative formats should seek permission to do so by writing to the Committee stating in detail the format to be used, why the request is being made, and whether it is for the current Report only or for future Reports, as well. All information submitted must be in a format easily reconciled with prior Reports. Section 102(b)(2)(A).

In the absence of permission to use an alternative format, no extrinsic reports or documents may be used as substitutes for disclosure on the AO Form 10 as provided. This limitation is necessary to avoid additional burdens that would occur in the review process if a variety of documents, with different formats and often with extraneous information, were permitted.

Reconciliation with Prior Reports

Each Report should be complete in itself. No information may be adopted by reference to prior Reports. If letters approving a specific transaction, position, or agreement have been received from the Committee, or if the Committee on Codes of Conduct has approved particular conduct or actions, a copy of the letter of approval should be attached to each Report to avoid a letter of inquiry.

Compare the information on your current Report with that in the prior Report to assure that each is complete and correct.

To assist the Committee during the review process, list items in each Part of the Report in the same order as shown in the prior Report (placing any new items at the bottom of the list or of the appropriate subdivision of the list).

Personal Information

AO-18
Rev. 1/98

FINANCIAL DISCLOSURE REPORT
FOR CALENDAR YEAR 1997

Report Required by the Ethics Reform Act of 1989, Pub. L. No. 101-194, November 30, 1989 (5 U.S.C. App. 4, 101-112)

1. Person Reporting (Last name, first, middle initial) Smith, John B.	2. Court or Organization U.S. District Court, North Dakota	3. Date of Report April 16, 1998
4. Title (Article III Judges indicate active or senior status; Magistrate Judges indicate full- or part-time) U.S. District Judge - Senior Status	5. Report type (check appropriate type) ___ Nomination, Date _____ ___ Initial <input checked="" type="checkbox"/> Annual ___ Final	6. Reporting Period January 1, 1997 - December 31, 1997
7. Chambers or Office Address U.S. Courthouse 44 West 32 nd Street Fargo, North Dakota 58107	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	
This information is confidential and should not be disclosed to the public.		

Notes to filer:

- ___ Are blocks 1 through 7 filled in?
- ___ Does block 4 show your status?
- ___ Does block 5 indicate the type of report?
- ___ Does block 6 cover the correct reporting period?

Commentary

Blocks 1 through 8 of the heading to the report should be filled in as indicated:

Block 6. Reporting Period. The following entry should be made for Annual Reports: January 1, 1997-December 31, 1997.

Block 8. Certification. Reviewing official will sign and date this block when the report is complete. The front page of the AO-10 with the reviewing judge's original signature will be returned to the Financial Disclosure Office for permanent filing.

Certification by the reviewing judge or committee counsel, as reviewing officials, certifies that the information in the report, any amendments, or attached correspondence has been disclosed in accordance with applicable laws and regulations. The reviewing official has the authority to approve the report as submitted, direct that a letter of inquiry be sent, or waive an error as de minimis and approve the report. The reviewing official can also approve a report and direct that an advisory letter be sent to provide the filer with guidance for future reports. All letters of inquiry are prepared for the Chair's signature on Committee letterhead stationery. The Chair has authority to revise or waive a letter of inquiry and approve a report.

INSTRUCTIONS FOR COMPLETING EACH PART

I. Positions

Only information pertaining to the reporting person is required in this Part.

In this Part a complete listing is required of all positions held by the reporting person as an officer, director, executor, administrator, trustee, guardian, custodian, or similar fiduciary, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. Disclose your position even if you are not compensated and even if neither you nor a member of your family has any financial interest in the entities herein listed. Please note that positions held are reported in this Part while assets owned or held are reported in Part VII. **You need not report any positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature. Section 102(a)(6)(A).**

In completing this Part, for annual Reports, the reporting period consists of the calendar year preceding the date of the Report, and the time to the date of the Report. Section 102(a)(6)(A). For initial and final Reports, refer to Appendices I and II, respectively, of these Instructions.

An interest as a limited partner in an investment partnership, if you have no managerial responsibilities, reflects assets held or owned, but not a position held. The position as such a limited partner need not be reported in Part I, but the interest must be disclosed in Part VII.

For Article III judges, bankruptcy judges, and magistrate judges, the Codes of Conduct for United States Judges specify additional constraints on the positions that may be held. See especially Canon 5. Part-time magistrate judges are governed by special rules as provided in 28 U.S.C. § 632(b) and the Guide to Judiciary Policies and Procedures, Volume II, Chapters I and III.

Additional information--e.g., an opinion from the Committee on the Codes of Conduct, or approval from a Judicial Council--that bears on the question whether a position presents a potential conflict of interest problem or problem under the Code of Conduct for United States Judges should be provided in Part I or Part VIII or on an attached page.

If you did not hold any reportable positions at any time during the reporting period, check the "None" box rather than leaving Part I blank.

I. POSITIONS. <i>(Reporting individual only; see pp. 9-13 of Instructions.)</i>	
<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
<input type="checkbox"/> NONE (No reportable)	
¹ Director	Fargo Boys Club
² Trustee	John Smith III Trust
³	

Notes to filer:

___ Do you have any reportable positions? If not, is the NONE box checked?

___ Did you provide the full name of the position and the organization?

___ Does the position appear to represent a conflict of interest?

___ Does the position require a listing of assets in Part VII?

Commentary

In completing this Part, the reporting period is not always consistent with the reporting period delineated in Block 6 of the heading. For annual reports the reporting period consists of the calendar year of the Report and the current year up to the date of the report.

The positions a filer can hold are normally determined by the filer's status. Each category is affected by the Canons and statutes governing the creation and duties of the position held. Examples are as follows:

Judges

A judge should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of judicial duties. "Member of the judge's family means any relative of a judge by blood, adoption, or marriage or any other person treated by a judge as a member of the judge's family." (Canon 5D.)

The duties of a co-trustee, even if nominal, are fiduciary in nature. Canon 5D would seem to rule out service as fiduciary for other than a trust for a member of the judge's family. Even service as a fiduciary for other than a member of the family, covered by the Canon's section on "Effective Date of Compliance," and amended, for federal judges, by action of the Judicial Conference at its April 1973 meeting, seems to contemplate a relationship with an individual. In any event, such a relationship should be terminated unless a substantial interest of the estate or person would thereby be jeopardized. (Advisory Opinion No. 33.)

A judge who, before ascending the bench, served as an executor of the estate of a nonfamily member, or as trustee of a nonfamily trust may, with the approval of the judicial council of the circuit, continue in that capacity if resignation would cause undue hardship to the estate and its beneficiaries, but may not receive compensation for such service. (Compendium § 5.1-3(a) (1997).)

Note: A judge may serve as a part-time special lecturer in law or as a faculty member at a law school. It is necessary for the judge to obtain advance approval from the chief judge of the circuit, or in the case of the chief judge from the judicial council, before engaging in teaching activity. The normal restrictions on extra judicial compensation apply; the compensation must be reasonable in amount, no greater than a similarly situated non-judge would receive for the same service; the 15% cap on outside earned income is applicable; and the payments must be included in Part III of the Report. The teaching duties should not in any way interfere with the performance of judicial duties.

If a judge fails to obtain prior approval of teaching, the approving chief judge has authority to approve teaching for compensation nunc pro tunc if satisfied that the failure was occasioned by excusable neglect, the application would have been approved if timely filed, and other criteria for approval are satisfied. If circumstances do not justify nunc pro tunc approval, the judge's only recourse is to refund the compensation. (Compendium § 35.7 (1997).)

In a partnership engaged in real estate investment, a judge may have a passive investment as a general partner. Canon 5C(2) prohibits active business participation.

Note: In the case of partnerships, the Report should clearly reflect the purpose and the assets of the business, including the percentage owned by the filer. If the partnership owns or trades in securities, individual stocks and transactions should be reported in Part VII.

It is permissible for a judge to be an uncompensated officer or director of a business wholly owned by members of the judge's family. (Compendium § 5.2-3(c)(1997).)

Under Canon 5C(1) a judge may manage investments, etc., but the judge should not personally manage or operate any business, including a farm or ranch. This would not preclude the judge's participation in decisions with respect to the purchase, sale and use of land, the purchase of equipment and supplies, or the sale of farm produce or livestock from a farm or ranch which the judge owns but is operated by a farm manager or hired hand. (Advisory Opinion No. 30.)

A judge may serve as a member of the board of directors of a nonprofit social club, or a nonprofit club whose object is to promote an interest in and to enlighten its membership on important governmental, economic and social issues, provided that (a) the club does not engage in partisan politics and (b) the judge does not take positions on issues which would embarrass the judge in the exercise of judicial duties. (Advisory Opinion No. 15.)

A judge may serve on the board of trustees of a university foundation (no fund-raising involved). (Compendium § 5.3-3(b)(1997).)

Senior judges designated in 5 U.S.C. app. 4, § 502(b), (justices and senior judges) are excluded from the 15% cap on compensation received from approved teaching. Even if the Ethics Reform Act is satisfied, provisions of the Code of Conduct for United States Judges must also be satisfied.

Part-time Magistrate Judges

Part-time United States magistrate judges render such service as judicial officers as is required by law. While so serving they may engage in the practice of law, but may not serve as counsel in any criminal action in any court of the United States, or act in any capacity that is inconsistent with the proper discharge of their office. Within such restrictions, they may engage in any other business, occupation, or employment which is not inconsistent with the expeditious, proper, and impartial performance of their duties as judicial officers. (28 U.S.C. § 632(b).)

Judicial Employees

a. No covered senior employee, as defined in the "Regulations of the Judicial Conference of the United States Under Title VI of the Ethics Reform Act of 1989 Concerning Outside Earned Income, Honoraria, and Outside Employment," Guide to Judiciary Policies and Procedures, Volume II, Chapter VI, Part H, shall:

- (1) affiliate with or be employed by a firm, partnership, association, corporation, or other entity to provide professional services which involve a fiduciary relationship for compensation;
- (2) permit the use of his or her name by any such firm, partnership, association, corporation, or other entity;
- (3) practice a profession which involves a fiduciary relationship for compensation;
- (4) serve for compensation as an officer or member of the board of any association, corporation, or other entity; or
- (5) receive compensation for teaching, without the prior notification and approval as herein provided.

Note: Senior employees of the Court of International Trade or the Court of Federal Claims must obtain approval from the chief judges of those courts. Senior employees of the Tax Court must obtain approval from the chief judge of the Tax Court. Commissioners and senior employees of the Sentencing Commission shall obtain approval from the Chairman of the

Sentencing Commission. Senior employees of the Administrative Office of the United States Courts must obtain approval from the Director of the Administrative Office.

b. Judicial Employees. A judicial employee may engage in such activities as civic, charitable, religious, professional, educational, cultural, avocational, social, fraternal, and recreational activities, and may speak, write, lecture, and teach. If such outside activities concern the law, the legal system, or the administration of justice, the judicial employee should first consult with the appointing authority. (Code of Conduct for Judicial Employees, Canon 4A.)

c. Federal Public Defenders. A defender employee should not engage in the private practice of law. Notwithstanding this prohibition, a defender employee may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the defender employee's family, so long as such work does not interfere with the defender employee's primary responsibility to the defender office. (Code of Conduct for Federal Public Defender Employees, Canon 5D.)

II. Agreements

Only information pertaining to the reporting person is required in this Part.

In this Part a complete listing is required of any agreement with respect to:

- (a) future employment;
- (b) a leave of absence during Government service;
- (c) continuation of payments by a former employer other than the United States; and
- (d) continuing participation in an employee welfare or benefit plan maintained by a former employer.

Report the date, parties, and terms of the agreement. Section 102(a)(7).

For all Reports, show any such agreements currently in force.

Any additional information--e.g., an opinion from the Committee on Codes of Conduct, or approval from a Judicial Council--that bears upon the question whether an agreement presents a potential conflict of interest problem or problem under the Codes of Conduct for United States Judges should be provided in Part II or on an attached page.

If you did not have any reportable agreements during the reporting period, check the "None" box, rather than leaving Part II blank.

II. AGREEMENTS. <i>(Reporting individual only; see pp. 14-16 of Instructions.)</i>	
<u>DATE</u>	<u>PARTIES AND TERMS</u>
<input type="checkbox"/> NONE (No reportable agreements)	
1 1997	Jones & Smith Retirement Plan with former law firm, no control
2 _____	_____
3 _____	_____

Notes to filer:

_____ Do you have any reportable agreements? If not, is the NONE box checked?

_____ Did you list the date, parties, and terms of the agreement?

_____ Is the agreement permissible?

Commentary

Continuation of payments by a former employer other than the United States

It is permissible for judges to receive appropriate payment for their interests in a law firm and compensation for legal services they rendered before becoming judges. (Compendium § 2.7(a)(1997).)

A termination of partnership agreement provides for payment of an agreed amount representing the retiring partner's interest and some of these payments can be paid in years following the partner's appointment as a United States judge. (Advisory Opinion No. 24.)

The Committee on Codes of Conduct is of the opinion that when a partner leaves a law firm to become a federal judge, he should, if possible, agree with his partners on an exact amount which he will receive for his interest in the firm, whether that sum is to be paid within the year or over a period of years. (Id.)

Such payments may continue to be made to the judge, provided it is clear (1) that he is not sharing in profits of the firm earned after his departure, as distinguished from his sharing in amount representing the fair value of his interest in the firm, including the fair value of his interest in fees to be collected in the future for work done before he left the firm, and (2) the judge does not participate in any case in which his former firm or any partner or associate thereof is active as counsel until the full amount which he may be entitled to receive under the agreement has been paid to him. (Id.)

In addition, it is permissible for the departing judge to share in contingent fees received at the end of litigation, provided a fixed percentage or fixed ceiling is agreed upon, and reasonably reflects the value of services previously rendered by the departing judge. While it is permissible for a judge to share in future contingent fees, the judge should first attempt to reach agreement with his former partners on a fixed sum. (Compendium § 2.7(b) and (b-1)(1997).)

Continuing participation in an employee welfare or benefit plan maintained by a former employer

A judge should recuse in all cases involving members of the former law firm where the judge has left a retirement account in the former law firm's profit sharing trust. If there are frequent recusals, the judge should withdraw the account if feasible. (Compendium § 5.2-4(a) and (a-1)(1997).)

When, long after the judge's departure, additional assets are discovered which should have been transferred to the judge at the time of his departure (e.g. delayed refund under a health insurance plan), there is no ethical impediment to the judge's receipt of the appropriate distribution. (Compendium § 2-7(e)(1997).)

A judge who is a participant in a law firm's KEOGH plan has a financial interest in all of the corporations whose stock is owned by the plan, and must keep informed of the plan's investments, unless the plan is a common fund. (Compendium § 3.1-1(i)(1997).)

A law firm's KEOGH plan or 401 (k) plan which is managed by the firm or a small number of participants, and for which the judge has ready access to investment information does not qualify for the "common fund" exception. However, a law firm's retirement qualifies for the "common fund" exception where 1) the interest is indirect (due to the number of participants and the size and diversity of investments, 2) directed investment by participants is not available, and 3) the participants do not know about a fund's portfolio. (Compendium § 3.1-3(c).)

Other Employment

Part-time United States magistrates render such service as judicial officers as is required by law. While so serving, they may engage in the practice of law and, within certain restrictions, engage in any other employment which is not consistent with the expeditious, proper, and impartial performance of their duties as judicial officers. (28 U.S.C. § 632.)

A part-time judge is a judge who serves on a continuing or periodic basis, but is permitted by law to devote time to some other profession or occupation and whose compensation for that reason is less than that of a full-time judge. A part-time judge: (1) is not required to comply with Canons 5C(2), D, E, F, and G, and Canon 6C; (2) except as provided in the Conflict-of-Interest Rules for Part-time Magistrate Judges, should not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, or act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

A judge should require law clerks to keep the judge reasonably informed of their future employment plans as required by the Code of Conduct for Law Clerks. A law clerk should have no involvement whatsoever in pending matters handled by a prospective employer when an offer of employment has been made to the law clerk and has been, or may be, accepted by the law clerk. (Advisory Opinions Nos. 74 and 81.)

III. Non-investment Income

Information pertaining to the reporting person and the spouse, as noted, is required in this Part.

A. General Non-investment Income

In this Part report non-investment income from whatever source, including but not limited to these items: compensation for services, including fees, commissions, etc.; income derived from business; royalties; annuities; income from life insurance and endowment contracts; and fixed benefits from vested pension plans. Amounts reported should be net income, except for income derived from a business, can be listed as net or gross, and indicated as such. Section 109(7). Dividends on life insurance policies not held in whole or in part as an investment or for the production of income need not be reported.

Report the source, type, amount or value, of income from any source aggregating \$200 or more in value. Honoraria are treated differently. Section 102(a)(1)(A). See Part III B. below. See below for specific exemptions.

For spouses, report the source of items of earned income from any person which exceeds \$1,000 and the source and amount of any honoraria which exceed \$200. If the spouse is self-employed in business or a profession, the nature of such business or profession should be reported. Section 102(e)(1)(A).

To indicate that income was earned by your spouse (and hence that the amount need not be shown), add to the identification the parenthetical "(S)."

You are not required to disclose in Part III the following:

- compensation for current employment by the United States. Section 102(a)(1)(A).
- income that from a single source did not aggregate \$200 or more during the reporting period. Section 102(a)(1)(A).
- the amount of the spouse's "earned income", or any information about that "earned income" that from a single source did not aggregate more than \$1,000 during the reporting period. Section 102(e)(1)(A).
- any information about dependent children's non-investment income. Section 102(e)(1)(A).

- information with respect to a spouse living separate and apart with the intention of terminating the marriage or providing for permanent separation or with respect to any income or obligations arising from the dissolution or permanent separation. Section 102(e)(2).
- any political campaign funds, including campaign receipts. Section 102(g).
- income derived from any retirement system under title 5, United States Code (including the Thrift Savings Plan under Subchapter III of Chapter 84 of such title) or any other retirement system maintained by the United States for officers or employees of the United States. Section 102(i)(1).
- benefits received from Social Security. Section 102(i)(2).
- death benefits under insurance policies, gifts, inheritances, tort recoveries and other compensation for injuries and sickness, disability compensation, and veteran's benefits.

III. NON-INVESTMENT INCOME. <i>(Reporting individual and spouse; see pp. 17-24 of Instructions)</i>		
<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>GROSS INCOME</u> <small>(Yours, not spouse's)</small>
<input type="checkbox"/> NONE (No reportable non-investment income)		
1 1997	Evans County School District (S)	\$
2 July 1997	Idaho Law School, Seminar (3 weeks)	\$ 3,500
3		\$

Notes to filer:

- ___ Do you have any reportable non-investment income over \$200.00?
- ___ Does your spouse have any reportable non-investment income over \$1000.00?
- ___ If no reportable income, is the NONE box checked?
- ___ Is the date, source, type, and amount for your reportable income reported? If spouse's income, is the parenthetical "(S)" placed in the column under Source and Type?
- ___ Is the income subject to the 15% limitation (\$20,040) for 1997?

_____ *Is the income an honorarium or reported as such?*

Commentary

Although various types of non-investment income have been listed, some elaboration on several sources of income may be useful to provide a clearer distinction between non-investment and investment income.

No income should be disclosed in this part if it is derived from an investment asset that should be reported in Part VII. Sources of royalty payments include publications and oil, gas, and mineral interests. It should be noted that an interest in the real property from which these oil, gas, or mineral interests are derived should be disclosed in Part VII like any other investment property. Annuities and any other types of retirement income should be reported if they represent defined benefits from a vested pension plan. Retirement income from IRAs or other investment funds that varies due to the performance of the individual assets should be reported in Part VII since it represents income from an investment asset.

Ordinarily, income from life insurance policies need not be reported because most insurance policies are not held as investments or for the production of income. Policy dividends that reduce premiums or provide additional or paid-up insurance are not treated as income. Dividends or other income from life insurance policies, received in excess of \$200, which are reportable for income tax purposes, should be disclosed in this part. Several types of insurance policies that probably require reporting are "universal," "variable life," or "universal variable life."

Special attention will be given to the review of nomination and initial Reports. The filer must report compensation, other than from the United States Government, in excess of \$5,000 in any of the two calendar years prior to the calendar year during which a first Report is filed.

B. Outside Employment and Honoraria

Special attention should be given to regulations relating to Outside Employment and Honoraria at Appendix III.

Covered Senior Employees

In accordance with the Ethics Reform Act of 1989, and the Judicial Conference regulations implementing this Act, covered senior employees, other than justices of the United States who retired from regular active service under Section 371(b) of title 28, United States Code; judges of the United States who retired from regular active service under Section 371(b) of title 28, United States Code and who have met the requirements of subsection (f) of Section 371(b) of title 28, United States Code, as certified in accordance with such subsection; and,

justices and judges of the United States who retired from regular active service under Section 372(a) of title 28, United States Code, who receive compensation for teaching, are prohibited from:

- Receiving more than 15% of the pay rate for Executive Level II in earned income from outside employment if the officer or employee occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule and is not a career civil servant (See 5 U.S.C. § 5313 for the pay rate for Executive Level II). 5 U.S.C. app. 4 § 501(a)(1). Those covered by the provisions of this Act for only a portion of a year, must pro-rate the 15% on the basis of the number of days the person will actually work in that calendar year. 5 U.S.C. app. 4, § 501(a)(2).
- Being affiliated with or being employed by a firm, partnership, association, corporation, or other entity to provide professional services which involve a fiduciary relationship for compensation, serving for compensation as an officer or member of the board of any association, corporation, or other entity. 5 U.S.C. app. 4, § 502.
- Receiving compensation for teaching without prior notification and approval from the appropriate official, if the officer or employee occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule and is not a career civil servant. See Section 5 of Appendix III for the procedures for requesting approval. 5 U.S.C. app. 4, § 502.

NOTE: Covered senior employees are defined by Judicial Conference approved regulations as all judicial officers (except for part-time magistrate judges), commissioners and staff of the Sentencing Commission, the Director and Deputy Director of the Administrative Office of the United States Courts, and senior employees of the Administrative Office of the United States Courts serving at the pleasure of the Director (Schedule C status).

Judicial Officers and All Employees

In accordance with the Ethics Reform Act of 1989, and the Judicial Conference regulations implementing this Act, all judicial officers and all employees of the judicial branch are prohibited from accepting honoraria for any "appearance, speech, or article." Actual and necessary travel expenses incurred by the person and one relative are not deemed to constitute honoraria. 5 U.S.C. app. 4, § 501(b).

No Judicial officer or employee of the judicial branch (except for part-time magistrate judges), may accept honoraria, but a payment may only be made on behalf of such officer or employee to a charitable organization in lieu of the honorarium, so long as the payment does not exceed \$2,000, and is not made to a charitable organization from which the filer or the filer's parent, sibling, spouse, child, or dependent relative derives any financial benefit. 5 U.S.C. app. 4, § 501(b) and (c). In such instances, the filer should report the source, date, and amount of payments made to charitable organizations in lieu of honoraria and shall simultaneously file with the Committee on Financial Disclosure, on a confidential basis, a corresponding list of recipients of all such payments together with their dates and amounts. Section 102(a)(1)(A).

C. General Provisions

For annual Reports, the reporting period is the calendar year preceding the date of the Report. Section 102(a)(1)(A). For initial and final Reports, see Appendices I and II, respectively, for the appropriate reporting periods.

If neither you nor a spouse had any reportable income during the reporting period, check the "None" box rather than leaving Part III blank.

Commentary

Contained within these Instructions and Appendix III are detailed instructions and regulations relating to limitations imposed on certain judicial officers and employees with respect to certain types of outside employment and income. Several important guidelines need to be emphasized for the benefit of the reviewing official.

Covered senior employees (defined in the cited appendix) are prohibited from receiving more than 15% of the pay rate for Executive Level II (currently \$133,600) in earned income from outside employment. The limitation for 1997 is \$20,040. However, senior judges who receive compensation for teaching, part-time magistrate judges, officers and employees of the Supreme Court, and employees of the Federal Judicial Center are exempted as to teaching income and are not restricted to this outside income limitation.

In addition, all judicial officers and all employees of the judicial branch (except for part-time magistrate judges) are prohibited from accepting honoraria for any "appearance, speech, or article." Any filer listing honoraria will be questioned for clarification and may eventually be referred to the Committee on Codes of Conduct for an advisory opinion.

Frequently, difficulty arises for the reviewing official and staff auditor concerning what constitutes outside earned income (which is attributed solely to the filer and not to the spouse). The following lists common examples of compensated activities which are subject to the calendar year income limitation, less the ordinary and necessary expenses paid or incurred in producing the income:

- (1) teaching,
- (2) serving as trustee of a family trust or executor of a family estate, and
- (3) writing.

In addition, the following common examples do not constitute outside earned income and have no limitations imposed on the filer:

- (1) pensions, annuities, and deferred compensation for services rendered prior to becoming a judicial officer or senior employee,
- (2) investment funds,
- (3) funds received from a family owned business,
- (4) publication royalties, fees, and their functional equivalent, and
- (5) compensation received by a senior judge for teaching.

Advisory Opinion Number 86, "Honoraria, Teaching, and Outside Earned Income Limitation," provides detailed interpretation on these issues and may serve as a helpful guideline. In addition, the following are summaries contained in Compendium, Sections 31-35 (1997), concerning recent advice given by the Committee on Codes of Conduct in response to confidential inquiries:

Outside Earned Income Limitation

- (1) Where service as a family fiduciary involves work performed over several years but fee is paid in a single year, it is consistent with the statute and regulations for the judge, in applying the 15% cap, to allocate the amount of the fee over the several years. (Compendium § 33.1(a) (1997).)
- (2) Flat fee of \$250 received by judge from a publisher for writing a chapter in a publisher's treatise is not excludable from the definition of outside earned income. The payment is a fixed and unconditional cash payment for a manuscript that is wholly unrelated to the sales or distribution of the publication. Thus, the fee is subject to the 15% cap. (Compendium § 33.2-5(a) (1997).)
- (3) Where judge serves as editor-in-chief of a law journal and receives a royalty of 15% of the net cash receipts from the sale of the publication, the amount is considered a royalty and thus not subject to the 15% cap. (Compendium § 33.2-5(b) (1997).)

(4) *Outside earned income is attributed solely to the actual earner regardless of community property laws. (Compendium § 33.3 (1997).)*

Prohibition on Receipt Of Honoraria

(1) *It is a violation of the statute and regulations for a law clerk to write an article for compensation during clerkship even though publication of the article and receipt of the honorarium occur after the clerkship ends. (Compendium § 34(a) (1997).)*

(2) *Fee for performing wedding is not an honorarium. However, a judge is barred from accepting additional compensation for performing judicial activities. (Compendium § 34.1(a) (1997).)*

(3) *Reimbursement of travel expenses for judge and one relative does not constitute an honorarium. (Compendium § 34.1(b) (1997).)*

(4) *Where a judge's paper for a continuing legal education program was later published and later still won \$3000 cash award at sponsor's annual award program, the award is not a payment for the speech or article and thus not an honorarium. An after-the-fact award based on merit for scholarly work is an award in recognition. (Compendium § 34.1(d) (1997).)*

(5) *Compensation for teaching a seminar for prospective law students and preparation of course materials does not constitute an honorarium. (Compendium § 34.1-2(d) (1997).)*

(6) *Fee received by judge as editor-in-chief of a law journal is not an honorarium, but rather compensation for a writing more extensive than an article. (Compendium § 34.1-3(a) (1997).)*

Limitations On Outside Employment

(1) *Serving as a fiduciary of a family estate or trust as permitted by Canon 5D of the Codes of Conduct does not constitute practicing a profession involving a fiduciary relationship. (Compendium § 35.3(a) (1997).)*

(2) *Service for compensation as editor-in-chief of a bankruptcy law journal is not the equivalent of being an officer or member of the board of an entity, and thus is not barred by this section. (Compendium § 35.4(a) (1997).)*

(3) *A judge cannot receive compensation for service as family fiduciary where the trust directs the operating policy of a charity because that would be the functional equivalent of serving as an officer or member of the board of directors. However, it is acceptable for the judge to serve as family fiduciary charged only with duties normally exercised by a family fiduciary. Compensation received is subject to the 15% cap.*

(Compendium § 35.4(b) (1997).)

(4) *A judge's status as partner of a family partnership or shareholder of a family corporation is not the equivalent of serving as officer or member of the board of an entity, and thus the financial return to the judge as partner or shareholder is not prohibited. (Compendium § 35.4(c) (1997).)*

(5) *Where a judge failed to obtain prior approval of teaching, Chief Judge has authority to approve teaching for compensation nunc pro tunc if satisfied that the failure was occasioned by excusable neglect, the application would have been approved if timely filed, and other criteria for approval are satisfied. If circumstances do not justify nunc pro tunc approval, the judge's only recourse is to refund the compensation.*

(Compendium § 35.7(a) (1997).)

**IV. Reimbursements of
Transportation, Lodging, Food, Entertainment**

Information pertaining to the reporting person and a spouse and dependent children, as noted, is required here.

In this Part report information about reimbursements received by you, your spouse and dependent children, exclusive, however, of any items received by them totally independent of their relationship to you. Sections 102(a)(2)(A) and (C); and 102(e)(1)(C) and (D). For initial Reports, there are separate rules for completing this Part, found at Appendix I of these Instructions.

A reimbursement means any payment or other thing of value, other than gifts, to cover travel related expenses. Section 109(15).

For annual Reports, the reporting period is the calendar year preceding the date of the Report. Section 102(a)(2)(B). For final Reports, see Appendix II for the appropriate reporting period.

In this Part, provide:

the identity of the source and a brief description (including location, dates, and nature of expenses provided) of reimbursements received from any source aggregating \$250 or more in value. Section 102(a)(2)(B).

You are not required to report in Part IV:

- food, lodging, or entertainment received from a relative. Section 102(a)(2)(A).
- food, lodging, or entertainment received as personal hospitality. Section 102(a)(2)(A).
- reimbursements received by your spouse and dependent children, independently of their relationship to you. Section 102(e)(1)(C) and (D).
- reimbursements received in a period when you were not an officer or employee of the Federal Government. Section 102(h).
- food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States, the District of Columbia, or a state or local government or political subdivision thereof; food and beverages not consumed in connection with a gift of overnight lodging; Section 109(5).

reimbursements provided by the United States, the District of Columbia, or a state or local government or political subdivision thereof; required to be reported under 5 U.S.C. § 7342; or required to be reported under 2 U.S.C. § 434. Section 109(15).

Relative means one who is related to the reporting person, as father, mother, son, daughter, brother, sister, uncle, aunt, great uncle, great aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting person, and shall be deemed to include the fiance or fiancée of the reporting person. Section 109(16).

Personal hospitality means hospitality extended for a nonbusiness purpose by one, not a corporation or organization, at the personal residence of that person or his family or on property or facilities owned by that person or family. Section 109(14).

Use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by your spouse and dependent children, respectively.

Beginning on January 1, 1991, in accordance with the Ethics Reform Act of 1989, and the Judicial Conference regulations implementing this Act, officers and employees are prohibited from soliciting or accepting anything of value from a person seeking official action from, doing business with, or whose interests would be substantially affected by, the performance or nonperformance of official duties. 5 U.S.C. § 7353. This prohibition applies to all reimbursements and gifts covered in Parts IV and V of the Financial Disclosure Report.

If you, your spouse, and your dependent children did not receive any reimbursements reportable in Part IV, check the "None" box rather than leaving Part IV blank.

IV. REIMBURSEMENTS --transportation, lodging, food, entertainment.	
<i>(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of Instructions.)</i>	
<u>SOURCE</u>	<u>DESCRIPTION</u>
<input type="checkbox"/> NONE (No such reportable reimbursements)	
1 Staley Foundation	June 15 - Haymarket, VA, meeting (lodging, food,
2 _____	_____
3 _____	_____

Notes to filer:

- _____ Do you, your spouse, or any dependent child have any reportable reimbursements? If not, is the NONE box checked?
- _____ Did you identify the source of the reimbursement, and provide a brief description including location, dates, and nature of expenses?
- _____ Can the reimbursement be accepted by you, your spouse, or dependent child?

Commentary

The following opinions issued by the Committee on Codes of Conduct provide guidance on issues associated with this part.

Attendance of judges and their spouses as guests at bar association dinners is proper, and a judge may accept reimbursement for the judge's or the judge's spouse's travel and hotel expenses to attend such a dinner sponsored by lawyer organizations even when the judge does not speak or render other services at the function. (Advisory Opinion No. 17.)

It is permissible for a judge to attend, and accept hospitality at bar association events and meetings of other organizations devoted to improvement of the law, legal system, or the administration of justice. With respect to attendance at cocktail parties hosted by law firms in connection with bar meetings, judicial conferences, and the like, there is no impropriety in a judge accepting such invitations in the absence of reason to believe that such attendance will reasonably reflect unfavorably on the judge's impartiality or is likely to be exploited by the law firm. (Advisory Opinion No. 17.)

It is permissible for judges to attend bar association events such as receptions where a legal publishing firm has donated the hors d'oeuvres and beverages to the bar association. It is not appropriate, however, for a group of judges or judicial personnel to allow a legal publishing firm or other vendor doing business with their court to donate food and beverages for a meeting of the judges or judicial employees. (Compendium § 2.9(a) (1997).)

Although mere attendance (along with others similarly situated) without paying a registration fee would not create an appearance of impropriety, it would create an appearance of impropriety for employees of the Administrative Office to accept from a legal publishing firm a gift of transportation, lodging and meals in connection with a professional training program sponsored by the firm. (Compendium § 2.9(b) (1997).)

It would create an appearance of impropriety for a judge to permit a for-profit company to host a reception following the judge's investiture, where the judge had no pre-existing

relationship with the company, would not otherwise have been required to recuse, and the circumstances would convey the impression that the company was in a special position to influence the judge. (Canon 2B and Compendium § 2.10(c) (1997).)

It is permissible for a judge to be the guest of honor at a public dinner arranged by former law clerks, attended by lawyers and other members of the public, as well as the law clerks. The law clerks should make clear on the invitations and other papers relating to the dinner, not only the fact that the dinner is sponsored solely by present and former law clerks, but that the amount paid by other attendees is solely to cover the cost of the dinner, that no fund-raising activity is involved, and that no part of the amount paid for the dinner will be employed in the purchase of a gift for the honoree. (Compendium § 5.4-5(c) (1997).)

A judge participating as a faculty member in a two-week seminar of general interest organized on a nonprofit basis and financed by tuition and subsistence payments by nonfaculty attendees may accept reimbursement for the judge's and the judge's spouse's travel and subsistence expenses. (Advisory Opinion No. 3.)

A judicial employee may receive compensation and reimbursement of expenses for outside activities provided that receipt of such compensation and reimbursement is not prohibited or restricted by this Code, the Ethics Reform Act, and other applicable law, and provided that the source or amount of such payments does not influence or give the appearance of influencing the judicial employee in the performance of official duties or otherwise give the appearance of impropriety. Expense reimbursement should be limited to the actual cost of travel, food and lodging reasonably incurred by a judicial employee. (Code of Conduct for Judicial Employees, Canon 4E.)

V. Gifts

Information pertaining to the reporting person and the spouse and dependent children, as noted, is required in this Part.

In this Part report information about gifts other than transportation, lodging, food or entertainment aggregating \$250 or more in value received by you, your spouse and dependent children from any source other than a relative during the preceding calendar year. Gifts from separate sources with a fair market value of \$100 or less need not be aggregated to determine if the \$250 reporting threshold has been met. Section 102(a)(2)(A).

A gift is a payment, advance, forbearance, rendering, or deposit of money, or anything of value, unless consideration of equal or greater value is received by the donor. Section 109(5).

If you have been extended an honorary membership in an organization and you avail yourself of the privileges, rights, etc., to a substantial degree, and the dues are in excess of \$250 a year, you must report the honorary membership in this Part.

You are not required to disclose information about:

- gifts received from a relative. Section 102(a)(2)(A).
- gifts received by a spouse and dependent children, totally independent of their relationship to you. Section 102(e)(1)(C).
- gifts received in a period when you were not an officer or employee of the Federal Government. Section 102(h).
- gifts that are bequests and other forms of inheritance. Section 109(5)(A).
- communications to the offices of a reporting person, including subscriptions to newspapers and periodicals. Section 109(5)(E).
- suitable mementos of a function honoring the reporting person. Section 109(5)(B).

Use the parentheticals "(S)" and "(DC)" to indicate gifts received by your spouse and dependent children, respectively.

If you, your spouse, and your dependent children did not receive any gifts reportable in Part V, check the "None" box rather than leaving Part V blank.

For the definition of relative, refer to Part IV of these Instructions.

For annual Reports, the reporting period is the calendar year preceding the date of the Report. Section 102(a)(2)(A). For initial and final Reports, see Appendices I and II, respectively, for the appropriate reporting period and rules.

V. GIFTS. (Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp.29-32 of Instructions.)

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
	<input type="checkbox"/> NONE (No such reportable gifts)		
1	Former Law Clerks	Painting - 20 th Anniversary on Bench	\$ 325.00
2	The Executive Club	Honorary Membership (dues, like privileges)	\$ 1200.00
3			\$

Notes to filer:

- ___ Do you, your spouse, or any dependent child have any reportable gifts other than transportation, lodging, food, or entertainment? If not, is the NONE box checked?
- ___ Did you list the identity of the source, a description of the gift, and the actual dollar value?
- ___ Can the gift be accepted?

Commentary

If stock is listed as a gift, the stock should also be reported in Part VII, Investments and Trusts.

The value of a gift is shown by a dollar amount, not by a value code.

If the gift is from an individual, the individual must be specifically named. It is not acceptable to identify the source of the gift as "boyfriend," "girlfriend," "friend," or "significant other."

The following opinions issued by the Committee on Codes of Conduct provide guidance on issues associated with this part.

Investitures and Similar Ceremonies

(a) It is permissible for a judge to accept a gavel and a \$500 gift from a former client on the occasion of the judge's investiture. (Compendium § 5.4-2(a) (1997).)

(b) It is permissible for a judge to accept a gavel and a contribution toward the cost of the reception from a local bar association on the occasion of the judge's investiture. (Compendium § 5.4-2(b) (1997).)

(c) It is permissible for a judge to accept leather notebook and pen from Law Institute as a memento of a judge's presentation. (Compendium § 5.4-2(c) (1997).)

Gifts on Special Occasions

(a) A judge may accept a gift of a trip aboard a cruising ship (costing about \$1500) on the occasion of his 20th anniversary as a United States judge where the donees consist exclusively of persons who have worked directly with him (i.e., law clerks, secretaries, courtroom deputies, and court reporters), there are a sufficient number of donees that no individual contribution to the gift is unusually large, and the judge is not made aware of the amounts contributed by the respective donees. (Compendium § 5.4-7(a) (1997).)

(b) On occasion of taking senior status, judge may accept gift from law clerks of golfing trip. (Compendium § 5.4-7(b) (1997).)

(c) It is not improper for former law clerks to solicit funds from other law clerks to establish scholarship in honor of retiring judge. The Judge and present law clerks should not solicit. (Compendium § 5.4-7(c) (1997).)

Miscellaneous Gift Rulings

(a) It is permissible to accept books from West Publishing Company for official use. (Compendium § 5.4-Z(a) (1997).)

(b) It is permissible for a judge's children to accept scholarships awarded on the same terms and based on the same criteria applied to other applicants. (Compendium § 5.4-Z(b) (1997).)

(c) Gifts from a friend not prohibited where friend not likely to ever appear in judge's court. (Compendium § 5.4-Z(c) (1997).)

Honorary/Reduced-Rate Memberships

(a) It is permissible for a judge to accept a free membership in a country club, including a waiver or reduction in the initiation fee, or to accept a free or reduced membership in a YMCA if it is customary in that community, similar privileges are extended to other public officials, the interests of the organizations have not and are not likely to come before the judge, and the judge is satisfied that the membership is not being used by the organization to promote its endeavors. (See Advisory Opinion No. 47.)

(b) It is permissible for a judge to accept a free membership in the "American Board of Trial Advocates," the organization being devoted to the improvement of the law. (Compendium § 5.4-1(b) (1997).)

(c) It is permissible to accept free membership in a local bar association. (Compendium § 5.4-1(c) (1997).)

VI. Liabilities

Information pertaining to the reporting person, spouse, and dependent children is required in this Part.

In this Part list all of your, your spouse's and dependent children's liabilities to any creditor other than a spouse, parent, brother, sister, or child, which exceeded \$10,000 at any time during the reporting period. Sections 102(a)(4) and 102(e)(1)(E).

For annual Reports, the reporting period is the calendar year preceding the date of the Report. Section 102(a)(4). For initial and final Reports, see Appendices I and II, respectively, for the appropriate reporting periods.

In this Part, list the identity and category of value of each liability. The identity includes the name of the creditor and a description of the liability. Section 102(a)(4). To assist the reviewer, liabilities should be listed in the same order as in the previous Report.

The category codes for the amount owed as of the end of the reporting period are shown on the Report and are as follows:

J - \$15,000 or less	P1 - \$1,000,001 to \$5,000,000
K - \$15,001 to \$50,000	P2 - \$5,000,001 to \$25,000,000
L - \$50,001 to \$100,000	P3 - \$25,000,001 to \$50,000,000
M - \$100,001 to \$250,000	P4 - more than \$50,000,000
N - \$250,001 to \$500,000	
O - \$500,001 to \$1,000,000	

Section 102(d)(1).

The reporting requirement relates to obligations that at any time during the reporting period exceeded \$10,000, but the amount to be shown by the category code is the amount owed as of the end of the reporting period.

In the creditor section, indicate, where applicable, the person responsible for the liability with the parenthetical "(S)" for separate liability of spouse, "(J)" for joint liability of the reporting person and spouse, or "(DC)" for liability of a dependent child.

You are not required to report:

- any liability owed to a spouse, parent, brother, sister, or child. Section 102(a)(4).

- any mortgage secured by real property which is a personal residence of you or your spouse. Section 102(a)(4)(A).
- any loan secured by a personal motor vehicle, household furniture, or appliances that does not exceed the purchase price of the item securing the liability. Section 102(a)(4)(B).
- any information with respect to a spouse living separate and apart from you with the intention of terminating the marriage or providing for permanent separation or with respect to any income or obligations arising from the dissolution of the marriage or permanent separation. Section 102(e)(2).
- any revolving charge account whose balance did not exceed \$10,000 as of the close of the preceding calendar year.
- political campaign funds, including campaign receipts and expenditures. Section 102(g).
- any liability which is the sole liability or responsibility of the spouse or child; which is not derived from the assets, income or activities of the reporting person; from which the reporting person does not derive or expect to derive a benefit; and of which the reporting person has no knowledge. Section 102(e)(1)(E). Omission of such data indicates a certification of these statutory conditions. This rule also applies to the reporting of investments and trusts, see the Instructions for Part VII.

If you, your spouse, and your dependent children did not have any reportable liabilities, check the "None" box rather than leaving Part VI blank.

VI. LIABILITIES. *(Includes those of spouse and dependent children; indicate, where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)*

<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE*</u>
<input type="checkbox"/> NONE (No reportable liabilities)		
1 Old National Bank	Credit Card	L
2 NationsBank	Mortgage on Rental Prop. #1, Alexandria, VA (Pt VII, line 2)	M
3		

Notes to filer:

_____ *Do you, your spouse, or dependent child have any reportable liabilities over \$10,000?*

_____ *Did you list the identity of the creditor, a description of the liability, and a value code for the amount?*

_____ *If a mortgage is listed, is there a corresponding entry for the property in Part VII?*

Q: When you own a percentage of the asset - do you report only your % as the value in Col. C or your % of the whole? VII. Investments and Trusts

Information pertaining to the reporting person, spouse, and dependent children is required in this Part.

1. General

In this Part a complete listing is required of reportable assets owned by the reporting person, spouse, and dependent children. **Each asset must be individually listed and identified except as may be specifically provided otherwise (see Part 6 Trusts below).** Bank or brokerage house reports are not acceptable for compliance with these reporting requirements unless they succinctly contain all necessary information without requiring the reader to perform calculations or select out necessary data from a larger body of information. For initial Reports, there are separate rules for completing this Part, found at Appendix I of these instructions.

Report assets held during the preceding calendar year in a trade or business, or for investment or the production of income, which have a fair market value in excess of \$1,000 at the end of the year or from which you received income in excess of \$200 during the preceding calendar year. Sections 102(a)(3) and 102(a)(1)(B).

You are not required to report:

- Investments in the Thrift Savings Plan. Section 102(i)(1)(A).
- Any property, real or personal, not held in a trade or business, or for investment or the production of income. As examples, you need not report a private residence or personal automobiles. Section 102(a)(3).
- Any personal liability owed to you, your spouse, or dependent children by a spouse, or by a parent, brother, sister, or child of you or your spouse. Sections 102(a)(3) and 102(e)(1).
- Accounts in a financial institution (any form of deposit in a bank, savings and loan association, credit union or similar financial institution), unless the aggregate amount of income for all an individual's income producing accounts at the institution for the reporting year is in excess of \$200, or the aggregate value at the end of the reporting year of all such income producing accounts is more than \$5,000. If either condition is met, each such account must be separately reported. Sections 102(a)(1)(B) and 102(a)(3).
- Asset information with respect to a spouse living separate and apart with the intention of terminating the marriage or providing for permanent separation. Section 102(e)(2).

- Political campaign funds, including campaign receipts and expenditures. Section 102(g).
- In Part VII, information associated with property which is the sole financial interest or responsibility of the spouse or child; which is not derived from the assets, income or activities of the reporting person; from which the reporting person does not derive or expect to derive a benefit; and of which the reporting person has no knowledge. Section 102(e)(1)(E). Omission of such data indicates a certification of these statutory conditions. This rule also applies to the reporting of liabilities, see the Instructions for Part VI.

To help reporting persons in instances where a position held in an economic entity may have a bearing on reporting requirements, the following should be used as guidance:

When a Financial Disclosure Report contains information reflecting a filer's interest in a partnership or other business enterprise, the filer must disclose the assets held by the business entity if a filer can direct, influence or in any other manner affect the purchase, exchange, sale or disposition of the entity or property owned by the entity, or when the filer can influence policy decisions which affect the purchase, exchange, sale or disposition of the entity or of property which it owns.

For annual Reports, the reporting period is the calendar year preceding the date of the Report. Section 102(a)(1)(B). For final Reports, see Appendix II for the appropriate period.

If you, your spouse, and your dependent children did not have assets subject to reporting, check the "None" box rather than leaving Part VII blank.

Commentary

Investment income is to be contrasted with earned income. The crucial factor is the filer's services. If the filer's services are a material factor in the production of income, it is earned income and should be reported in Part III. However, limited partners usually receive investment income from the partnership, since they normally do not perform services for the partnership. Investment income includes returns on investments rather than compensation for personal services. It includes income derived from all forms of property, such as securities, funds, accounts, real estate, partnerships, joint ventures, businesses, and interests in trusts and estates.

When determining whether or not an investment asset should be reported, either the income threshold (in excess of \$200 during the preceding calendar year) or the value threshold (in excess of \$1,000) at the end of the year is sufficient to require reporting. For accounts in a financial institution, assets must be in excess of \$5,000 or produce income in excess of \$200. It

has been a fairly common misconception from filers that both thresholds must be met before an asset is required to be disclosed.

Normally, any information pertaining to a personal residence is exempted from reporting. However, a second personal residence (e.g., a weekend or vacation home) should be reported if rental income is received for the use of the property.

The reporting of accounts in a financial institution does require some clarification since the Committee changed some of the language for the calendar year 1994 Instructions. If the aggregate amount of income for all of an individual's accounts or the value of all such income producing accounts exceeds the established thresholds, then each such account must be separately reported for each individual. It is important to apply the "threshold test" separately to each individual owner of the accounts, which would include the following:

- (1) accounts individually owned by filer,*
- (2) accounts individually owned by spouse,*
- (3) accounts individually owned by dependent child, and*
- (4) accounts jointly owned by filer and spouse or dependent child.*

It should be understood that a reporting exemption for failure to meet a threshold amount, or for any other reason, does not affect any inquiry or recusal obligation under the Code of Conduct for United States Judges.

2. Description of Assets

In completing Part VII, a separate description of each asset listed is required. To assist the reviewer, assets should be listed in the same order as in the previous Report. Each asset reported should be described in sufficient detail so the reader can tell what the property is. As examples:

- For stocks, bonds, and other securities indicate the type of the holding, "common," etc., and its name. Commonly understood abbreviations are permitted.
- For an account within a financial institution, give sufficient information so that it can be identified. Aggregate information may be provided for accounts in each financial institution.
- For notes or accounts receivable, indicate the nature of the receivable and the name of the debtor(s).

- For each real estate interest, indicate the general geographic location, such as city or county and state. If more than one parcel of real estate is owned in the same geographic area, you may identify each parcel by number, i.e., Parcel 1, 2, 3, etc., rather than identifying each parcel by street address, lot, or block number.
- For an interest in a trust, indicate the nature of the interest (e.g., "income beneficiary"), the name (if any) of the trust, and the name and location of the trustee.
- For an interest in a mutual fund or pooled or common trust fund administered by an independent financial or brokerage institution, furnish the name of the fund.

At times, reporting persons inadvertently omit the listing of assets, and correct the previous year's errors in the following year's Report. Also, assets which were reported in one year may fail a qualifying requirement (such as a value of \$1,000) in the following year and thus are not reported. When this occurs, put an explanatory item in Part VII or in Part VIII, with a reference in Part VII to avoid a letter of inquiry.

In addition, identify with a parenthetical "(X)" assets which have been previously exempt from disclosure and now are reportable. This should preclude a letter of inquiry from the Committee.

In the Description section of Part VII (Column A), indicate, where applicable, the owner of the listed asset with the parenthetical "(J)" for joint-ownership by the reporting person and spouse, "(S)" for separate ownership by spouse, or "(DC)" for ownership by dependent child.

The reporting of a position in Part I as trustee, executor, administrator, custodian, or any similar position requires a listing in Part VII of the assets involved if either you, your spouse, or any of your dependent children (1) has a beneficial interest in the estate or fund with which you are associated, or (2) controls the purchase, sale, or other disposition of the estate or fund.

VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

<input type="checkbox"/> NONE (No reportable income, assets, or transactions)										
1	Lego Common Stock (S)									
2	Rental Property #1, Alexandria, VA (1995 \$200,000) (I)									
3	NationsBank (IRA) (CDs)									
4	Cabin Creek National Bank Stock (X)									
5	Fidelity Magellan Mutual Fund (DC)									
6	NY State Urban Dev. Corp. Muni. Bond									

Notes to Filer:

- _____ Do you identify the asset in Column A in sufficient detail to clearly identify the type of property? If no assets are listed, is the NONE box checked?
- _____ If a real estate interest is listed, is the city or county and state listed?
- _____ If a financial institution is listed, is the institution clearly identified?
- _____ If a note or account receivable is listed, are the debtor names and the nature of the debt described?

- _____ *If a gas, oil, or mineral interest is listed, do you identify the city or county and state and the name of the energy company or other payor of royalties, working interests, or rentals?*
- _____ *Do you clearly identify stocks, bonds, mutual funds and the underlying assets of IRAs and brokerage accounts?*
- _____ *If the asset was not listed on the previous report, do you include transactional information in Column D or a parenthetical "(X)" in Column A denoting that the asset was exempt from disclosure on the previous report?*
- _____ *Did you properly identify the ownership of an asset and is that asset consistent with your prior report?*
- _____ *If you listed a position in Part I as trustee, administrator, custodian, etc., is the estate or trust listed and the assets therein properly identified?*

Commentary

When listing stocks, bonds, and other securities, the individual name or commonly understood abbreviation should be provided. Stocks should be indicated as "common" or "preferred." Bonds and other securities should have enough detail in the description to differentiate that asset from other similar assets listed. This is particularly helpful for the reviewer and auditor when the filer reports multiple bonds or securities in the same or similar series, or brokerage accounts that lists its accounts in the name of the firm.

When reporting accounts with financial institutions, the type of account does not need to be listed.

When reporting an interest in a mutual fund or common trust fund, only the name of the fund is required. There is no requirement to list the individual assets. An interest in a trust, estate, or similar entity requires the listing of each individual asset unless the exemptions from disclosure of the individual assets in 6. Trusts and Similar Entities are met.

It is important that the owner of each asset be properly identified and be consistent on each Report. In the event of a discrepancy, an explanation should be provided in Part VIII to preclude a letter of inquiry.

The reviewer and auditor will note when an asset appears on the current Report and is not listed on the prior Report and there is no transaction information in Column D. In this situation, the filer should place a parenthetical "(X)" in Column A denoting that the asset was exempt from disclosure in the prior Report.

It is important to recognize that in almost every instance where a filer is a trustee, executor, administrator, custodian etc., the filer has the legal authority and responsibility to exercise control over and manage the assets in a trust or estate. It is this authority based on the filer's fiduciary responsibilities to control the purchase, sale, or other disposition of the assets that requires the filer to list the assets in this Part.

3. Income

In Column B of Part VII, the income from listed assets must be shown. The disclosure of the gross amount and the type of income -- dividends, rent, interest, or income from discharge of indebtedness -- is required. Sections 102(a)(1)(B) and 109(7). All income is reportable, whether taxable, tax deferred, or tax exempt. When no income is received (or there is a loss) Column B1 under Amount should be left blank and the word "NONE" should appear in Column B2 under Type. When some income is received, the appropriate code, reflecting the amount, should be used. If the type of income is not a dividend, rent, interest, or income from discharge of indebtedness, it should be explained either in Part VII or Part VIII. The ranges are required by statute and the coded amounts for income are listed on the reporting form as follows:

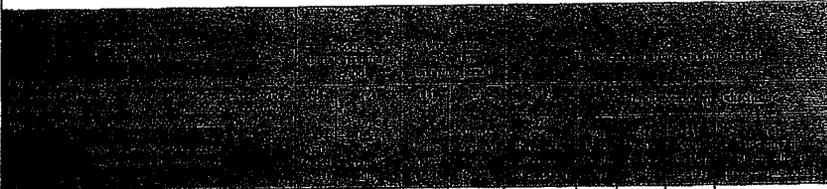
A	-	\$1,000 or less
B	-	\$1,001 to \$2,500
C	-	\$2,501 to \$5,000
D	-	\$5,001 to \$15,000
E	-	\$15,001 to \$50,000
F	-	\$50,001 to \$100,000
G	-	\$100,001 to \$1,000,000
H1	-	\$1,000,001 to \$5,000,000
H2	-	More than \$5,000,000

Section 102(a)(1)(B).

The same ranges and codes are used to report capital gains associated with transactions in Column D of Part VII. However, capital gains associated with "distributions" should be treated and reported as dividends in Column B.

The income from U.S. Savings Bonds, and similar investments should be reported if the minimum of \$200 is reached.

VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*



<input type="checkbox"/> NONE <small>(No reportable income, assets, or transactions)</small>													
1	Lego Common Stock (S)		NONE										
2	Rental Property #1, Alexandria, VA. (1995 \$200,000) (J)	D	Rent										
3	NationsBank (IRA) (CDs)	A	Interest										
4	Cabin Creek National Bank Stock (X)	B	Dividend										
5	Fidelity Magellan Mutual Fund (DC)	B	Dividend										
6	NY State Urban Dev. Corp. Muni. Bond	A	Interest										



Notes to filer:

- _____ Do you disclose in Column B the amount and type of income?
- _____ If you indicate "NONE" in Column B(2), did you leave Column B(1) blank?

Commentary

Column B(1), the income amount code, and Column B(2), the type of income, should **both** be completed if you have income. If no income was received, Column B(1) should be left blank and the word "None" should appear in Column B(2). When some income is received, then the appropriate income amount code and type should be provided.

The statute lists only four types of income- dividends, rent, interest, or income from discharge of indebtedness. If the filer lists another type, then it should be explained in Part VII or Part VIII.

Some filers question whether to report income from IRAs (Individual Retirement Account) or other retirement or pension plans where they are not actually drawing income from the account. All income should be reported, whether taxable, tax deferred, or tax exempt.

Filers will take special care when disclosing an IRA. They are merely arrangements for holding other investments on a tax-deferred basis. The focus should be placed on the underlying investments which should be disclosed. Many IRAs are invested in cash or cash-equivalent accounts, such as a money market fund or other deposit account in a bank. No further information about these accounts is required to be disclosed. However, if any other type of entity, such as a broker holds IRA assets for a filer, the filer must disclose the underlying holdings in the account. IRAs may contain almost any investment, such as mutual funds, stocks, or bonds.

Other tax-deferred retirement or pension accounts (such as Simplified Employee Pensions-SEPs, Keogh Plans-HR-10, 401(k), and 403b Plans) are similar to IRAs and are self-directed where the filer has control over the funds. Therefore, the underlying investments should also be disclosed.

4. Value

In Column C, the gross value of the asset at the end of the reporting period is reported. Section 102(a)(3). There are statutory value ranges and a value code on the form. These same values are used for the value of reported assets in Column C and for the value of assets reported in the Transaction part of Part VII, Column D. They are as follows:

J	-	\$15,000 or less
K	-	\$15,001 to \$50,000
L	-	\$50,001 to \$100,000
M	-	\$100,001 to \$250,000
N	-	\$250,001 to \$500,000
O	-	\$500,001 to \$1,000,000
P1	-	\$1,000,001 to \$ 5,000,000
P2	-	\$5,000,001 to \$25,000,000
P3	-	\$25,000,001 to \$50,000,000
P4	-	More than \$50,000,000

Section 102(d)(1).

In addition, the method used for valuation should be reported in Column C. These are coded as follows:

- Q -- Appraisal. Indicate in Part VII-A or Part VIII the date of the appraisal.
- R -- Cost. This method may be used only for real property or an interest in a real estate partnership. If used, show in Part VII-A or Part VIII the date of purchase and the amount, not just the category code, of the purchase price.
- S -- Assessment -- assessed value for tax purposes. If this method is used, show in Part VII-A or Part VIII the amount, not just the category code, of the assessed value and, if the property is assessed at less than 100% of its value, adjust the assessed value to reflect the current value and explain your adjustment.
- T -- Cash/Market. The quoted market price of publicly traded stocks and other securities; the face value of interest bearing corporate or municipal bonds or comparable securities; the balance or surrender value of certificates of deposit, savings and checking accounts, money market funds, etc.
- U -- Book. The net worth of a proprietorship, partnership interest, or corporate stock according to the books of such entity. This method may be used only for property interests not publicly traded.
- V -- Other. Any other recognized indication of value, such as current selling price of a comparable interest. If this method is used, you must describe in Part VII-A or Part VIII the method used.
- W -- Estimated. Your good faith estimate of the value of property if its exact value is not known and a more accurate determination of its value cannot be easily obtained by another method.

The gross value of the property should be indicated without reductions for mortgages, etc. References may be made in Part VII to mortgages included in Part VI (Liabilities).

VII. Page 1 INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

<input type="checkbox"/> NONE (No reportable income, assets, or transactions)									
1	Lego Common Stock (S)		NONE	K	T				
2	Rental Property #1, Alexandria, VA (1995 \$200,000) (J)	D	Rent	M	R				
3	NationsBank (IRA) (CDs)	A	Interest	J	T				
4	Cabin Creek National Bank Stock (X)	B	Dividend	J	U				
5	Fidelity Magellan Mutual Fund (DC)	B	Dividend	K	T				
6	NY State Urban Dev. Corp. Muni. Bond	A	Interest	J	T				

Notes to Filer:

- _____ Do you list in Column C(1) the gross value code (J-P) at the end of the reporting period?
- _____ Do you list in Column C(2) the correct value method code (Q-W) reflecting how the value of the asset was determined?
- _____ If you used value method codes "Q", "R", "S", or "V," did you include the appropriate information in Column A or Part VIII?

Commentary

If an asset is entirely sold during the reporting period, then Column C should be left blank. However, if an asset is partially sold (such as a portion of the total shares of stock owned), then Column C should be completed.

In addition, it should be emphasized that in Column C(2), there are four value method codes which require additional information in either Column A or Part VIII. Filers tend to forget that each report must stand on its own and as a result often fail to provide the following on their report each year:

- (1) "Q"-Appraisal- the date of the appraisal.
- (2) "R"-Cost- the date of purchase and the dollar amount of the purchase price.
- (3) "S"-Assessment- the dollar amount of the assessed value.
- (4) "V"-Other- the filer must describe the method used in Column A (Description) or Part VIII.

5. Transactions

Information on transactions should be entered in Column D. Transactions to be reported involve any purchase, sale or exchange during the reporting period which exceeds \$1,000. Section 102(a)(5).

As to each acquisition or disposition, you should disclose:

- a) the type of transaction, e.g., buy, sell, merger, inherit, redeem, etc.;
- b) the date of the transaction;
- c) the value category code indicating the value of the consideration paid or received;
- d) the capital gain, if exceeding \$200, realized on a disposition, using the appropriate income category code (codes A-H);
- e) the identity of the buyer or seller unless the transaction was conducted through public trading, as on a stock or commodities exchange;
- f) the liquidation of a bank account or money market fund that may have been reported on a prior Report.

If an asset has been bought and sold during the same reporting period, provide the required information about both transactions on successive lines.

On an exchange of properties, e.g., exchange of stock of ABC Co. for stock in XYZ Co. as a result of merger, list both the disposition of the ABC stock, and show any capital gain, whether or not recognized, and the acquisition of the XYZ stock.

The value category codes, codes J-P, which for convenient reference are also shown at the bottom of the Report, are listed above under VALUE.

The income category codes, codes A-H, for reporting capital gains, which for convenient reference are also shown at the bottom of the Report, are listed above under INCOME. If there is a loss, or no gain or loss, Column D4 under GAIN should be left blank.

You are not required to provide detailed transactional data on:

- transactions solely between yourself, your spouse, and your dependent children. Section 102(a)(5).
- transactions in which the then fair market value of consideration paid or received did not exceed \$1,000. Section 102(a)(5).
- transactions involving property used solely as the personal residence of you or your spouse. Section 102(a)(5)(A).
- transactions involving a mere change of form of assets, e.g., a stock split.
- deposits or withdrawals from bank accounts and money market funds.
- transactions involving the reinvestment of dividends, interest, and capital gain distributions.

If property listed in Part VII is acquired (or created) or disposed of (or liquidated) during the year in a transaction that is exempt from disclosure as above noted, indicate in Column D the type of transaction.

If property is partially disposed of during the reporting year, Columns C and D may both require information. To avoid a response to questions of possible errors in reporting, indicate in Column D(1) that it was "part sold."

VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

<input type="checkbox"/> NONE (No reportable income, assets, or transactions)									
1	Lego Common Stock (S)		NONE	K	T	Buy	7/10	J	
2	Rental Property #1, Alexandria, VA (1995 \$200,000) (J)	C	Rent			Sold	12/5	N	C Joe Smith
3	NationsBank (IRA) (CDs)	A	Interest	J	T	Buy	11/10	J	
4	Cabin Creek National Bank Stock (X)	B	Dividend	K	U	Partial Sale	4/8	J	A Jerry West
5	Fidelity Magellan Mutual Fund (DC)	B	Dividend	K	T	Buy Monthly		J	
6	NY State Urban Dev. Corp. Munl. Bond	A	Interest			Redeem	7/5	J	

Notes to filer:

- _____ If the asset is a new listing, do you list in Column D information on the transaction?
- _____ Do you list the date of the transaction in Column D(2)?
- _____ Do you list in Column D(3) the value code (J-P) indicating the value of the consideration paid or received for the asset?
- _____ Do you list in Column D(4) capital gain (income codes A-H) realized on the disposition of the asset or leave this column "blank" if there was no gain or a loss?

- _____ *If an asset is partially disposed of or sold, did you indicate "partial sale" in Column D(2)?*
- _____ *If an asset was completely disposed of or sold, did you leave Column C blank and complete Columns D(1)-(5) as appropriate?**
- _____ *Do you list the identity of the buyer or seller for all transactions not conducted through public trading, as on a stock or commodities exchange?*

Commentary

In addition to purchases and sales, other types of transactions such as mergers, gifts, inheritances, and redemptions require completion of all parts of Columns D(1)-(3).

If an asset was disposed of (sale or redemption), then Column D(4)- the capital gain code should also be provided. In addition, Column D(5) should be completed as to the identity of the buyer or seller if it was a private transaction (as opposed to a transaction conducted through public trading, as on a stock or commodities exchange).

It should be noted that some filers leave Column D blank when they have a transaction which does not require complete details. However, Column D(1) should be completed to provide the type of transaction. This is a common omission when the filer either opens or closes an account in a financial institution. The following are common examples of these types of transactions:

- (1) opening and closing of accounts in financial institutions, including the rollover of an account from one financial institution to another,*
- (2) transactions solely between the filer, his or her spouse, and dependent children,*
- (3) transactions in which the then fair market value of consideration paid or received did not exceed \$1,000, and*
- (4) transactions involving a mere change of form of assets, e.g., a stock split.*

6. Trusts and Similar Entities

Holdings of beneficial interests in trusts and similar entities present special problems in reporting.

A reporting person need not report the holdings of, or the source of, income from any of the holdings of:

- a) a qualified blind trust. Section 102(f)(1). (see below).
- b) a trust:
 - (i) which was not created directly by the reporting person, his spouse, or any dependent child; and
 - (ii) the holdings or sources of income, of which the person, his spouse, or any dependent child have no knowledge.
 Section 102(f)(2).
- c) a widely held investment fund, if the fund is publicly traded or the assets of the fund are widely diversified, and the reporting person neither exercises control, nor has the ability to exercise control over the financial interests held by the fund. Section 102(f)(8).

A reporting person does not have to report a contingent interest in a trust if the reporter has no control over the assets of the trust. An interest is contingent if there is no present right or ability to any income or principal, and the future is uncertain either by survivorship or otherwise.

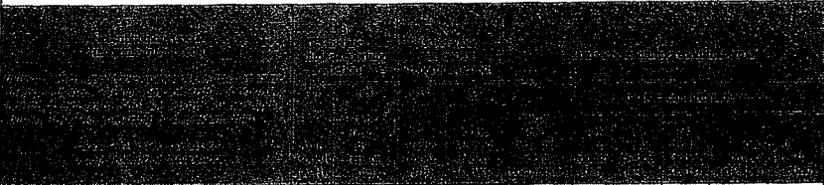
Individual assets, stocks, and bonds that are part of an IRA or brokerage account must be disclosed. However, when a mutual or widely diversified fund is part of an IRA or brokerage account, only the name of the fund and not its underlying stocks, bonds, or other assets, must be listed. In other words, underlying stocks, bonds, etc. in a pooled fund which are not individually directed by the reporting individual need not be disclosed.

A reporting person should complete Part VII, Columns A and B, for the trust or other financial arrangement qualifying under the conditions listed. Section 102(f)(2).

Report the holdings and sources of income from private investment clubs or investment partnerships. In these arrangements, the basic rule is that the income, value, and transactions of the holdings of any investment club or similar arrangement in which you, your spouse, or dependent child have a beneficial interest must be reported if the investment club or partnership had ownership of any asset having a value of \$1,000 at the end of the reporting period, regardless of the value of your, your spouse, or dependent child's individual share. Your listing of assets requires the completion of Columns A, B, and C for each asset owned by the investment club having a value in excess of \$1,000 and the completion of Column D for any club transaction in excess of \$1,000.

A qualified blind trust is subject to special rules. Section 102(f). The effect of the Code of Conduct for United States Judges (Canon 3(c)(2)) precludes qualified blind trusts for judges, their spouses and dependent children. Other judicial employees may own beneficial interests in qualified blind trusts as defined and conditioned in the pertinent statutes. Judicial employees considering the establishment of a qualified blind trust are directed specifically to Section 102(f)(3)(D), which requires approval by the Committee on Financial Disclosure.

VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)



<input type="checkbox"/> NONE (No reportable income, assets, or transactions)									
1	George Washington Trust								
2	IBM Stock	A	Dividend	K	T				
3	Merrill Lynch 20 th Century Mutual Fund	B	Dividend	L	T				
4	NY City Transportation Bonds		NONE	L	T	Buy	12/21	L	
5	Merrill Lynch Brokerage Account - IRA (\$)								
6	Merrill Lynch Health Mutual Fund	A	Dividend			Sell	1/8	K	A
7	Merrill Lynch Growth Mutual Fund	B	Dividend	K	T	Buy	1/8	K	
8	Capitol Holding Stock	A	Dividend	L	T				



Notes to filer:

_____ Did you complete the appropriate columns for each asset required to be individually listed in a trust, estate, investment club, or other similar financial arrangement?

Commentary

The holdings of beneficial interests in trusts and similar entities, such as estates, present special problems in reporting. The reporting person is not required to disclose the individual holdings from any trust or other financial arrangement which is specifically exempted and noted as such in the Instructions. The two most common types of exemptions are as follows:

(1) a trust:

(a) *which was not created directly by the reporting person, his spouse, or any dependent child; and*

(b) *the holdings or sources of income, of which the person, his spouse, or any dependent child have no knowledge.*

(2) *a widely held investment fund, if the fund is publicly traded or the assets of the fund are widely diversified, and the reporting person neither exercises control, nor has the ability to exercise control over the financial interests held by the fund. (This is most commonly associated with regulated investment company accounts, mutual funds, pension or deferred compensation plans, or other investment funds.)*

However, for any other trust, estate, or financial arrangement, the individual holdings of which the filer, the spouse, or the dependent child have a vested beneficial interest should be disclosed. The Committee has adopted the following language to use as a guideline:

A reporting person does not have to report a contingent interest in a trust if the reporter has no control over the assets of the trust. An interest is contingent if there is no present right or ability to any income or principal, and the future is uncertain either by survivorship or otherwise.

Related Commentary

The following are examples of statutory guidelines on related subjects extracted from The Codes of Conduct For Judges And Judicial Employees. These guidelines should provide assistance as to the propriety of disclosing certain financial interests.

(1) *"Financial interest" means ownership of a legal or equitable interest, however small. (Canon 3(C)(3)(c).)*

(2) *Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund. (Canon 3(C)(3)(c)(i).)*

(3) *An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization. (Canon 3(C)(3)(c)(ii).)*

(4) *A policy holder in a mutual insurance company, a depositor in a mutual savings association, or owner of government securities has a "financial interest," if the outcome of any proceeding in which the filer participates could substantially affect the value of the interests. (Canon 3(C)(3)(c)(iii) and (iv).)*

(5) *A judge does not have a financial interest in a corporation whose securities are held by either an educational institution or a private trust of which the judge is a trustee or in which the judge has no beneficial interest and no control over directing investments. (Canon 6(C)(1), Advisory Opinion 16.)*

(6) *An interest in a limited partnership designed to engage in particular investment strategies can fall within the concept of a "common investment fund" when the judge has no control or influence over the general partner or over the investment decisions. The investment vehicle is similar to a mutual fund. (Compendium § 3.1-3(e) (1997).)*

(7) *A judge has a "financial interest" in each of the named underlying equity securities when the judge's IRA owns units of an investment vehicle which holds 15 named corporations, the portfolio is not actively managed, and it is not contemplated the securities will be sold or exchanged prior to termination of the investment vehicle in ten years. Investment vehicle does not qualify as "mutual fund or common investment fund" under Canon 3C. (Compendium § 3.1-3(f) (1997).)*

(8) *A law firm's KEOGH plan or 401k plan managed by the firm, small number of participants, ready access to investment information does not qualify for the "common fund" exception under Canon 3C. (Compendium § 3.1-3(c) (1997).)*

(9) *A law firm's retirement fund qualifies for the "common investment fund" exception under Canon 3C where the financial interest is indirect (due to the number of participants and the size and diversity of investments), directed investment by participants is not available, and the participants do not know and cannot easily find out about a fund's portfolio, which turns over frequently. (Compendium § 3.1-3(c-1) (1997).)*

VIII. Explanatory Comments

Use this section to add information clarifying other portions of the Report. Of particular importance is any information, such as a reference to opinions of the Committee on Codes of Conduct and actions of a Judicial Council, that bears on possible conflicts of interest or problems under the Codes of Conduct for United States Judges. Also use this section to explain any apparent inconsistencies between the current Report and past Reports.

Place explanatory comments either with the item or in Part VIII that will facilitate "tracing" items from one Report to the next. For example, indicate if an asset has a different name from that used in the prior Report because of a reorganization or change of name.

Use attachment pages if more space is needed.

IX. Certification and Signature

The certifications provided on the form cover (1) a certification that the reporting person did not perform any adjudicatory function in any litigation during the reporting period in which such person or his or her spouse or minor or dependent children had a financial interest; (2) a certification that the Report is accurate, true, and complete as to all information required by the Act to be reported; and (3) a certification that earned income from outside employment and honoraria and the acceptance of gifts that have been reported are in compliance with the provisions of applicable laws and regulations.

The first certification covers only minor or dependent children. If it cannot be made in the form contained on the Report, e.g., the reporting person performed adjudicatory functions in a case either in error or under the "rule of necessity," modify the certificate and explain in Part VIII.

The original Report that is to be filed with the Committee must bear the original signature of the reporting person; the other three copies may be copies of the signed original. At least one copy of an amended return or of a clarifying letter responding to a Committee inquiry must bear the original signature of the reporting person; all other copies shall be copies of the signed original. The signature of the reporting person may be excused only during a period of physical or mental incapacity of that person.

Promptly upon discovery that an error has been made in a Report, amend the Report by one of the methods explained on page 4.

COMPLIANCE AND SANCTIONS

Compliance with filing and reporting requirements is monitored pursuant to 5 U.S.C. app. 4, § 106.

One who knowingly and willfully falsifies or fails to file or report any information required under the Act is subject to civil and criminal sanctions. Section 104(a).

ETHICAL STANDARDS

The disclosure requirements and exemptions from disclosure contained in the Act neither define nor limit the standards imposed by the Code of Conduct for United States Judges and other rules of the Judicial Conference of the United States or the statutory provisions for disqualification or recusal.

For example, disclosure of financial interests under the Act is required only for interests exceeding a stated minimum amount of value and only with respect to certain members of a person's family, whereas 28 U.S.C. § 455(b)(4) applies to financial interests without regard to amount and 28 U.S.C. § 455(b)(5) applies to participation in litigation by a person within the third degree of relationship to the judge. Similarly, the Act exempts from disclosure matters relating to campaign receipts and campaign disbursements, most of which would be prohibited under the Code of Judicial Conduct for United States Judges, which also precludes qualified blind trusts for judges.

PUBLIC ACCESS

Financial Disclosure Reports are public documents, open to inspection and copying at the office of the Committee on Financial Disclosure. Reports will be made available to the public within thirty (30) days after the Report is received by the Committee on Financial Disclosure and only upon written application. Sections 105(a) and (b)(1).

Individuals requesting copies of Financial Disclosure Reports will be required to present adequate identification such as a picture identification, when requesting a copy in person. Those requesting copies by mail will be required to submit a notarized request.

There will be a charge of fifty (50) cents for each page copied. A Report will be made available only to a person who states on a written application:

- (A) that person's name, occupation and address;
- (B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

- (C) that such person is aware of the prohibitions with regard to obtaining or using the Report.

Section 105(b)(2).

It shall be unlawful for any person to obtain or use a Report--

- (A) for any unlawful purpose;
- (B) for any commercial purpose other than by news and communications media for dissemination to the general public;
- (C) for determining or establishing the credit rating of any person; or
- (D) for use directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

Section 105(c)(1).

The Attorney General may bring a civil action against any person who obtains or uses a Report for any prohibited purpose described above. The court in which such action is brought may assess against such person a penalty in any amount not to exceed \$10,000. Such remedy shall be in addition to any other remedy available under statutory or common law. Section 105(c)(2).

Commentary

Financial Disclosure Reports are public documents open for copying and inspection and will be maintained in the Financial Disclosure Office for six years, after which the reports will be destroyed unless there is an ongoing investigation. The Committee has held that by statute felons cannot be restricted from ready access to the Reports. Immediately upon mailing a copy of a filer's Report to the requestor, staff sends a courtesy letter of notification to the filer informing the filer that a proper request for a copy of filer's Report was received and that it is being made available.

Staff has been instructed to delete home addresses, social security numbers, and account numbers from Reports requested by the public.

The Instructions for completing Financial Disclosure Reports are made available to the public upon request. The fee for copying Reports can be waived only after a determination by the Committee that it is in the public interest and that the requestor is unable to pay (e.g., waiver of the copying fee for prisoners). Substantive inquiries from the press or other members of the public are handled by the Committee Counsel.

APPENDIX I**INITIAL REPORTS****WHO MUST FILE AND WHEN**

Persons nominated to be JUDICIAL OFFICERS must file an initial Report within 5 days of the transmittal of their nomination by the President to the Senate. Section 101(b)(1).

Newly-appointed JUDICIAL EMPLOYEES must file an initial Report within 30 days of assuming their positions, Section 101(a), if they assume their position before November 1. Newly-appointed JUDICIAL EMPLOYEES who assume their positions between November 1 and December 31 must file an initial Report by March 15 of the subsequent year.

Judicial employees who receive a promotion or change in the rate of pay which results in pay equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule before November 1, must file an initial Report within 30 days of the promotion or pay change. If the promotion or pay adjustment occurs between November 1 and December 31, judicial employees must file an initial Report by March 15 of the subsequent year.

A JUDICIAL EMPLOYEE who is not expected to perform the duties of the office or position for more than sixty (60) days in a calendar year is not required to file an annual Report. However, if the person actually performs duties for more than sixty (60) days, an initial Report must be filed within fifteen (15) days of the sixtieth day. Section 101(h).

INSTRUCTIONS FOR COMPLETING EACH PART

Below are specific instructions that differ from those provided for annual Reports.

Identifying Information

BLOCK 3. Date of Report. For a JUDICIAL EMPLOYEE, a date that is no more than 30 days after your entry in the position if you entered before November 1. If you entered between November 1 and December 31, the "Date of Report" should be no later than March 15. For a person nominated to be a JUDICIAL OFFICER, the date should be no more than 5 days after submission of your nomination to the Senate.

BLOCK 5. Report Type. Check the appropriate report form and in the case of a nomination Report show the date your nomination was transmitted to the Senate.

BLOCK 6. Reporting Period. The beginning date (January 1 of the year preceding the year you assumed your office or were nominated) and the ending date (a date you choose that precedes the "Date of Report" by no more than 30 days).

I. Positions

The reporting period is the two calendar years preceding the date of the Report through the filing date in the current calendar year. Section 102(a)(6)(A).

III. Non-investment Income

The reporting period is the calendar year preceding the date of the Report and the year of filing. Section 102(b)(1)(A).

In addition, you must report compensation, other than from the United States Government, in excess of \$5,000 in any of the two calendar years prior to the calendar year during which you file your first Report. Section 102(a)(6)(B).

You must include the identity of each source of such compensation and a brief description of the nature of the duties performed or services rendered by the reporting person for each source. Section 102(a)(6)(B).

You are not required to report any information which is considered confidential as a result of a privileged relationship, established by law between the reporting person and any person nor are you required to report any information with respect to any person for whom services were provided by any firm or association of which the reporting person was a member, partner, or employee unless the reporting person was directly involved in the provision of such services. Section 102(a)(6)(B).

IV. and V. Reimbursements and Gifts

You are not required to complete these Parts of the Report. Section 102(b)(1). Note "exempt" in these two spaces.

VI. Liabilities

The reporting period is the calendar year preceding the date of the Report through a date which is less than thirty-one days before the filing date. Section 102(b)(1)(B).

VII. Investments and Trusts

The reporting period for providing income information for assets is the calendar year preceding the date of the Report and the year of filing. Section 102(b)(1)(A). The reporting period for providing value information for assets is the calendar year preceding the date of the Report through a date which is less than thirty-one days before the filing date. Section 102(b)(1)(B). **You are not required to complete Subpart D "Transactions."** Section 102(b)(1). Note "exempt" in these two spaces.

APPENDIX II**FINAL REPORTS****WHO MUST FILE AND WHEN**

A JUDICIAL OFFICER who works 60 days or more in a calendar year is required to file a final Report within thirty days after resigning under 28 U.S.C. § 371(a) or otherwise ceasing to continue in such position. A JUDICIAL OFFICER who retires under 28 U.S.C. § 371(b) is not required at that time to file a final Report, but continues to be obligated to file an annual Report for any year in which the relevant Judicial Council authorizes the employment by the judge of at least one law clerk or secretary, unless the judge certifies that he or she did not perform the duties of his or her office for more than sixty (60) days.

A JUDICIAL EMPLOYEE who works 60 days or more in a calendar year is required to file a final Report within thirty days of termination of employment. Section 101(e).

A JUDICIAL OFFICER OR JUDICIAL EMPLOYEE accepting another position in the Federal government subject to financial disclosure reporting is not required to file a final Report when changing position. Section 101(e).

INSTRUCTIONS FOR COMPLETING EACH PART

Below are specific instructions that differ from those provided for annual Reports.

Identifying Information

BLOCK 3. Date of Report. The date the Report is completed, and not more than 30 days after termination of employment.

BLOCK 5. Report Type. Check final Report.

BLOCK 6. Reporting Period. Show both the beginning and ending date of the reporting period. The beginning date will be January 1 of the current year if an annual Report has already been filed covering the preceding calendar year; otherwise, it will be January 1 of the preceding calendar year. The ending date is the date of termination of employment.

Parts I. - VII.

The reporting period is the calendar year preceding the date of the Report through the filing date in the current calendar year. Section 102(c). If an annual Report was already filed covering the preceding calendar year, then the reporting period is the current calendar year through the filing date.

APPENDIX III**ADDITIONAL REFERENCES**

Regulations concerning gifts, outside earned income, honoraria, and outside employment and the codes of conduct are contained in the Guide to Judiciary Policies and Procedures, Volume II, Codes of Conduct for Judges and Judicial Employees.

The Committee on Codes of Conduct has established a database on Westlaw containing the ethical materials in Volume II of the Guide. To use this database, log on to Westlaw using your judiciary-provided Westlaw password (you cannot access this database with a password provided by anyone other than the federal judiciary). When prompted for a file name, enter CONDUCT (this file name does not appear on the Westlaw menu). Once entered into the database file, research may be conducted using established Westlaw search mechanisms.

INDEX

Agreements	14
continuation of payments	14, 15
former employer	14
future employment	14, 16
part-time magistrate judges	16
Alternative reporting format	6
Amendments	4
certification	4, 55
Basic pay	2
reemployed annuitant	2
cost of living	2
locality pay	2
Certification and signature	55
Compliance and sanctions	56
filing fee	3
failure to file	56
Covered senior employee	12, 19
Disclosure concerning family members	5
Ethical standards	56
Extensions of time to file	3
Filing fee	3
waiver	3
extraordinary circumstances	3
Filing requirements	1, 2
60 day rule	1, 2
annual report	1
initial report	58
final report	60
nomination report	58
Final report	60
reporting period	60
Financial interest	53, 54
Gifts	29
bar association	32
definition	29
foreign government	25
honorary/reduced-rate memberships	31
investitures and similar ceremonies	30
personal hospitality	26

received by a spouse and dependent children	29
relative	26, 29
solicitation	26
special occasions	31
spouse	29
subscriptions	31
Honoraria	20, 23
donated to charity	20
prohibition on receipt	20, 23
Initial report	58
non-investment income	19, 59
reporting period	58
Investments	36
accounts with financial institutions	36
bank accounts	36
brokerage accounts	51
capital gain	47
common investment fund	53
common trust fund	39, 41
description of assets	38
financial statements	36
income	42
income threshold	36, 37
interest	42
IRAs	44, 51
joint-ownership	39
mutual funds	39
"NONE"	42
parenthetical "(X)"	39
partnership	9, 37
private investment clubs	51
rental income	38, 42
reportable assets	36, 37
spouse	37
stocks, bonds, and other securities	38
tax deferred	42
tax-deferred retirement or pension accounts	44
transactions	47
U.S. Savings Bonds	42
value	44
value method	45
value threshold	36, 37
widely held investment fund	51

Judicial officer	1
Liabilities	33
credit cards	34
dependent children	33, 34
mortgage	33
owed to a spouse	33
personal residence	33
political campaign funds	34
relatives	33
spouse	33, 34
Non-investment Income	17
annuities	17
commissions	17
compensation for services	17
covered senior employees	19
death benefits	18
dependent children	17
dividends on life insurance policies	17, 19
employment by the United States	17
fiduciary relationship for compensation	20
honoraria	17, 23
life insurance policies	17, 19
limitations on outside employment	19, 20, 23
practicing a profession	20
royalties	17, 19
spouses	17
teaching	20, 24
vested pension plans	17
Part-time employees	2
Personal information	7
Positions	9
Guardian	9
Executor	9, 39
honorary	9
investment partnership	9
judges	10
judicial employees	12
limited partner	9
part-time magistrate judges	9, 12
reporting period	9
trustee	9, 39
Public access	56
felons	57

unlawful purpose	57
Reconciliation with prior reports	7
Reimbursements	25
bar association	27
definition	25
food, lodging, or entertainment	25
personal hospitality	26
travel expenses	25
Reviewing judge	8
certification	8
Senior covered employee	19
Senior judge	2, 21
Teaching	20, 21
approval	24
ordinary and necessary expenses	22
senior judge	21
Transactions	47
capital gains	48
buy	47
deposits or withdrawals from bank accounts	48
exchange of properties	48
inherit	47
liquidation of a bank account	47
merger	47
partial	48
personal residence	48
Trusts	39, 50
beneficial interest	50
blind trust	51
contingent interest	51
dependent child	51
exemptions	51
spouse	39, 51
Value Method	45
Q --Appraisal	45
R --Cost	45
S --Assessment	45
T --Cash/Market	45
U --Book	45
V --Other	45
W --Estimated	45
Where to file	4

AO-198
Rev. 1/88

FINANCIAL DISCLOSURE REPORT
FOR CALENDAR YEAR 1998

Report Required by the Ethics Reform Act of 1989, Pub. L. No. 101-194, November 30, 1989 (5 U.S.C. App. 4, 101-112)

1. Person Reporting (Last name, first, middle initial) Porteous (Jr.), Gabriel T.		2. Court or Organization United States District Court Eastern District of Louisiana		3. Date of Report 5/13/99	
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) Active United States District Court Judge		5. Report Type (check appropriate type) Nomination, Date _____ Initial <input checked="" type="checkbox"/> Annual _____ Final _____		6. Reporting Period 1/1/98 - 12/31/98	
7. Chambers or Office Address United States District Court 500 Camp St., C206 New Orleans, La. 70130		8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____			

I. POSITIONS. (Reporting individual only; see pp. 9-13 of Instructions.)

POSITION	NAME OF ORGANIZATION/ENTITY
<input checked="" type="checkbox"/> NONE (No reportable positions.)	
1 _____	_____
2 _____	_____
3 _____	_____

II. AGREEMENTS. (Reporting individual only; see pp. 14-16 of Instructions.)

DATE	PARTIES AND TERMS
<input checked="" type="checkbox"/> NONE (No reportable agreements.)	
1 _____	_____
2 _____	_____
3 _____	_____

III. NON-INVESTMENT INCOME. (Reporting individual and spouse; see pp. 17-34 of Instructions.)

DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
<input checked="" type="checkbox"/> NONE (No reportable non-investment income.)		
1 _____	_____	\$ _____
2 _____	_____	\$ _____
3 _____	_____	\$ _____
4 _____	_____	\$ _____
5 _____	_____	\$ _____

SC00231

HP Exhibit 104(a)

FINANCIAL DISCLOSURE REPORT

Name of Person Reporting Porteous (Jr.), Gabriel T.	Date of Report 5/13/99
--	---------------------------

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.

(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of Instructions.)

	SOURCE	DESCRIPTION
<input type="checkbox"/>	NONE (No such reportable reimbursements.)	
1	Jefferson Bar Association	4/17/98 Speaker CLE Seminar, Biloxi, Mississippi (Hotel)
2	Louisiana State Bar Association	6/11-6/13/98 Speaker CLE Seminar, Destin, Fla. (Hotel and Mileage)
3	State Fourth & Fifth Circuit Judges' Association	(Travel & Hotel) 10/8-10/12/98 Speaker CLE Seminar, Seattle, Washington
4	LSU Trial Advocacy Training Program	8/10-8/12/98 Faculty Member, Baton Rouge, La. (Food, Mileage and Hotel)
5		
6		
7		

V. GIFTS. *(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)*

	SOURCE	DESCRIPTION	VALUE
<input checked="" type="checkbox"/>	NONE (No such reportable gifts.)		
1			\$
2			\$
3			\$
4			\$

VI. LIABILITIES. *(Includes those of spouse and dependent children; indicate, where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)*

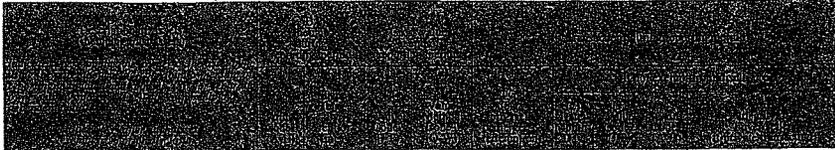
	CREDITOR	DESCRIPTION	VALUE CODE*
<input type="checkbox"/>	NONE (No reportable liabilities.)		
1	MBNA	Credit Card	J
2	Citibank	Credit Card	J
3			
4			
5			
6			



FINANCIAL DISCLOSURE REPORT

Name of Person Reporting Porteous (Jr.), Gabriel T.	Date of Report 5/13/99
--	---------------------------

VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of instructions.)*



<input type="checkbox"/>	NONE (No reportable income, assets, or transactions.)												
1	Fidelity Investments Fidelity Management Trust-IRA	D	Distrib.	J	T	None							
2	Noble Drilling Corp. Common Stock		None	J	T	None							
3	Oberweis FDS Emerging Growth Mutual Fund		None	J	T	None							
4													
5													
6													
7													
8													
9													
10													
11													
12													
13													
14													
15													
16													
17													
18													



FINANCIAL DISCLOSURE REPORT

Name of Person Reporting	Date of Report
Porteous (Jr.), Gabriel T.	5/13/99

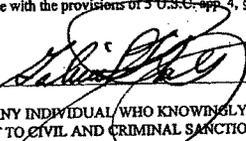
VIII. ADDITIONAL INFORMATION OR EXPLANATIONS (Indicate part of Report)**IX. CERTIFICATION.**

In compliance with the provisions of 28 U.S.C. § 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

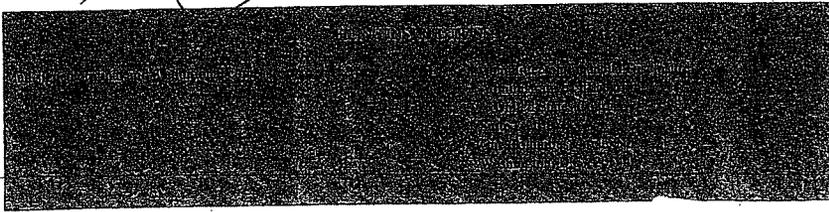
I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. 4, § 501 et. seq., 5 U.S.C. § 7353 and Judicial Conference regulations.

Signature



Date 5/13/99

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. App. 4, § 104.)



SC00234

Financial Disclosure Report

**Filing Instructions
for Judicial Officers
and Employees**

**Committee on Financial Disclosure
Administrative Office of the U.S. Courts
One Columbus Circle, N.E., Suite 2-301
Washington, D.C. 20544**

202-273-4626

January 2, 1999

HP Exhibit 104(b)

**Major Changes to Financial Disclosure
Instructions for 1998**

There are few substantive changes from last year's filing requirement. However, the Instructions concerning the reporting of individual assets contained in brokerage accounts, trusts, estates, and IRAs have been further clarified, especially for filers listing a position as executor, trustee, or similar position in Part I of the report.

The Committee continues to find it difficult to close reports that attach financial statements in lieu of completing Part VII, Investments and Trusts, of the Financial Disclosure Report (AO Form 10). Such reports often fail to provide the required information and lack a consistent and uniform format necessary for Committee review. Moreover, they often provide confidential information that is not required, such as account numbers, Social Security numbers, and home addresses. Accordingly, each filer should ensure that the appropriate entries, including value codes, for each asset in an IRA or trust are entered in Part VII of their Financial Disclosure Report (AO Form 10).

Gifts from relatives are not reportable in Part V, Gifts, of the report form. The filing instructions on page 38 have been amended to provide that the parenthetical "(X)" should be used to identify an asset in Part VII, Column A that meets the reporting threshold and is otherwise exempt from the reporting requirements as a gift under Part V. Thus, if a filer received \$10,000 in AT&T stock from a parent, the stock would be identified in Part VII, Column A, as "AT&T (x)" and Column D, Transactions, would not be completed.

SECURITY ISSUES

Every filer should be aware that the Ethics in Government Act of 1978 makes your Financial Disclosure Report a **PUBLIC DOCUMENT**. This means that a person seeking to harm or harass you and your family can get a copy of your Financial Disclosure Report. There have been instances of such misuse of information provided by filers.

The Committee makes the following recommendations so that you can satisfy the financial disclosure requirements of the Act while accommodating appropriate security concerns:

(1) When filing your report, enter your **CHAMBERS OR OFFICE ADDRESS** in block 7. Do **NOT** use your home address for any purpose in connection with your Report.

(2) In Part VII, do **NOT** provide more financial detail than is required by the Instructions. For example, for bank accounts, provide only the name of the institution and the city and state in which it is located. For certificates of deposit, provide only the name of the institution that issues the certificate. Do not include your social security number or the financial account numbers of brokerage accounts, IRAs, or bank accounts. For rental properties, provide only the city (or county) and state in which the property is located. If you have more than one rental property in a particular location, you may identify the properties as "Rental Property #1, Cincinnati, Ohio," "Rental Property #2, Cincinnati, Ohio," and so on.

(3) It is not necessary to report your personal residence or residences in Part VII (unless a portion of your residence is rented to a third party). Similarly, do not report any mortgage, equity loan, or line of credit secured by a personal residence, vehicle, boat, or motor home in Part VI.

(4) In addition, some filers wish to provide their federal income tax return. Paradoxically, this method provides too much information, and at the same time not enough information. The tax return shows interest and dividends in Schedule B and sales of assets in Schedule D in specific detail, but it does not provide the protection of the income and value codes and does not include lists of your current holdings. Therefore, a tax return does not meet the requirements of the Act.

(5) Similarly, financial statements, deeds, and trust agreements provide too much information including home addresses and account numbers. They are not necessary in order to identify an asset. Do not attach such documents to your report.

(6) The reporting requirements seldom require the name of your spouse or a child. Identify your spouse and children by the use of the parenthetical codes "S," "DC1," and "DC2."

If your Financial Disclosure Report is requested, you will be notified of the request. If you have any concerns or questions about the release of your report, please call the staff of the Committee at (202) 273-4626 or discuss the matter with your local United States Marshal.

**FINANCIAL DISCLOSURE INSTRUCTIONS FOR
JUDICIAL OFFICERS AND EMPLOYEES**

TABLE OF CONTENTS

	Page
INTRODUCTION	1
WHO MUST FILE, WHEN AND WHERE	1
Extensions of Time to File	3
Filing Fee	3
Where to File	4
Amendments	4
Waivers	5
GENERAL INSTRUCTIONS	5
"None" Box	5
Disclosure Concerning Family Members	5
Extra Pages; Attachments	6
Alternative Format For Reporting	6
Reconciliation with Prior Reports	7
INSTRUCTIONS FOR COMPLETING EACH PART	9
I. Positions	9
II. Agreements	14
III. Non-investment Income	17
A. General Non-investment Income	17
B. Outside Employment and Honoraria	19
C. General Provisions	21
IV. Reimbursements of Transportation, Lodging, Food, Entertainment	25
V. Gifts	28
VI. Liabilities	32
VII. Investments and Trusts	35
1. General	35
2. Description of Assets	37
3. Income	41
4. Value	43
5. Transactions	46
6. Trusts and Similar Entities	49
VII. Explanatory Comments	54
IX. Certification and Signature	54
COMPLIANCE AND SANCTIONS	55
ETHICAL STANDARDS	55
PUBLIC ACCESS	55
APPENDIX I - INITIAL REPORTS	57
Who Must File and When	57
Instructions for Completing Each Part	57

Identifying Information	57
I. Positions	58
III. Non-investment Income	58
IV. and V. Reimbursements and Gifts	58
VI. Liabilities	58
VII. Investments and Trusts	58
APPENDIX II - FINAL REPORTS	59
Who Must File and When	59
Instructions for Completing Each Part	59
Identifying Information	59
Parts I. - VII.	59
APPENDIX III - Additional References.	60
INDEX	61

INTRODUCTION

Three types of Financial Disclosure Reports--initial, annual, and final--are required by the Ethics in Government Act of 1978, as amended, published in Title 5 of the United States Code Annotated, Appendix 4, §§ 101-111.

These Instructions govern the preparation and filing of AO Form 10, which is to be used by judicial officers and employees for all Reports due after January 1, 1999. The body of the Instructions covers reporting requirements for annual Reports, which in some cases also apply to initial and final Reports. Where requirements for initial and final Reports differ from the annual reporting requirements, specific information can be found in Appendices I and II, respectively, of these Instructions.

The Act requires that the Committee on Financial Disclosure review each Report to assure that, on the basis of the information provided, the reporting person is in compliance with applicable laws and regulations. Section 106(b)(1). The Committee also reviews reports to determine potential conflicts of interest or ethical problems.

Questions concerning the reporting requirements (and suggestions for improving the AO Form 10 or these Instructions) should be addressed to: Committee on Financial Disclosure, Administrative Office of the United States Courts, One Columbus Circle, N.E., Suite 2-301, Washington, D.C. 20544.

WHO MUST FILE, WHEN AND WHERE

JUDICIAL OFFICERS AND JUDICIAL EMPLOYEES are required to file an annual Report by May 15 following each calendar year in which they performed their duties for more than sixty (60) days. Section 101(d). Filing before the due date is encouraged to ease the burden on members of the Committee on Financial Disclosure who review the Reports, as required by the Act.

JUDICIAL OFFICERS are defined in the Act as the Chief Justice and Associate Justices of the Supreme Court, and the judges of United States courts of appeals, United States district courts, including the district courts in Guam, the Northern Mariana Islands, and the Virgin Islands, Court of International Trade, Tax Court, Court of Federal Claims, Court of Veterans Appeals, United States Court of Appeals for the Armed Forces, and any court created by an Act of Congress, the judges of which are entitled to hold office during good behavior. Section 109(10).

A JUDICIAL EMPLOYEE is any employee, other than a JUDICIAL OFFICER of the judicial branch of Government, of the United States Sentencing Commission, of the Tax Court, of the Court of Federal Claims, of the Court of Veterans Appeals, or of the United States Court

*Article I
Courts: Territorial
Courts, US Ct of Appeals -
Armed Forces, US Ct of Veterans Appeals,
US Ct of Fed Claims, & US Tax Ct*

1

Issued January 2, 1999

of Appeals for the Armed Forces, who

- (a) is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, e.g., bankruptcy judges and magistrate judges; or
- (b) who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule.

Section 109(8).

Persons whose obligation to file Reports may vary from year to year, e.g., a senior judge, or recalled bankruptcy judge or magistrate judge who may perform more than 60 days of service in one year but not in another, should certify their exempt status to the Committee on Financial Disclosure by May 15th, if they are exempt from filing for the prior year. This will avoid an inquiry from the Committee concerning failure to file. When they file their next Reports, they should explain any apparent inconsistencies resulting from the "gap" between the two reporting periods.

For information on who must file initial and final Reports, and when they must be filed, see Appendices I and II, respectively.

Commentary

The General Counsel of the Administrative Office has determined that the term "basic pay" within the definition of a judicial employee does not include locality pay or geographic cost-of-living allowance (COLA) received by some employees in Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands. Geographic COLAs are considered additional allowances for the cost of living rather than part of the basic rate of pay. Similarly, there is no express statutory authority permitting court employees to receive locality pay. Payment is based upon the Director of the Administrative Office's authority to set compensation and is treated in the same manner that locality pay is treated in the Executive Branch, which does not consider locality pay as a part of basic pay.

Part-time employees without adjudicatory functions are deemed to satisfy the filing threshold if the basic rate of pay fixed for the position held meets the statutory minimum. Thus, the "rate of basic pay" rather than actual pay received, is used to determine the need to file a Report. In addition, the Committee has held that the "rate of basic pay" to be used to determine whether a reemployed annuitant who is not authorized to perform adjudicatory functions must file a Report does not include the annuity.

A part-time magistrate judge whose annual salary level is less than 16.4% of the salary of a full-time magistrate judge will normally perform the duties of his or her office for less than sixty-one (61) days each year and accordingly is not required to notify the Committee of his or her exempt status.

Extensions of Time to File

The Committee on Financial Disclosure may grant reasonable extensions of time for filing initial, annual, and final Reports. Requests for extension should be submitted in writing to the Committee before the due date and should explain why the extension is necessary. The maximum extension permitted by the Act is 90 days. Section 101(g).

Emergency requests for extension may be made by telephone to the Committee staff if the reason for the request could not have been reasonably anticipated. A letter confirming the request should be sent promptly to the Committee. A letter confirming the oral response will be sent promptly by the Committee.

Filing Fee

The statute requires a person to file a timely Report. One who files a Report more than thirty (30) days after the date the Report was due may be assessed a filing fee of \$200.00. If for good reason it is necessary to request a delay in filing, extensions of time of up to 90 days may be granted by the Committee on Financial Disclosure. The statute states that extensions beyond 90 days are not permissible. Absent a waiver, those granted a full 90 day extension will have to pay the fee if they do not file by the 120th day. Section 104(d)(1).

The Committee may waive the filing fee for extraordinary circumstances. Requests for waivers must be submitted in writing to the Committee with explanation of the reason(s) the Report was not filed on time. Section 104(d)(2).

Commentary

When a Report is filed more than 30 days after the date it is due, the filer is assessed a late filing fee of \$200. The fee is deposited in the United States Treasury. If a filer requests a waiver of the fee due to extraordinary circumstances, the Committee has delegated the authority to approve waivers involving failure of the postal system or physical incapacity of the filer to the Subcommittee on Compliance. Requests for waiver of the fee for any other "extraordinary circumstance" require a decision by the Committee as a whole. Please note, that Reports are deemed to have been filed five (5) days prior to physical receipt for the purpose of determining whether the Report has been timely filed.

Where to File

Effective January 1, 1991, the original and three copies of the Report, and of any amendments (including amendments in response to letters of inquiry) are to be filed with:

Committee on Financial Disclosure
Administrative Office of the United States Courts
One Columbus Circle, N.E., Suite 2-301
Washington, D.C. 20544

Section 103(h)(1)(B).

The additional copies of the Report may be made by photocopying the original, rather than by retyping or using carbons.

Commentary

Reports are not considered to have been received unless they are physically received by the staff of the Committee on Financial Disclosure and contain an original signature of the filer. Reports will be date stamped as soon as they are received by the staff. Reports sent to the Committee on Financial Disclosure by facsimile or other electronic means are not considered to be received until a copy with an original signature is received.

Amendments

A Report may be amended by filing an amended AO Form 10 for that year, fully explaining items added to, or changed from, the original submission.

Alternatively, additional information may be submitted by a separate letter addressed to the Committee. You should identify the Report(s) and Part(s) being corrected and provide complete information for the item(s) being corrected. Sign the letter personally, which will constitute your certification to the accuracy and completeness of the Report(s) as amended.

Regardless of which method is used, you should file amendments in the same manner as for the original, i.e., a signed original and three copies with the Committee.

Commentary

Self-initiated amendments will be certified in the same manner as an original Report. Each reviewer will complete block 8 on the AO Form 10 for each amendment as amended.

Amendments must be submitted over the signature of the filer. Amendments submitted on the filer's behalf by accountants, lawyers, or others are not acceptable.

Waivers

The Committee may grant a request for a waiver of any reporting requirement for one who is expected to perform the duties of the office or position less than one hundred and thirty (130) days in a calendar year, but only if the Committee determines that:

- (1) the person is not a full-time employee of the Government;
- (2) the person is able to provide services specially needed by the Government;
- (3) it is unlikely that the person's outside employment or financial interests will create a conflict of interest; and
- (4) public financial disclosure by the person is not necessary under the circumstances.

Any request for such a waiver must be directed in writing to the Committee with a detailed explanation of the facts upon which the Committee can make the determinations required under the Act. All such requests are available to the public. Section 101(i).

GENERAL INSTRUCTIONS

The Report should be legible. Its format has been designed to be completed on most typewriters. The name of the person and date of the Report should appear on each page. Financial Disclosure Report software is available upon request from the Office of the Committee.

"None" Box

Parts I through VII of the Report must be completed. If you have no reportable items in any of these parts, do not simply leave it blank or mark it as "N/A," but instead mark the "None" box as an affirmative declaration of the fact.

Disclosure Concerning Family Members

A reporting person is required to disclose financial information concerning a spouse and dependent children, and the form is designed for inclusion of this information. Section 102(e)(1). The requirement to disclose trust information for a spouse and dependent children

only when a beneficial interest exists is found on pages 49 and 50. The Act does not require disclosure of the financial interests of other family members, nor is it required with respect to a spouse who is living separate and apart with the intention of terminating the marriage or permanently separating. Section 102(e)(2).

The Act defines a dependent child as a "son, daughter, stepson, or stepdaughter . . . who--
 (A) is unmarried and under age 21 and is living in the household of the reporting person; or
 (B) is a dependent of the reporting person within the meaning of section 152 of the Internal Revenue Code of 1986." (26 U.S.C. § 152)

Section 109(2).

When reporting information about a spouse or dependent children, add the parenthetical "(S)" or "(DC)" to signify the person(s) to whom it relates. The parenthetical "(J)" should be used to signify an item jointly held or owned by you and your spouse.

Extra Pages: Attachments

If more space is needed for any Part than is provided on the form, make the additional entries on a new page and include it as a numbered attachment. The identifying information (name and date of Report) must appear on each attachment page. If you make these entries on other than a photocopy of a page from the form, make sure that the Part being continued is indicated and that all the required information is given.

Alternative Format For Reporting

The computer program available from the Administrative Office provides an acceptable format for reporting.

It is permissible in exceptional circumstances to provide the required information in any Part of the Report in an alternative format but only upon a specific written determination by the Committee that such alternative reporting is acceptable. Those wishing to use alternative formats should seek permission to do so by writing to the Committee stating in detail the format to be used, why the request is being made, and whether it is for the current Report only or for future Reports, as well. All information submitted must be in a format easily reconciled with prior Reports. Section 102(b)(2)(A).

In the absence of permission to use an alternative format, no extrinsic reports or documents may be used as substitutes for disclosure on the AO Form 10 as provided. This limitation is necessary to avoid additional burdens that would occur in the review process if a variety of documents, with different formats and often with extraneous information, were permitted.

Reconciliation with Prior Reports

Each Report should be complete in itself. No information may be adopted by reference to prior Reports. If letters approving a specific transaction, position, or agreement have been received from the Committee, or if the Committee on Codes of Conduct has approved particular conduct or actions, a copy of the letter of approval should be attached to each Report to avoid a letter of inquiry.

Compare the information on your current Report with that in the prior Report to assure that each is complete and correct.

To assist the Committee during the review process, list items in each Part of the Report in the same order as shown in the prior Report (placing any new items at the bottom of the list or of the appropriate subdivision of the list).

Personal Information

<div style="border: 1px solid black; padding: 2px; display: inline-block;">AO-10 Rev. 1/98</div>		FINANCIAL DISCLOSURE REPORT FOR CALENDAR YEAR 1998		<i>Report Required by the Ethics in Government Act of 1978 (5 U.S.C. App. 4, 101-111)</i>
1. Person Reporting (Last name, first, middle initial)	2. Court or Organization		3. Date of Report	
Smith, John B.	U.S. District Court, North Dakota		April 16, 1999	
4. Title (Article III Judges indicate active or senior status; Magistrate Judges indicate full- or part-time)	5. Report type (check appropriate type)		6. Reporting Period	
U.S. District Judge - Senior Status	___ Nomination, Date _____ ___ Initial <input checked="" type="checkbox"/> Annual ___ Final		January 1, 1998 - December 31, 1998	
7. Chambers or Office Address	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.			
U.S. Courthouse 44 West 32 nd Street Fargo, North Dakota 58107	Reviewing Officer _____		Date _____	
IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on last page.				

Notes to filer:

___ Are blocks 1 through 7 filled in?

___ Does block 4 show your status?

___ Does block 5 indicate the type of report?

Does block 6 cover the correct reporting period?

Commentary

Blocks 1 through 8 of the heading to the report should be filled in as indicated:

Block 6. Reporting Period. *The following entry should be made for Annual Reports: January 1, 1998-December 31, 1998.*

Block 8. Certification. *Reviewing official will sign and date this block when the report is complete. The front page of the AO-10 with the reviewing judge's original signature will be returned to the staff of the Committee on Financial Disclosure for permanent filing.*

Certification by the reviewing judge or staff counsel, as reviewing officials, certifies that the information in the report, any amendments, or attached correspondence has been disclosed in accordance with applicable laws and regulations. The reviewing official has the authority to approve the report as submitted, direct that a letter of inquiry be sent, or waive an error as de minimis and approve the report. The reviewing official can also approve a report and direct that an advisory letter be sent to provide the filer with guidance for future reports. All letters of inquiry are prepared for the Chair's signature on Committee letterhead stationery. The Chair has authority to revise or waive a letter of inquiry and approve a report.

INSTRUCTIONS FOR COMPLETING EACH PART

I. Positions

Only information pertaining to the reporting person is required in this Part.

In this Part a complete listing is required of all positions held by the reporting person as an officer, director, executor, administrator, trustee, guardian, custodian, or similar fiduciary, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. Disclose your position even if you are not compensated and even if neither you nor a member of your family has any financial interest in the entities herein listed. Please note that positions held are reported in this Part while assets owned or held are reported in Part VII. **You need not report any positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature. Section 102(a)(6)(A).**

In completing this Part, for annual Reports, the reporting period consists of the calendar year preceding the date of the Report, and the time to the date of the Report. Section 102(a)(6)(A). For initial and final Reports, refer to Appendices I and II, respectively, of these Instructions.

An interest as a limited partner in an investment partnership, if you have no managerial responsibilities, reflects assets held or owned, but not a position held. The position as such a limited partner need not be reported in Part I, but the interest must be disclosed in Part VII.

For Article III judges, bankruptcy judges, and magistrate judges, the Codes of Conduct for United States Judges specify additional constraints on the positions that may be held. See especially Canon 5. Part-time magistrate judges are governed by special rules as provided in 28 U.S.C. § 632(b) and the Guide to Judiciary Policies and Procedures, Volume II, Chapters I and III.

Additional information--e.g., an opinion from the Committee on the Codes of Conduct, or approval from a Judicial Council--that bears on the question whether a position presents a potential conflict of interest problem or problem under the Code of Conduct for United States Judges should be provided in Part I or Part VIII or on an attached page.

If you did not hold any reportable positions at any time during the reporting period, check the "None" box rather than leaving Part I blank.

I. POSITIONS. <i>(Reporting individual only; see pp. 9-13 of Instructions.)</i>	
<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
<input type="checkbox"/> NONE (No reportable)	
¹ Director	Fargo Boys Club
² Trustee	John Smith III Trust
³	

Notes to filer:

- ___ Do you have any reportable positions? If not, is the NONE box checked?
- ___ Did you provide the full name of the position and the organization?
- ___ Does the position appear to represent a conflict of interest?
- ___ Does the position require a listing of assets in Part VII?

Commentary

In completing this Part, the reporting period is not always consistent with the reporting period delineated in Block 6 of the heading. For annual reports the reporting period consists of the calendar year of the Report and the current year up to the date of the report.

The positions a filer can hold are normally determined by the filer's status. Each category is affected by the Canons and statutes governing the creation and duties of the position held. Examples are as follows:

Judges

A judge should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of judicial duties. "Member of the judge's family means any relative of a judge by blood, adoption, or marriage or any other person treated by a judge as a member of the judge's family." (Canon 5D.)

REV

The duties of a co-trustee, even if nominal, are fiduciary in nature. Canon 5D would seem to rule out service as fiduciary for other than a trust for a member of the judge's family. *is permitted to continue in limited circumstances, as provided int*

Even service as a fiduciary for other than a member of the family, covered by the Canon's section on "Date of Compliance," *is permitted by the section* and *is not intended for federal judges, by action of the Judicial Conference at its April 1973 meeting, seems to contemplate a relationship with an individual, rather than with person plan* in any event, such a relationship should be terminated unless a substantial interest of the estate or person would thereby be jeopardized. (Advisory Opinion No. 33.) *nonfamily fiduciary relationship is to be terminated as stated in the Compliance section.*

A judge who, before ascending the bench, served as an executor of the estate of a nonfamily member, or as trustee of a nonfamily trust may, with the approval of the judicial council of the circuit, continue in that capacity if resignation would cause undue hardship to the estate and its beneficiaries, but may not receive compensation for such service. (Compendium § 5.1-3(a) (1997).)
1999

Note: A judge may serve as a part-time special lecturer in law or as a faculty member at a law school. It is necessary for the judge to obtain advance approval from the chief judge of the circuit, or in the case of the chief judge from the judicial council, before engaging in teaching activity. The normal restrictions on extra judicial compensation apply; the compensation must be reasonable in amount, no greater than a similarly situated non-judge would receive for the same service; the 15% cap on outside earned income is applicable; and the payments must be included in Part III of the Report. The teaching duties should not in any way interfere with the performance of judicial duties.

If a judge fails to obtain prior approval of teaching, the approving chief judge has authority to approve teaching for compensation nunc pro tunc if satisfied that the failure was occasioned by excusable neglect, the application would have been approved if timely filed, and other criteria for approval are satisfied. If circumstances do not justify nunc pro tunc approval, the judge's only recourse is to refund the compensation. (Compendium § 35.7 (1997).)

In a partnership engaged in real estate investment, a judge may have a passive investment as a general partner. Canon 5C(2) prohibits active business participation.

Note: In the case of partnerships, the Report should clearly reflect the purpose and the assets of the business, including the percentage owned by the filer. If the partnership owns or trades in securities, individual stocks and transactions should be reported in Part VII.

It is permissible for a judge to be an uncompensated officer or director of a business wholly owned by members of the judge's family. (Compendium § 5.2-3(c)(1997).)

Under Canon 5C(1) a judge may manage investments, etc., but the judge should not ~~personally manage or operate any business, including a farm or ranch. This would not preclude the judge's participation in decisions with respect to the purchase, sale and use of land, the purchase of equipment and supplies, or the sale of farm produce or livestock from a farm or ranch which the judge owns but is operated by a farm manager or hired hand. (Advisory Opinion No. 30.)~~

A judge may serve as a member of the board of directors of a nonprofit social club, or a nonprofit club whose object is to promote an interest in and to enlighten its membership on important governmental, economic and social issues, provided that (a) the club does not engage in partisan politics and (b) the judge does not take positions on issues which would embarrass the judge in the exercise of judicial duties. (Advisory Opinion No. 15.)

A judge may serve on the board of trustees of a university foundation (no fund-raising involved). (Compendium § 5.3-3(b)(1997).)

Senior judges designated in 5 U.S.C. app. 4, § 502(b), (justices and senior judges) are excluded from the 15% cap on compensation received from approved teaching. Even if the Ethics Reform Act is satisfied, provisions of the Code of Conduct for United States Judges must also be satisfied.

Part-time Magistrate Judges not

Part-time United States magistrate judges render such service as judicial officers as is required by law. While so serving they may engage in the practice of law, but may not serve as counsel in any criminal action in any court of the United States, or act in any capacity that is inconsistent with the proper discharge of their office. Within such restrictions, they may engage in any other business, occupation, or employment which is not inconsistent with the expeditious, proper, and impartial performance of their duties as judicial officers. (28 U.S.C. § 632(b).)

Judicial Employees OK

a. No covered senior employee, as defined in the "Regulations of the Judicial Conference of the United States Under Title VI of the Ethics Reform Act of 1989 Concerning Outside Earned Income, Honoraria, and Outside Employment," Guide to Judiciary Policies and Procedures, Volume II, Chapter VI, Part H, shall:

- (1) affiliate with or be employed by a firm, partnership, association, corporation, or other entity to provide professional services which involve a fiduciary relationship for compensation;
- (2) permit the use of his or her name by any such firm, partnership, association, corporation, or other entity;
- (3) practice a profession which involves a fiduciary relationship for compensation;
- (4) serve for compensation as an officer or member of the board of any association, corporation, or other entity; or
- (5) receive compensation for teaching, without the prior notification and approval as herein provided.

Note: Senior employees of the Court of International Trade or the Court of Federal Claims must obtain approval from the chief judges of those courts. Senior employees of the Tax Court must obtain approval from the chief judge of the Tax Court. Commissioners and senior employees of the Sentencing Commission shall obtain approval from the Chairman of the

Sentencing Commission. Senior employees of the Administrative Office of the United States Courts must obtain approval from the Director of the Administrative Office.

b. Judicial Employees. A judicial employee may engage in such activities as civic, charitable, religious, professional, educational, cultural, avocational, social, fraternal, and recreational activities, and may speak, write, lecture, and teach. If such outside activities concern the law, the legal system, or the administration of justice, the judicial employee should first consult with the appointing authority. (Code of Conduct for Judicial Employees, Canon 4A.)

c. Federal Public Defenders. A defender employee should not engage in the private practice of law. Notwithstanding this prohibition, a defender employee may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the defender employee's family, so long as such work does not interfere with the defender employee's primary responsibility to the defender office. (Code of Conduct for Federal Public Defender Employees, Canon 5D.)

*present an appearance of
impropriety and does not*

II. Agreements

Only information pertaining to the reporting person is required in this Part.

In this Part a complete listing is required of any agreement with respect to:

- (a) future employment;
- (b) a leave of absence during Government service;
- (c) continuation of payments by a former employer other than the United States; and
- (d) continuing participation in an employee welfare or benefit plan maintained by a former employer.

Report the date, parties, and terms of the agreement. Section 102(a)(7).

For all Reports, show any such agreements currently in force.

Any additional information--e.g., an opinion from the Committee on Codes of Conduct, or approval from a Judicial Council--that bears upon the question whether an agreement presents a potential conflict of interest problem or problem under the Codes of Conduct for United States Judges should be provided in Part II or on an attached page.

If you did not have any reportable agreements during the reporting period, check the "None" box, rather than leaving Part II blank.

II. AGREEMENTS. <i>(Reporting individual only; see pp. 14-16 of Instructions.)</i>	
<u>DATE</u>	<u>PARTIES AND TERMS</u>
<input type="checkbox"/>	NONE (No reportable agreements)
1 1997	Jones & Smith Retirement Plan with former law firm, no control
2 _____	_____
3 _____	_____

Notes to filer:

_____ Do you have any reportable agreements? If not, is the NONE box checked?

_____ Did you list the date, parties, and terms of the agreement?

_____ Is the agreement permissible?

Commentary

Continuation of payments by a former employer other than the United States

It is permissible for judges to receive appropriate payment for their interests in a law firm and compensation for legal services they rendered before becoming judges. (Compendium § 2.7(a)(1997).)

A termination of partnership agreement provides for payment of an agreed amount representing the retiring partner's interest and some of these payments can be paid in years following the partner's appointment as a United States judge. (Advisory Opinion No. 24.)

The Committee on Codes of Conduct is of the opinion that when a partner leaves a law firm to become a federal judge, he should, if possible, agree with his partners on an exact amount which he will receive for his interest in the firm, whether that sum is to be paid within the year or over a period of years. (Id.)

Such payments may continue to be made to the judge, provided it is clear (1) that he is not sharing in profits of the firm earned after his departure, as distinguished from his sharing in amount representing the fair value of his interest in the firm, including the fair value of his interest in fees to be collected in the future for work done before he left the firm, and (2) the judge does not participate in any case in which his former firm or any partner or associate thereof is active as counsel until the full amount which he may be entitled to receive under the agreement has been paid to him. (Id.)

In addition, it is permissible for the departing judge to share in contingent fees received at the end of litigation, provided a fixed percentage or fixed ceiling is agreed upon, and reasonably reflects the value of services previously rendered by the departing judge. While it is permissible for a judge to share in future contingent fees, the judge should first attempt to reach agreement with his former partners on a fixed sum. (Compendium § 2.7(b) and (b-1)(1997).)

Continuing participation in an employee welfare or benefit plan maintained by a former employer

A judge should recuse in all cases involving members of the former law firm where the judge has left a retirement account in the former law firm's profit sharing trust. If there are frequent recusals, the judge should withdraw the account if feasible. (Compendium § 5.2-4(a) and (a-1)(1997).)

When, long after the judge's departure, additional assets are discovered which should have been transferred to the judge at the time of his departure (e.g. delayed refund under a health insurance plan), there is no ethical impediment to the judge's receipt of the appropriate distribution. (Compendium § 2-7(e)(1997).)

A judge who is a participant in a law firm's KEOGH plan has a financial interest in all of the corporations whose stock is owned by the plan, and must keep informed of the plan's investments, unless the plan is a common fund. (Compendium § 3.1-1(i)(1997).)

A law firm's KEOGH plan or 401 (k) plan which is managed by the firm or a small number of participants, and for which the judge has ready access to investment information does not qualify for the "common fund" exception. However, a law firm's retirement qualifies for the "common fund" exception where 1) the interest is indirect (due to the number of participants and the size and diversity of investments, 2) directed investment by participants is not available, and 3) the participants do not know about a fund's portfolio. (Compendium § 3.1-3(c).)

Other Employment

Part-time United States magistrates render such service as judicial officers as is required by law. While so serving, they may engage in the practice of law and, within certain restrictions, engage in any other employment which is not consistent with the expeditious, proper, and impartial performance of their duties as judicial officers. (28 U.S.C. § 632.)

A part-time judge is a judge who serves on a continuing or periodic basis, but is permitted by law to devote time to some other profession or occupation and whose compensation for that reason is less than that of a full-time judge. A part-time judge: (1) is not required to comply with Canons 5C(2), D, E, F, and G, and Canon 6C; (2) except as provided in the Conflict-of-Interest Rules for Part-time Magistrate Judges, should not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, or act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

A judge should require law clerks to keep the judge reasonably informed of their future employment plans as required by the Code of Conduct for Law Clerks. A law clerk should have no involvement whatsoever in pending matters handled by a prospective employer when an offer of employment has been made to the law clerk and has been, or may be, accepted by the law clerk. (Advisory Opinions Nos. 74 and 81.)

III. Non-investment Income

Information pertaining to the reporting person and the spouse, as noted, is required in this Part.

A. General Non-investment Income

In this Part report non-investment income from whatever source, including but not limited to these items: compensation for services, including fees, commissions, etc.; income derived from business; royalties; annuities; income from life insurance and endowment contracts; and fixed benefits from vested pension plans. Amounts reported should be net income, except for income derived from a business, can be listed as net or gross, and indicated as such. Section 109(7). Dividends on life insurance policies not held in whole or in part as an investment or for the production of income need not be reported.

Report the source, type, amount or value, of income from any source aggregating \$200 or more in value. Honoraria are treated differently. Section 102(a)(1)(A). See Part III B. below. See below for specific exemptions.

For spouses, report the source of items of earned income from any person which exceeds \$1,000 and the source and amount of any honoraria which exceed \$200. If the spouse is self-employed in business or a profession, the nature of such business or profession should be reported. Section 102(e)(1)(A).

To indicate that income was earned by your spouse (and hence that the amount need not be shown), add to the identification the parenthetical "(S)."

You are not required to disclose in Part III the following:

- compensation for current employment by the United States. Section 102(a)(1)(A).
- income that from a single source did not aggregate \$200 or more during the reporting period. Section 102(a)(1)(A).
- the amount of the spouse's "earned income", or any information about that "earned income" that from a single source did not aggregate more than \$1,000 during the reporting period. Section 102(e)(1)(A).
- any information about dependent children's non-investment income. Section 102(e)(1)(A).

- information with respect to a spouse living separate and apart with the intention of terminating the marriage or providing for permanent separation or with respect to any income or obligations arising from the dissolution or permanent separation. Section 102(e)(2).
- any political campaign funds, including campaign receipts. Section 102(g).
- income derived from any retirement system under title 5, United States Code (including the Thrift Savings Plan under Subchapter III of Chapter 84 of such title) or any other retirement system maintained by the United States for officers or employees of the United States. Section 102(i)(1).
- benefits received from Social Security. Section 102(i)(2).
- death benefits under insurance policies, gifts, inheritances, tort recoveries and other compensation for injuries and sickness, disability compensation, and veteran's benefits.

III. NON-INVESTMENT INCOME. <i>(Reporting individual and spouse; see pp. 17-24 of Instructions)</i>		
<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>GROSS INCOME</u> (Yours, not spouse's)
<input type="checkbox"/> NONE (No reportable non-investment income)		
1 1998	Evans County School District (S)	\$
2 July 1998	Idaho Law School, Seminar (3 weeks)	\$ 3,500
3		\$

Notes to filer:

___ Do you have any reportable non-investment income over \$200.00?

___ Does your spouse have any reportable non-investment income over \$1000.00?

___ If no reportable income, is the NONE box checked?

___ Is the date, source, type, and amount for your reportable income reported? If spouse's income, is the parenthetical "(S)" placed in the column under Source and Type?

___ Is the income subject to the 15% limitation (\$20,505) for 1998?

_____ *Is the income an honorarium or reported as such?*

Commentary

Although various types of non-investment income have been listed, some elaboration on several sources of income may be useful to provide a clearer distinction between non-investment and investment income.

No income should be disclosed in this part if it is derived from an investment asset that should be reported in Part VII. Sources of royalty payments include publications and oil, gas, and mineral interests. It should be noted that an interest in the real property from which these oil, gas, or mineral interests are derived should be disclosed in Part VII like any other investment property. Annuities and any other types of retirement income should be reported if they represent defined benefits from a vested pension plan. Retirement income from IRAs or other investment funds that varies due to the performance of the individual assets should be reported in Part VII since it represents income from an investment asset.

Ordinarily, income from life insurance policies need not be reported because most insurance policies are not held as investments or for the production of income. Policy dividends that reduce premiums or provide additional or paid-up insurance are not treated as income. Dividends or other income from life insurance policies, received in excess of \$200, which are reportable for income tax purposes, should be disclosed in this part. Several types of insurance policies that probably require reporting are "universal," "variable life," or "universal variable life."

Special attention will be given to the review of nomination and initial Reports. The filer must report compensation, other than from the United States Government, in excess of \$5,000 in any of the two calendar years prior to the calendar year during which a first Report is filed.

B. **Outside Employment and Honoraria**

Special attention should be given to regulations relating to Outside Employment and Honoraria at Appendix III.

Covered Senior Employees

In accordance with the Ethics Reform Act of 1989, and the Judicial Conference regulations implementing this Act, covered senior employees, other than justices of the United States who retired from regular active service under Section 371(b) of title 28, United States Code; judges of the United States who retired from regular active service under Section 371(b) of title 28, United States Code and who have met the requirements of subsection (f) of Section 371(b) of title 28, United States Code, as certified in accordance with such subsection; and,

justices and judges of the United States who retired from regular active service under Section 372(a) of title 28, United States Code, who receive compensation for teaching, are prohibited from:

- Receiving more than 15% of the pay rate for Executive Level II in earned income from outside employment if the officer or employee occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule and is not a career civil servant (See 5 U.S.C. § 5313 for the pay rate for Executive Level II). 5 U.S.C. app. 4 § 501(a)(1). Those covered by the provisions of this Act for only a portion of a year, must pro-rate the 15% on the basis of the number of days the person will actually work in that calendar year. 5 U.S.C. app. 4, § 501(a)(2).
- Being affiliated with or being employed by a firm, partnership, association, corporation, or other entity to provide professional services which involve a fiduciary relationship for compensation, serving for compensation as an officer or member of the board of any association, corporation, or other entity. 5 U.S.C. app. 4, § 502.
- Receiving compensation for teaching without prior notification and approval from the appropriate official, if the officer or employee occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule and is not a career civil servant. See Section 5 of Appendix III for the procedures for requesting approval. 5 U.S.C. app. 4, § 502.

NOTE: Covered senior employees are defined by Judicial Conference approved regulations as all judicial officers (except for part-time magistrate judges), commissioners and staff of the Sentencing Commission, the Director and Deputy Director of the Administrative Office of the United States Courts, and senior employees of the Administrative Office of the United States Courts serving at the pleasure of the Director (Schedule C status).

Judicial Officers and All Employees

In accordance with the Ethics Reform Act of 1989, and the Judicial Conference regulations implementing this Act, all judicial officers and all employees of the judicial branch are prohibited from accepting honoraria for any "appearance, speech, or article." Actual and necessary travel expenses incurred by the person and one relative are not deemed to constitute honoraria. 5 U.S.C. app. 4, § 501(b).

- No Judicial officer or employee of the judicial branch (except for part-time magistrate judges), may accept honoraria, but a payment may only be made on behalf of such officer or employee to a charitable organization in lieu of the honorarium, so long as the payment does not exceed \$2,000, and is not made to a charitable organization from which the filer or the filer's parent, sibling, spouse, child, or dependent relative derives any financial benefit. 5 U.S.C. app. 4, § 501(b) and (c). In such instances, the filer should report the source, date, and amount of payments made to charitable organizations in lieu of honoraria and shall simultaneously file with the Committee on Financial Disclosure, on a confidential basis, a corresponding list of recipients of all such payments together with their dates and amounts. Section 102(a)(1)(A).

C. General Provisions

For annual Reports, the reporting period is the calendar year preceding the date of the Report. Section 102(a)(1)(A). For initial and final Reports, see Appendices I and II, respectively, for the appropriate reporting periods.

If neither you nor a spouse had any reportable income during the reporting period, check the "None" box rather than leaving Part III blank.

Commentary

Contained within these Instructions and Appendix III are detailed instructions and regulations relating to limitations imposed on certain judicial officers and employees with respect to certain types of outside employment and income. Several important guidelines need to be emphasized for the benefit of the reviewing official.

Covered senior employees (defined in the cited appendix) are prohibited from receiving more than 15% of the pay rate for Executive Level II (currently \$136,700) in earned income from outside employment. The limitation for 1998 is \$20,505. However, senior judges who receive compensation for teaching, part-time magistrate judges, officers and employees of the Supreme Court, and employees of the Federal Judicial Center are exempted as to teaching income and are not restricted to this outside income limitation.

In addition, all judicial officers and all employees of the judicial branch (except for part-time magistrate judges) are prohibited from accepting honoraria for any "appearance, speech, or article." Any filer listing honoraria will be questioned for clarification and may eventually be referred to the Committee on Codes of Conduct for an advisory opinion.

Frequently, difficulty arises for the reviewing official and staff auditor concerning what constitutes outside earned income (which is attributed solely to the filer and not to the spouse). The following lists common examples of compensated activities which are subject to the calendar year income limitation, less the ordinary and necessary expenses paid or incurred in producing the income:

- (1) teaching,
- (2) serving as trustee of a family trust or executor of a family estate, and
- (3) writing.

In addition, the following common examples do not constitute outside earned income and have no limitations imposed on the filer:

- (1) pensions, annuities, and deferred compensation for services rendered prior to becoming a judicial officer or senior employee,
- (2) investment funds,
- (3) funds received from a family owned business,
- (4) publication royalties, fees, and their functional equivalent, and
- (5) compensation received by a senior judge for teaching.

Advisory Opinion Number 86, "Honoraria, Teaching, and Outside Earned Income Limitation," provides detailed interpretation on these issues and may serve as a helpful guideline. In addition, the following are summaries contained in Compendium, Sections 31-35 (1997), concerning recent advice given by the Committee on Codes of Conduct in response to confidential inquiries:

Outside Earned Income Limitation

- (1) Where service as a family fiduciary involves work performed over several years but fee is paid in a single year, it is consistent with the statute and regulations for the judge, in applying the 15% cap, to allocate the amount of the fee over the several years. (Compendium § 33.1(a) (1997).)
- (2) Flat fee of \$250 received by judge from a publisher for writing a chapter in a publisher's treatise is not excludable from the definition of outside earned income. The payment is a fixed and unconditional cash payment for a manuscript that is wholly unrelated to the sales or distribution of the publication. Thus, the fee is subject to the 15% cap. (Compendium § 33.2-5(a) (1997).)
- (3) Where judge serves as editor-in-chief of a law journal and receives a royalty of 15% of the net cash receipts from the sale of the publication, the amount is considered a royalty and thus not subject to the 15% cap. (Compendium § 33.2-5(b) (1997).)

(4) *Outside earned income is attributed solely to the actual earner regardless of community property laws. (Compendium § 33.3 (1997).)*

Prohibition on Receipt Of Honoraria

(1) *It is a violation of the statute and regulations for a law clerk to write an article for compensation during clerkship even though publication of the article and receipt of the honorarium occur after the clerkship ends. (Compendium § 34(a) (1997).)*

(2) *Fee for performing wedding is not an honorarium. However, a judge is barred from accepting additional compensation for performing judicial activities. (Compendium § 34.1(a) (1997).)*

(3) *Reimbursement of travel expenses for judge and one relative does not constitute an honorarium. (Compendium § 34.1(b) (1997).)*

(4) *Where a judge's paper for a continuing legal education program was later published and later still won \$3000 cash award at sponsor's annual award program, the award is not a payment for the speech or article and thus not an honorarium. An after-the-fact award based on merit for scholarly work is an award in recognition. (Compendium § 34.1(d) (1997).)*

(5) *Compensation for teaching a seminar for prospective law students and preparation of course materials does not constitute an honorarium. (Compendium § 34.1-2(d) (1997).)*

(6) *Fee received by judge as editor-in-chief of a law journal is not an honorarium, but rather compensation for a writing more extensive than an article. (Compendium § 34.1-3(a) (1997).)*

Limitations On Outside Employment

(1) *Serving as a fiduciary of a family estate or trust as permitted by Canon 5D of the Codes of Conduct does not constitute practicing a profession involving a fiduciary relationship. (Compendium § 35.3(a) (1997).)*

(2) *Service for compensation as editor-in-chief of a bankruptcy law journal is not the equivalent of being an officer or member of the board of an entity, and thus is not barred by this section. (Compendium § 35.4(a) (1997).)*

(3) *A judge cannot receive compensation for service as family fiduciary where the trust directs the operating policy of a charity because that would be the functional equivalent of serving as an officer or member of the board of directors. However, it is acceptable for the judge to serve as family fiduciary charged only with duties normally exercised by a family fiduciary. Compensation received is subject to the 15% cap. (Compendium § 35.4(b) (1997).)*

(4) *A judge's status as partner of a family partnership or shareholder of a family corporation is not the equivalent of serving as officer or member of the board of an entity, and thus the financial return to the judge as partner or shareholder is not prohibited. (Compendium § 35.4(c) (1997).)*

(5) *Where a judge failed to obtain prior approval of teaching, Chief Judge has authority to approve teaching for compensation nunc pro tunc if satisfied that the failure was occasioned by excusable neglect, the application would have been approved if timely filed, and other criteria for approval are satisfied. If circumstances do not justify nunc pro tunc approval, the judge's only recourse is to refund the compensation. (Compendium § 35.7(a) (1997).)*

**IV. Reimbursements of
Transportation, Lodging, Food, Entertainment**

Information pertaining to the reporting person and a spouse and dependent children, as noted, is required here.

In this Part report information about reimbursements received by you, your spouse and dependent children, exclusive, however, of any items received by them totally independent of their relationship to you. Sections 102(a)(2)(A) and (C); and 102(e)(1)(C) and (D). For initial Reports, there are separate rules for completing this Part, found at Appendix I of these Instructions.

A reimbursement means any payment or other thing of value, other than gifts, to cover travel related expenses. Section 109(15).

For annual Reports, the reporting period is the calendar year preceding the date of the Report. Section 102(a)(2)(B). For final Reports, see Appendix II for the appropriate reporting period.

In this Part, provide:

the identity of the source and a brief description (including location, dates, and nature of expenses provided) of reimbursements received from any source aggregating \$250 or more in value. Section 102(a)(2)(B).

You are not required to report in Part IV:

- food, lodging, or entertainment received from a relative. Section 102(a)(2)(A).
- food, lodging, or entertainment received as personal hospitality. Section 102(a)(2)(A).
- reimbursements received by your spouse and dependent children, independently of their relationship to you. Section 102(e)(1)(C) and (D).
- reimbursements received in a period when you were not an officer or employee of the Federal Government. Section 102(h).
- food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States, the District of Columbia, or a state or local government or political subdivision thereof; food and beverages not consumed in connection with a gift of overnight lodging; Section 109(5).

- reimbursements provided by the United States, the District of Columbia, or a state or local government or political subdivision thereof; required to be reported under 5 U.S.C. § 7342; or required to be reported under 2 U.S.C. § 434. Section 109(15).

Relative means one who is related to the reporting person, as father, mother, son, daughter, brother, sister, uncle, aunt, great uncle, great aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting person, and shall be deemed to include the fiance or fiancée of the reporting person. Section 109(16).

Personal hospitality means hospitality extended for a nonbusiness purpose by one, not a corporation or organization, at the personal residence of that person or his family or on property or facilities owned by that person or family. Section 109(14).

Use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by your spouse and dependent children, respectively.

Beginning on January 1, 1991, in accordance with the Ethics Reform Act of 1989, and the Judicial Conference regulations implementing this Act, officers and employees are prohibited from soliciting or accepting anything of value from a person seeking official action from, doing business with, or whose interests would be substantially affected by, the performance or nonperformance of official duties. 5 U.S.C. § 7353. This prohibition applies to all reimbursements and gifts covered in Parts IV and V of the Financial Disclosure Report.

If you, your spouse, and your dependent children did not receive any reimbursements reportable in Part IV, check the "None" box rather than leaving Part IV blank.

IV. REIMBURSEMENTS --transportation, lodging, food, entertainment. <i>(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-27 of Instructions.)</i>	
<u>SOURCE</u>	<u>DESCRIPTION</u>
<input type="checkbox"/> NONE (No such reportable reimbursements)	
1 Staley Foundation	June 15 - Haymarket, VA, Mtg of Board of Directors (Transportation, Meals, and Room)
2 FREE Foundation	Aug. 7-14 - Butte, MT - Environmental Seminar (Travel, Housing, Food, and Tuition)
3 VA CLE	Nov 7 - Williamsburg, VA - TAX CLE Seminar (Transportation, Food, and Hotel)

Notes to filer:

- _____ Do you, your spouse, or any dependent child have any reportable reimbursements or expense paid education or other trips? If not, is the NONE box checked?
- _____ Did you identify the source of the reimbursement, and provide a brief description including location, dates, and nature of expenses?
- _____ Can the reimbursement be accepted by you, your spouse, or dependent child?

Commentary

The following opinions issued by the Committee on Codes of Conduct provide guidance on issues associated with this part.

Attendance of judges and their spouses as guests at bar association dinners is proper, and a judge may accept reimbursement for the judge's or the judge's spouse's travel and hotel expenses to attend such a dinner sponsored by lawyer organizations even when the judge does not speak or render other services at the function. (Advisory Opinion No. 17.)

Although mere attendance (along with others similarly situated) without paying a registration fee would not create an appearance of impropriety, it would create an appearance of impropriety for employees of the Administrative Office to accept from a legal publishing firm a gift of transportation, lodging and meals in connection with a professional training program sponsored by the firm. (Compendium § 2.9(b) (1997).)

A judge participating as a faculty member in a two-week seminar of general interest organized on a nonprofit basis and financed by tuition and subsistence payments by nonfaculty attendees may accept reimbursement for the judge's and the judge's spouse's travel and subsistence expenses. (Advisory Opinion No. 3.)

A judicial employee may receive compensation and reimbursement of expenses for outside activities provided that receipt of such compensation and reimbursement is not prohibited or restricted by this Code, the Ethics Reform Act, and other applicable law, and provided that the source or amount of such payments does not influence or give the appearance of influencing the judicial employee in the performance of official duties or otherwise give the appearance of impropriety. Expense reimbursement should be limited to the actual cost of travel, food and lodging reasonably incurred by a judicial employee. (Code of Conduct for Judicial Employees, Canon 4E.)

V. Gifts

Information pertaining to the reporting person and the spouse and dependent children, as noted, is required in this Part.

In this Part report information about gifts other than transportation, lodging, food or entertainment aggregating \$250 or more in value received by you, your spouse and dependent children from any source other than a relative during the preceding calendar year. Gifts from separate sources with a fair market value of \$100 or less need not be aggregated to determine if the \$250 reporting threshold has been met. Section 102(a)(2)(A).

A gift is a payment, advance, forbearance, rendering, or deposit of money, or anything of value, unless consideration of equal or greater value is received by the donor. Section 109(5).

If you have been extended an honorary membership in an organization and you avail yourself of the privileges, rights, etc., to a substantial degree, and the dues are in excess of \$250 a year, you must report the honorary membership in this Part.

You are not required to disclose information about:

- gifts received from a relative. Section 102(a)(2)(A).
- gifts received by a spouse and dependent children, totally independent of their relationship to you. Section 102(e)(1)(C).
- gifts received in a period when you were not an officer or employee of the Federal Government. Section 102(h).
- gifts that are bequests and other forms of inheritance. Section 109(5)(A).
- communications to the offices of a reporting person, including subscriptions to newspapers and periodicals. Section 109(5)(E).
- suitable mementos of a function honoring the reporting person. Section 109(5)(B).

Use the parentheticals "(S)" and "(DC)" to indicate gifts received by your spouse and dependent children, respectively.

If you, your spouse, and your dependent children did not receive any gifts reportable in Part V, check the "None" box rather than leaving Part V blank.

For the definition of relative, refer to Part IV of these Instructions.

For annual Reports, the reporting period is the calendar year preceding the date of the Report. Section 102(a)(2)(A). For initial and final Reports, see Appendices I and II, respectively, for the appropriate reporting period and rules.

V. GIFTS. (Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp.28-31 of Instructions.)

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
	<input type="checkbox"/> NONE (No such reportable gifts)		
1	Former Law Clerks	Painting - 20 th Anniversary on Bench	\$ 325.00
2	The Executive Club	Honorary Membership (dues, like privileges)	\$ 1200.00
3			\$

Notes to filer:

___ Do you, your spouse, or any dependent child have any reportable gifts other than transportation, lodging, food, or entertainment? If not, is the NONE box checked?

___ Did you list the identity of the source, a description of the gift, and the actual dollar value?

___ Can the gift be accepted?

Commentary

If stock is listed as a gift, the stock should also be reported in Part VII, Investments and Trusts.

The value of a gift is shown by a dollar amount, not by a value code.

If the gift is from an individual, the individual must be specifically named. It is not acceptable to identify the source of the gift as "boyfriend," "girlfriend," "friend," or "significant other."

The following opinions issued by the Committee on Codes of Conduct provide guidance on issues associated with this part.

Investitures and Similar Ceremonies

(a) It is permissible for a judge to accept a gavel and a \$500 gift from a former client on the occasion of the judge's investiture. (Compendium § 5.4-2(a) (1997).)

(b) It is permissible for a judge to accept a gavel and a contribution toward the cost of the reception from a local bar association on the occasion of the judge's investiture. (Compendium § 5.4-2(b) (1997).)

(c) It is permissible for a judge to accept leather notebook and pen from Law Institute as a memento of a judge's presentation. (Compendium § 5.4-2(c) (1997).)

(d) It is permissible for a judge to be the guest of honor at a public dinner arranged by former law clerks, attended by lawyers and other members of the public, as well as the law clerks. The law clerks should make clear on the invitations and other papers relating to the dinner, not only the fact that the dinner is sponsored solely by present and former law clerks, but that the amount paid by other attendees is solely to cover the cost of the dinner, that no fund-raising activity is involved, and that no part of the amount paid for the dinner will be employed in the purchase of a gift for the honoree. (Compendium § 5.4-5(c) (1997).)

Gifts on Special Occasions

(a) A judge may accept a gift of a trip aboard a cruising ship (costing about \$1500) on the occasion of his 20th anniversary as a United States judge where the donees consist exclusively of persons who have worked directly with him (i.e., law clerks, secretaries, courtroom deputies, and court reporters), there are a sufficient number of donees that no individual contribution to the gift is unusually large, and the judge is not made aware of the amounts contributed by the respective donees. (Compendium § 5.4-7(a) (1997).)

(b) On occasion of taking senior status, judge may accept gift from law clerks of golfing trip. (Compendium § 5.4-7(b) (1997).)

(c) It is not improper for former law clerks to solicit funds from other law clerks to establish scholarship in honor of retiring judge. The Judge and present law clerks should not solicit. (Compendium § 5.4-7(c) (1997).)

(d) It would create an appearance of impropriety for a judge to permit a for-profit company to host a reception following the judge's investiture, where the judge had no pre-existing relationship with the company, would not otherwise have been required to recuse, and the circumstances would convey the impression that the company was in a special position to influence the judge. (Canon 2B and Compendium § 2.10(c) (1997).)

Miscellaneous Gift Rulings

(a) *It is permissible to accept books from West Publishing Company for official use. (Compendium § 5.4-Z(a) (1997).)*

(b) *It is permissible for a judge's children to accept scholarships awarded on the same terms and based on the same criteria applied to other applicants. (Compendium § 5.4-Z(b) (1997).)*

(c) *Gifts from a friend not prohibited where friend not likely to ever appear in judge's court. (Compendium § 5.4-Z(c) (1997).)*

(d) *It is permissible for a judge to attend, and accept hospitality at bar association events and meetings of other organizations devoted to improvement of the law, legal system, or the administration of justice. With respect to attendance at cocktail parties hosted by law firms in connection with bar meetings, judicial conferences, and the like, there is no impropriety in a judge accepting such invitations in the absence of reason to believe that such attendance will reasonably reflect unfavorably on the judge's impartiality or is likely to be exploited by the law firm. (Advisory Opinion No. 17.)*

(e) *It is permissible for judges to attend bar association events such as receptions where a legal publishing firm has donated the hors d'oeuvres and beverages to the bar association. It is not appropriate, however, for a group of judges or judicial personnel to allow a legal publishing firm or other vendor doing business with their court to donate food and beverages for a meeting of the judges or judicial employees. (Compendium § 2.9(a) (1997).)*

Honorary/Reduced-Rate Memberships

(a) *It is permissible for a judge to accept a free membership in a country club, including a waiver or reduction in the initiation fee, or to accept a free or reduced membership in a YMCA if it is customary in that community, similar privileges are extended to other public officials, the interests of the organizations have not and are not likely to come before the judge, and the judge is satisfied that the membership is not being used by the organization to promote its endeavors. (See Advisory Opinion No. 47.)*

(b) *It is permissible for a judge to accept a free membership in the "American Board of Trial Advocates," the organization being devoted to the improvement of the law. (Compendium § 5.4-1(b) (1997).)*

(c) *It is permissible to accept free membership in a local bar association. (Compendium § 5.4-1(c) (1997).)*

VI. Liabilities

Information pertaining to the reporting person, spouse, and dependent children is required in this Part.

In this Part list all of your, your spouse's and dependent children's liabilities to any creditor other than a spouse, parent, brother, sister, or child, which exceeded \$10,000 at any time during the reporting period. Sections 102(a)(4) and 102(e)(1)(E).

For annual Reports, the reporting period is the calendar year preceding the date of the Report. Section 102(a)(4). For initial and final Reports, see Appendices I and II, respectively, for the appropriate reporting periods.

In this Part, list the identity and category of value of each liability. The identity includes the name of the creditor and a description of the liability. Section 102(a)(4). To assist the reviewer, liabilities should be listed in the same order as in the previous Report.

The category codes for the amount owed as of the end of the reporting period are shown on the Report and are as follows:

J - \$15,000 or less	P1 - \$1,000,001 to \$5,000,000
K - \$15,001 to \$50,000	P2 - \$5,000,001 to \$25,000,000
L - \$50,001 to \$100,000	P3 - \$25,000,001 to \$50,000,000
M - \$100,001 to \$250,000	P4 - more than \$50,000,000
N - \$250,001 to \$500,000	
O - \$500,001 to \$1,000,000	

Section 102(d)(1).

The reporting requirement relates to obligations that at any time during the reporting period exceeded \$10,000, but the amount to be shown by the category code is the amount owed as of the end of the reporting period.

In the creditor section, indicate, where applicable, the person responsible for the liability with the parenthetical "(S)" for separate liability of spouse, "(J)" for joint liability of the reporting person and spouse, or "(DC)" for liability of a dependent child.

You are not required to report:

- any liability owed to a spouse, parent, brother, sister, or child. Section 102(a)(4).

- any mortgage secured by real property which is a personal residence of you or your spouse. Section 102(a)(4)(A).
- any loan secured by a personal motor vehicle, household furniture, or appliances that does not exceed the purchase price of the item securing the liability. Section 102(a)(4)(B).
- any information with respect to a spouse living separate and apart from you with the intention of terminating the marriage or providing for permanent separation or with respect to any income or obligations arising from the dissolution of the marriage or permanent separation. Section 102(e)(2).
- any revolving charge account whose balance did not exceed \$10,000 as of the close of the preceding calendar year.
- political campaign funds, including campaign receipts and expenditures. Section 102(g).
- any liability which is the sole liability or responsibility of the spouse or child; which is not derived from the assets, income or activities of the reporting person; from which the reporting person does not derive or expect to derive a benefit; and of which the reporting person has no knowledge. Section 102(e)(1)(E). Omission of such data indicates a certification of these statutory conditions. This rule also applies to the reporting of investments and trusts, see the Instructions for Part VII.

If you, your spouse, and your dependent children did not have any reportable liabilities, check the "None" box rather than leaving Part VI blank.

VI. LIABILITIES. *(Includes those of spouse and dependent children; indicate, where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 32-34 of Instructions.)*

	<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE*</u>
	<input type="checkbox"/> NONE (No reportable liabilities)		
1	Old National Bank	Credit Card	L
2	NationsBank	Mortgage on Rental Prop. #1, Alexandria, VA (Pt VII, line 2)	M
3			

Notes to filer:

_____ *Do you, your spouse, or dependent child have any reportable liabilities over \$10,000?*

_____ *Did you list the identity of the creditor, a description of the liability, and a value code for the amount?*

_____ *If a mortgage is listed, is there a corresponding entry for the property in Part VII?*

VII. Investments and Trusts

Information pertaining to the reporting person, spouse, and dependent children is required in this Part.

1. **General**

In this Part a complete listing is required of reportable assets owned by the reporting person, spouse, and dependent children. **Each asset must be individually listed and identified except as may be specifically provided otherwise (see Part 6 Trusts below).** Bank or brokerage house reports are not acceptable for compliance with these reporting requirements unless they succinctly contain all necessary information without requiring the reader to perform calculations or select out necessary data from a larger body of information. For initial Reports, there are separate rules for completing this Part, found at Appendix I of these Instructions.

Report assets held during the preceding calendar year in a trade or business, or for investment or the production of income, which have a fair market value in excess of \$1,000 at the end of the year or from which you received income in excess of \$200 during the preceding calendar year. Sections 102(a)(3) and 102(a)(1)(B).

You are not required to report:

- Investments in the Thrift Savings Plan. Section 102(i)(1)(A).
- Any property, real or personal, not held in a trade or business, or for investment or the production of income. As examples, you need not report a private residence or personal automobiles. Section 102(a)(3).
- Any personal liability owed to you, your spouse, or dependent children by a spouse, or by a parent, brother, sister, or child of you or your spouse. Sections 102(a)(3) and 102(e)(1).
- Accounts in a financial institution (any form of deposit in a bank, savings and loan association, credit union or similar financial institution), unless the aggregate amount of income for all an individual's income producing accounts at the institution for the reporting year is in excess of \$200, or the aggregate value at the end of the reporting year of all such income producing accounts is more than \$5,000. If either condition is met, each such account must be separately reported. Sections 102(a)(1)(B) and 102(a)(3).
- Asset information with respect to a spouse living separate and apart with the intention of terminating the marriage or providing for permanent separation. Section 102(e)(2).

- Political campaign funds, including campaign receipts and expenditures. Section 102(g).
- In Part VII, information associated with property which is the sole financial interest or responsibility of the spouse or child; which is not derived from the assets, income or activities of the reporting person; from which the reporting person does not derive or expect to derive a benefit; and of which the reporting person has no knowledge. Section 102(e)(1)(E). Omission of such data indicates a certification of these statutory conditions. This rule also applies to the reporting of liabilities, see the Instructions for Part VI.

To help reporting persons in instances where a position held in an economic entity may have a bearing on reporting requirements, the following should be used as guidance:

When a Financial Disclosure Report contains information reflecting a filer's interest in a partnership or other business enterprise, the filer must disclose the assets held by the business entity if a filer can direct, influence or in any other manner affect the purchase, exchange, sale or disposition of the entity or property owned by the entity, or when the filer can influence policy decisions which affect the purchase, exchange, sale or disposition of the entity or of property which it owns.

For annual Reports, the reporting period is the calendar year preceding the date of the Report. Section 102(a)(1)(B). For final Reports, see Appendix II for the appropriate period.

If you, your spouse, and your dependent children did not have assets subject to reporting, check the "None" box rather than leaving Part VII blank.

Commentary

Investment income is to be contrasted with earned income. The crucial factor is the filer's services. If the filer's services are a material factor in the production of income, it is earned income and should be reported in Part III. However, limited partners usually receive investment income from the partnership, since they normally do not perform services for the partnership. Investment income includes returns on investments rather than compensation for personal services. It includes income derived from all forms of property, such as securities, funds, accounts, real estate, partnerships, joint ventures, businesses, and interests in trusts and estates.

When determining whether or not an investment asset should be reported, either the income threshold (in excess of \$200 during the preceding calendar year) or the value threshold (in excess of \$1,000) at the end of the year is sufficient to require reporting. For accounts in a

financial institution, assets must be in excess of \$5,000 or produce income in excess of \$200. It has been a fairly common misconception from filers that both thresholds must be met before an asset is required to be disclosed.

Normally, any information pertaining to a personal residence is exempted from reporting. However, a second personal residence (e.g., a weekend or vacation home) should be reported if rental income is received for the use of the property.

The reporting of accounts in a financial institution does require some clarification since the Committee changed some of the language for the calendar year 1994 Instructions. If the aggregate amount of income for all of an individual's accounts or the value of all such income producing accounts exceeds the established thresholds, then each such account must be separately reported for each individual. It is important to apply the "threshold test" separately to each individual owner of the accounts, which would include the following:

- (1) accounts individually owned by filer,*
- (2) accounts individually owned by spouse,*
- (3) accounts individually owned by dependent child, and*
- (4) accounts jointly owned by filer and spouse or dependent child.*

It should be understood that a reporting exemption for failure to meet a threshold amount, or for any other reason, does not affect any inquiry or recusal obligation under the Code of Conduct for United States Judges.

2. Description of Assets

In completing Part VII, a separate description of each asset listed is required. To assist the reviewer, assets should be listed in the same order as in the previous Report. Each asset reported should be described in sufficient detail so the reader can tell what the property is. As examples:

- For stocks, bonds, and other securities indicate the type of the holding, "common," etc., and its name. Commonly understood abbreviations are permitted.
- For an account within a financial institution, give sufficient information so that it can be identified. Aggregate information may be provided for accounts in each financial institution.

- For notes or accounts receivable, indicate the nature of the receivable and the name of the debtor(s).
- For each real estate interest, indicate the general geographic location, such as city or county and state. If more than one parcel of real estate is owned in the same geographic area, you may identify each parcel by number, i.e., Parcel 1, 2, 3, etc., rather than identifying each parcel by street address, lot, or block number.
- For an interest in a trust, indicate the nature of the interest (e.g., "income beneficiary"), the name (if any) of the trust, and the name and location of the trustee.
- For an interest in a mutual fund or pooled or common trust fund administered by an independent financial or brokerage institution, furnish the name of the fund.

At times, reporting persons inadvertently omit the listing of assets, and correct the previous year's errors in the following year's Report. Also, assets which were reported in one year may fail a qualifying requirement (such as a value of \$1,000) in the following year and thus are not reported. When this occurs, put an explanatory item in Part VII or in Part VIII, with a reference in Part VII to avoid a letter of inquiry.

In addition, identify with a parenthetical "(X)" assets which have been previously exempt from disclosure and now are reportable. The parenthetical "(X)" should also be used to identify an asset that meets the reporting threshold and is other wise exempt from the reporting requirements for gift under Part V. This should preclude a letter of inquiry from the Committee.

In the Description section of Part VII (Column A), indicate, where applicable, the owner of the listed asset with the parenthetical "(J)" for joint-ownership by the reporting person and spouse, "(S)" for separate ownership by spouse, or "(DC)" for ownership by dependent child.

The reporting of a position in Part I as trustee, executor, administrator, custodian, or any similar position requires a listing in Part VII of the assets involved if either you, your spouse, or any of your dependent children (1) has a beneficial interest in the estate or fund with which you are associated, or (2) controls the purchase, sale, or other disposition of the estate or fund.

- _____ If a gas, oil, or mineral interest is listed, do you identify the city or county and state and the name of the energy company or other payor of royalties, working interests, or rentals?
- _____ Do you clearly identify stocks, bonds, ^{Specific} mutual funds and the underlying assets of IRAs and brokerage accounts?
- _____ If the asset was not listed on the previous report, do you include transactional information in Column D or a parenthetical "(X)" in Column A denoting that the asset was exempt from disclosure on the previous report?
- _____ Did you properly identify the ownership of an asset and is that asset consistent with your prior report?
- _____ If you listed a position in Part I as trustee, administrator, custodian, etc., is the estate or trust listed and the assets therein properly identified?

Commentary

When listing stocks, bonds, and other securities, the individual name or commonly understood abbreviation should be provided. Stocks should be indicated as "common" or "preferred." Bonds and other securities should have enough detail in the description to differentiate that asset from other similar assets listed. This is particularly helpful for the reviewer and auditor when the filer reports multiple bonds or securities in the same or similar series, or brokerage accounts that lists its accounts in the name of the firm.

When reporting accounts with financial institutions, the type of account does not need to be listed.

When reporting an interest in a mutual fund or common trust fund, only the name of the fund is required. There is no requirement to list the individual assets. An interest in a trust, estate, or similar entity requires the listing of each individual asset unless the exemptions from disclosure of the individual assets in 6. Trusts and Similar Entities are met.

It is important that the owner of each asset be properly identified and be consistent on each Report. In the event of a discrepancy, an explanation should be provided in Part VIII to preclude a letter of inquiry.

The reviewer and auditor will note when an asset appears on the current Report and is not listed on the prior Report and there is no transaction information in Column D. In this situation, the filer should place a parenthetical "(X)" in Column A denoting that the asset was exempt from disclosure in the prior Report.

It is important to recognize that in almost every instance where a filer is a trustee, executor, administrator, custodian etc., the filer has the legal authority and responsibility to exercise control over and manage the assets in a trust or estate. It is this authority based on the filer's fiduciary responsibilities to control the purchase, sale, or other disposition of the assets that requires the filer to list the assets in this Part.

3. Income

In Column B of Part VII, the income from listed assets must be shown. The disclosure of the gross amount and the type of income -- dividends, rent, interest, or income from discharge of indebtedness -- is required. Sections 102(a)(1)(B) and 109(7). All income is reportable, whether taxable, tax deferred, or tax exempt. When no income is received (or there is a loss) Column B1 under Amount should be left blank and the word "NONE" should appear in Column B2 under Type. When some income is received, the appropriate code, reflecting the amount, should be used. If the type of income is not a dividend, rent, interest, or income from discharge of indebtedness, it should be explained either in Part VII or Part VIII. The ranges are required by statute and the coded amounts for income are listed on the reporting form as follows:

A	-	\$1,000 or less
B	-	\$1,001 to \$2,500
C	-	\$2,501 to \$5,000
D	-	\$5,001 to \$15,000
E	-	\$15,001 to \$50,000
F	-	\$50,001 to \$100,000
G	-	\$100,001 to \$1,000,000
H1	-	\$1,000,001 to \$5,000,000
H2	-	More than \$5,000,000

Section 102(a)(1)(B).

The same ranges and codes are used to report capital gains associated with transactions in Column D of Part VII. However, capital gains associated with "distributions" should be treated and reported as dividends in Column B.

The income from U.S. Savings Bonds, and similar investments should be reported if the minimum of \$200 is reached.

The statute lists only four types of income- dividends, rent, interest, or income from discharge of indebtedness. If the filer lists another type, then it should be explained in Part VII or Part VIII.

Some filers question whether to report income from IRAs (Individual Retirement Account) or other retirement or pension plans where they are not actually drawing income from the account. All income should be reported, whether taxable, tax deferred, or tax exempt.

Filers will take special care when disclosing an IRA. They are merely arrangements for holding other investments on a tax-deferred basis. The focus should be placed on the underlying investments which should be disclosed. Many IRAs are invested in cash or cash-equivalent accounts, such as a money market ^{account} or other deposit account in a bank. No further ^{information} information about these accounts is required to be disclosed. However, if any other type of entity, such as a broker holds IRA assets for a filer, the filer must disclose the underlying holdings in the account. IRAs may contain almost any investment, such as mutual funds, stocks, or bonds ^{for the reporting details} or IRA assets maintained ^{directly with an investment or publicly traded company} directly with an investment or publicly traded company.

Journal

Other tax-deferred retirement or pension accounts (such as Simplified Employee Pensions-SEPs, Keogh Plans-HR-10, ^{401(k)} and 403(b) Plans) are similar to IRAs and are self-directed where the filer has control over the funds. Therefore, the underlying investments should also be disclosed. 403(b) Plan - for non-profit or organization, church, or educational institution - 403(b)(1) - tax-sheltered annuity (TSA) a 403(b)(7) - custodial acct invested in mutual funds [like a 401(k) - voluntary salary reduction plan & pre-tax contributions by employee] ^{the deferred retirement or pension accounts maintained & controlled by a firm or}

In Column C, the gross value of the asset at the end of the reporting period is reported. Section 102(a)(3). There are statutory value ranges and a value code on the form. These same values are used for the value of reported assets in Column C and for the value of assets reported in the Transaction part of Part VII, Column D. They are as follows:

J	-	\$15,000 or less
K	-	\$15,001 to \$50,000
L	-	\$50,001 to \$100,000
M	-	\$100,001 to \$250,000
N	-	\$250,001 to \$500,000
O	-	\$500,001 to \$1,000,000
P1	-	\$1,000,001 to \$ 5,000,000
P2	-	\$5,000,001 to \$25,000,000
P3	-	\$25,000,001 to \$50,000,000
P4	-	More than \$50,000,000

Section 102(d)(1).

401(k) Plans, 403(b) Plans, other salary reduction plans
law firm, TIAA-CREF, State Corp
Governmental or other similar entities qualify as "common funds" and the filer is not required to provide any additional detail about the plans

In addition, the method used for valuation should be reported in Column C. These are coded as follows:

- Q -- Appraisal. Indicate in Part VII-A or Part VIII the date of the appraisal.
- R -- Cost. This method may be used only for real property or an interest in a real estate partnership. If used, show in Part VII-A or Part VIII the date of purchase and the amount, not just the category code, of the purchase price.
- S -- Assessment -- assessed value for tax purposes. If this method is used, show in Part VII-A or Part VIII the amount, not just the category code, of the assessed value and, if the property is assessed at less than 100% of its value, adjust the assessed value to reflect the current value and explain your adjustment.
- T -- Cash/Market. The quoted market price of publicly traded stocks and other securities; the face value of interest bearing corporate or municipal bonds or comparable securities; the balance or surrender value of certificates of deposit, savings and checking accounts, money market funds, etc.
- U -- Book. The net worth of a proprietorship, partnership interest, or corporate stock according to the books of such entity. This method may be used only for property interests not publicly traded.
- V -- Other. Any other recognized indication of value, such as current selling price of a comparable interest. If this method is used, you must describe in Part VII-A or Part VIII the method used.
- W -- Estimated. Your good faith estimate of the value of property if its exact value is not known and a more accurate determination of its value cannot be easily obtained by another method.

The gross value of the property should be indicated without reductions for mortgages, etc. References may be made in Part VII to mortgages included in Part VI (Liabilities).

VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 35-53 of Instructions.)

1 Description of investment or trust (including the name of the issuer)	2 Income or distribution type code	3 Character of income or distribution	4 Value method code	5 Transaction value information				
				6 Beginning value	7 Ending value	8 Change in value	9 Other value information	
<input type="checkbox"/> NONE (No reportable income, assets, or transactions)								
1 Lego Common Stock (S)		NONE	K	T				
2 Rental Property #1, Alexandria, VA (1993 \$200,000) (J)	D	Rent	M	R				
3 NationsBank (IRA) (CDs)	A	Interest	J	T				
4 Cabin Creek National Bank Stock (X)	B	Dividend	J	U				
5 Fidelity Magellan Mutual Fund (DC)	B	Dividend	K	T				
6 NY State Urban Dev. Corp. Muni. Bond	A	Interest	J	T				

Notes to Filer:

- _____ Do you list in Column C(1) the gross value code (J-P) at the end of the reporting period?
- _____ Do you list in Column C(2) the correct value method code (Q-W) reflecting how the value of the asset was determined?
- _____ If you used value method codes "Q", "R", "S", or "V," did you include the appropriate information in Column A or Part VIII?

Commentary

If an asset is entirely sold during the reporting period, then Column C should be left blank. However, if an asset is partially sold (such as a portion of the total shares of stock owned), then Column C should be completed.

In addition, it should be emphasized that in Column C(2), there are four value method codes which require additional information in either Column A or Part VIII. Filers tend to forget that each report must stand on its own and as a result often fail to provide the following on their report each year:

- (1) "Q"-Appraisal- the date of the appraisal.
- (2) "R"-Cost- the date of purchase and the dollar amount of the purchase price.
- (3) "S"-Assessment- the dollar amount of the assessed value.
- (4) "V"-Other- the filer must describe the method used in Column A (Description) or Part VIII.

5. Transactions

Information on transactions should be entered in Column D. Transactions to be reported involve any purchase, sale or exchange during the reporting period which exceeds \$1,000. Section 102(a)(5).

As to each acquisition or disposition, you should disclose:

- a) the type of transaction, e.g., buy, sell, merger, inherit, redeem, etc.;
- b) the date of the transaction;
- c) the value category code indicating the value of the consideration paid or received;
- d) the capital gain, if exceeding \$200, realized on a disposition, using the appropriate income category code (codes A-H);
- e) the identity of the buyer or seller unless the transaction was conducted through public trading, as on a stock or commodities exchange;
- f) the liquidation of a bank account or money market fund that may have been reported on a prior Report.

If an asset has been bought and sold during the same reporting period, provide the required information about both transactions on successive lines.

On an exchange of properties, e.g., exchange of stock of ABC Co. for stock in XYZ Co. as a result of merger, list both the disposition of the ABC stock, and show any capital gain, whether or not recognized, and the acquisition of the XYZ stock.

The value category codes, codes J-P, which for convenient reference are also shown at the bottom of the Report, are listed above under VALUE.

The income category codes, codes A-H, for reporting capital gains, which for convenient reference are also shown at the bottom of the Report, are listed above under INCOME. If there is a loss, or no gain or loss, Column D4 under GAIN should be left blank.

You are not required to provide detailed transactional data on:

- transactions solely between yourself, your spouse, and your dependent children. Section 102(a)(5).
- transactions in which the then fair market value of consideration paid or received did not exceed \$1,000. Section 102(a)(5).
- transactions involving property used solely as the personal residence of you or your spouse. Section 102(a)(5)(A).
- transactions involving a mere change of form of assets, e.g., a stock split.
- deposits or withdrawals from bank accounts and money market funds.
- transactions involving the reinvestment of dividends, interest, and capital gain distributions.

If property listed in Part VII is acquired (or created) or disposed of (or liquidated) during the year in a transaction that is exempt from disclosure as above noted, indicate in Column D the type of transaction.

If property is partially disposed of during the reporting year, Columns C and D may both require information. To avoid a response to questions of possible errors in reporting, indicate in Column D(1) that it was "part sold."

VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 35-53 of Instructions.)

1	2	3	4	5	6	7	8	9	10
<input type="checkbox"/> NONE (No reportable income, assets, or transactions)									
1	Lego Common Stock (S)	NONE	K	T	Buy	7/10	J		
2					Partial Sale	9/1	J	A	
3					Buy	12/1	J		
4	Rental Property #1, Alexandria, VA (1995 \$200,000) (J)	C	Rent		Sold	12/5	N	C	Joe Smith
5	NationsBank (IRA) (CDs)	A	Interest	J	T	Buy	11/10	J	
6	Cabin Creek National Bank Stock (X)	B	Dividend	K	U	Partial Sale	4/8	J	A Jerry West
7	Fidelity Magellan Mutual Fund (DC)	B	Dividend	K	T	Buy Monthly		J	
8	NY State Urban Dev. Corp. Muni. Bond	A	Interest		Redemc	7/5	J		

Notes to filer:

___ If the asset is a new listing, do you list in Column D information on the transaction?

___ Do you list the date of the transaction in Column D(2)?

___ Do you list in Column D(3) the value code (J-P) indicating the value of the consideration paid or received for the asset?

- _____ Do you list in Column D(4) capital gain (income codes A-H) realized on the disposition of the asset or leave this column "blank" if there was no gain or a loss?
- _____ If an asset is partially disposed of or sold, did you indicate "partial sale" in Column D(2)?
- _____ If an asset was completely disposed of or sold, did you leave Column C blank and complete Columns D(1)-(5) as appropriate?
- _____ Do you list the identity of the buyer or seller for all transactions not conducted through public trading, as on a stock or commodities exchange?

Commentary

In addition to purchases and sales, other types of transactions such as mergers, gifts, inheritances, and redemptions require completion of all parts of Columns D(1)-(3).

If an asset was disposed of (sale or redemption), then Column D(4)- the capital gain code should also be provided. In addition, Column D(5) should be completed as to the identity of the buyer or seller if it was a private transaction (as opposed to a transaction conducted through public trading, as on a stock or commodities exchange).

It should be noted that some filers leave Column D blank when they have a transaction which does not require complete details. However, Column D(1) should be completed to provide the type of transaction. This is a common omission when the filer either opens or closes an account in a financial institution. The following are common examples of these types of transactions:

- (1) opening and closing of accounts in financial institutions, including the rollover of an account from one financial institution to another,*
- (2) transactions solely between the filer, his or her spouse, and dependent children,*
- (3) transactions in which the then fair market value of consideration paid or received did not exceed \$1,000, and*
- (4) transactions involving a mere change of form of assets, e.g., a stock split.*

6. Trusts and Similar Entities

Holdings of beneficial interests in trusts and similar entities present special problems in reporting.

A reporting person need not report the holdings of, or the source of, income from any of the holdings of:

- a) a qualified blind trust. Section 102(f)(1). (see below).
- b) a trust:
 - (i) which was not created directly by the reporting person, his spouse, or any dependent child; and
 - (ii) the holdings or sources of income, of which the person, his spouse, or any dependent child have no knowledge. Section 102(f)(2).
- c) a widely held investment fund, if the fund is publicly traded or the assets of the fund are widely diversified, and the reporting person neither exercises control, nor has the ability to exercise control over the financial interests held by the fund. Section 102(f)(8).

A reporting person does not have to report a contingent interest in a trust if the reporter has no control over the assets of the trust. An interest is contingent if there is no present right or ability to any income or principal, and the future is uncertain either by survivorship or otherwise.

Individual assets, stocks, and bonds that are part of an IRA or brokerage account must be disclosed. However, when a mutual or widely diversified fund is part of an IRA or brokerage account, only the name of the fund and not its underlying stocks, bonds, or other assets, must be listed. In other words, underlying stocks, bonds, etc. in a pooled fund which are not individually directed by the reporting individual need not be disclosed.

A reporting person should complete Part VII, Columns A and B, for the trust or other financial arrangement qualifying under the conditions listed. Section 102(f)(2).

Report the holdings and sources of income from private investment clubs or investment partnerships. In these arrangements, the basic rule is that the income, value, and transactions of the holdings of any investment club or similar arrangement in which you, your spouse, or dependent child have a beneficial interest must be reported if the investment club or partnership had ownership of any asset having a value of \$1,000 at the end of the reporting period, regardless of the value of your, your spouse, or dependent child's individual share. Your listing of assets requires the completion of Columns A, B, and C for each asset owned by the investment club having a value in excess of \$1,000 and the completion of Column D for any club transaction in excess of \$1,000.

A qualified blind trust is subject to special rules. Section 102(f). The effect of the Code of Conduct for United States Judges (Canon 3(c)(2)) precludes qualified blind trusts for judges, their spouses and dependent children. Other judicial employees may own beneficial interests in

Commentary

The holdings of beneficial interests in trusts and similar entities, such as estates, present special problems in reporting. The reporting person is not required to disclose the individual holdings from any trust or other financial arrangement which is specifically exempted and noted as such in the Instructions. The two most common types of exemptions are as follows:

(1) *a trust:*

(a) *which was not created directly by the reporting person, his spouse, or any dependent child; and*

(b) *the holdings or sources of income, of which the person, his spouse, or any dependent child have no knowledge.*

(2) *a widely held investment fund, if the fund is publicly traded or the assets of the fund are widely diversified, and the reporting person neither exercises control, nor has the ability to exercise control over the financial interests held by the fund. (This is most commonly associated with regulated investment company accounts, mutual funds, pension or deferred compensation plans, or other investment funds.)*

However, for any other trust, estate, or financial arrangement, the individual holdings of which the filer, the spouse, or the dependent child have a vested beneficial interest should be disclosed. The Committee has adopted the following language to use as a guideline:

A reporting person does not have to report a contingent interest in a trust if the reporter has no control over the assets of the trust. An interest is contingent if there is no present right or ability to any income or principal, and the future is uncertain either by survivorship or otherwise.

Related Commentary

The following are examples of statutory guidelines on related subjects extracted from The Codes of Conduct For Judges And Judicial Employees. These guidelines should provide assistance as to the propriety of disclosing certain financial interests.

(1) *"Financial interest" means ownership of a legal or equitable interest, however small. (Canon 3(C)(3)(c).)*

(2) *Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund. (Canon 3(C)(3)(c)(i).)*

(3) *An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization. (Canon 3(C)(3)(c)(ii).)*

(4) *A policy holder in a mutual insurance company, a depositor in a mutual savings association, or owner of government securities has a "financial interest," if the outcome of any proceeding in which the filer participates could substantially affect the value of the interests. (Canon 3(C)(3)(c)(iii) and (iv).)*

~~(5) *A judge does not have a financial interest in a corporation whose securities are held by either an educational institution or a private trust of which the judge is a trustee or in which the judge has no beneficial interest and no control over directing investments. (Canon 6(C)(1), Advisory Opinion 16.)*~~

(6) *An interest in a limited partnership designed to engage in particular investment strategies can fall within the concept of a "common investment fund" when the judge has no control or influence over the general partner or over the investment decisions. The investment vehicle is similar to a mutual fund. (Compendium § 3.1-3(e) (1997).)*

(7) *A judge has a "financial interest" in each of the named underlying equity securities when the judge's IRA owns units of an investment vehicle which holds 15 named corporations, the portfolio is not actively managed, and it is not contemplated the securities will be sold or exchanged prior to termination of the investment vehicle in ten years. Investment vehicle does not qualify as "mutual fund or common investment fund" under Canon 3C. (Compendium § 3.1-3(f) (1997).)*

(8) *A law firm's KEOGH plan or 401k plan managed by the firm, small number of participants, ready access to investment information does not qualify for the "common fund" exception under Canon 3C. (Compendium § 3.1-3(c) (1997).)*

(9) *A law firm's retirement fund qualifies for the "common investment fund" exception under Canon 3C where the financial interest is indirect (due to the number of participants and the size and diversity of investments), directed investment by participants is not available, and the participants do not know and cannot easily find out about a fund's portfolio, which turns over frequently. (Compendium § 3.1-3(c-1) (1997).)*

VIII. Explanatory Comments

Use this section to add information clarifying other portions of the Report. Of particular importance is any information, such as a reference to opinions of the Committee on Codes of Conduct and actions of a Judicial Council, that bears on possible conflicts of interest or problems under the Codes of Conduct for United States Judges. Also use this section to explain any apparent inconsistencies between the current Report and past Reports.

Place explanatory comments either with the item or in Part VIII that will facilitate "tracing" items from one Report to the next. For example, indicate if an asset has a different name from that used in the prior Report because of a reorganization or change of name.

Use attachment pages if more space is needed.

IX. Certification and Signature

The certifications provided on the form cover (1) a certification that the reporting person did not perform any adjudicatory function in any litigation during the reporting period in which such person or his or her spouse or minor or dependent children had a financial interest; (2) a certification that the Report is accurate, true, and complete as to all information required by the Act to be reported; and (3) a certification that earned income from outside employment and honoraria and the acceptance of gifts that have been reported are in compliance with the provisions of applicable laws and regulations.

The first certification covers only minor or dependent children. If it cannot be made in the form contained on the Report, e.g., the reporting person performed adjudicatory functions in a case either in error or under the "rule of necessity," modify the certificate and explain in Part VIII.

The original Report that is to be filed with the Committee must bear the original signature of the reporting person; the other three copies may be copies of the signed original. At least one copy of an amended return or of a clarifying letter responding to a Committee inquiry must bear the original signature of the reporting person; all other copies shall be copies of the signed original. The signature of the reporting person may be excused only during a period of physical or mental incapacity of that person.

Promptly upon discovery that an error has been made in a Report, amend the Report by one of the methods explained on page 4.

COMPLIANCE AND SANCTIONS

Compliance with filing and reporting requirements is monitored pursuant to 5 U.S.C. app. 4, § 106.

One who knowingly and willfully falsifies or fails to file or report any information required under the Act is subject to civil and criminal sanctions. Section 104(a).

ETHICAL STANDARDS

The disclosure requirements and exemptions from disclosure contained in the Act neither define nor limit the standards imposed by the Code of Conduct for United States Judges and other rules of the Judicial Conference of the United States or the statutory provisions for disqualification or recusal.

For example, disclosure of financial interests under the Act is required only for interests exceeding a stated minimum amount of value and only with respect to certain members of a person's family, whereas 28 U.S.C. § 455(b)(4) applies to financial interests without regard to amount and 28 U.S.C. § 455(b)(5) applies to participation in litigation by a person within the third degree of relationship to the judge. Similarly, the Act exempts from disclosure matters relating to campaign receipts and campaign disbursements, most of which would be prohibited under the Code of Judicial Conduct for United States Judges, which also precludes qualified blind trusts for judges.

PUBLIC ACCESS

Financial Disclosure Reports are public documents, open to inspection and copying at the office of the Committee on Financial Disclosure. Reports will be made available to the public within thirty (30) days after the Report is received by the Committee on Financial Disclosure and only upon written application. Sections 105(a) and (b)(1).

Individuals requesting copies of Financial Disclosure Reports will be required to present adequate identification such as a picture identification, when requesting a copy in person. Those requesting copies by mail will be required to submit an original signature on the request form.

There will be a charge of twenty(20) cents for each page copied. A Report will be made available only to a person who completes the AO Form 10A, Request for Examination of Report Filed by a Judicial Officer or Employee, in writing and includes :

- (A) that person's name, occupation and address;
- (B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

- (C) that such person is aware of the prohibitions with regard to obtaining or using the Report. Section 105(b)(2).

It shall be unlawful for any person to obtain or use a Report--

- (A) for any unlawful purpose;
- (B) for any commercial purpose other than by news and communications media for dissemination to the general public;
- (C) for determining or establishing the credit rating of any person; or
- (D) for use directly or indirectly, in the solicitation of money for any political, charitable, or other purpose. Section 105(c)(1).

The Attorney General may bring a civil action against any person who obtains or uses a Report for any prohibited purpose described above. The court in which such action is brought may assess against such person a penalty in any amount not to exceed \$10,000. Such remedy shall be in addition to any other remedy available under statutory or common law. Section 105(c)(2).

Commentary

Financial Disclosure Reports are public documents open for copying and inspection and will be maintained by the staff of the Committee on Disclosure Office for six years, after which the reports will be destroyed unless there is an ongoing investigation. The Committee has held that by statute felons cannot be restricted from ready access to the Reports. However, a recent amendment to section 102(b) of the Act gives the Committee the authority to redact required information from a report when the Committee, in consultation with the United States Marshals Service, decides that revealing personal and sensitive information could endanger the judge or judicial employee.

Immediately upon receipt of the AO Form 10A, Request for Examination of Report Filed by a Judicial Officer or Employee, the staff of the Committee sends a courtesy letter of notification to the filer informing the filer that a proper request for a copy of filer's Report was received and that it is being made available.

Staff has been instructed to redact excess personal information not required to satisfy section 102 of the Act such as home addresses, social security numbers, and financial account numbers from reports requested by the public.

The Instructions for completing Financial Disclosure Reports are made available to the public upon request. The fee for copying Reports can be waived only after a determination by the Committee that it is in the public interest and that the requestor is unable to pay.

APPENDIX I

INITIAL REPORTS**WHO MUST FILE AND WHEN**

Persons nominated to be JUDICIAL OFFICERS must file an initial Report within 5 days of the transmittal of their nomination by the President to the Senate. Section 101(b)(1).

Newly-appointed JUDICIAL EMPLOYEES must file an initial Report within 30 days of assuming their positions, Section 101(a), if they assume their position before November 1. Newly-appointed JUDICIAL EMPLOYEES who assume their positions between November 1 and December 31 must file an initial Report by March 15 of the subsequent year.

Judicial employees who receive a promotion or change in the rate of pay which results in pay equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule before November 1, must file an initial Report within 30 days of the promotion or pay change. If the promotion or pay adjustment occurs between November 1 and December 31, judicial employees must file an initial Report by March 15 of the subsequent year.

A JUDICIAL EMPLOYEE who is not expected to perform the duties of the office or position for more than sixty (60) days in a calendar year is not required to file an annual Report. However, if the person actually performs duties for more than sixty (60) days, an initial Report must be filed within fifteen (15) days of the sixtieth day. Section 101(h).

INSTRUCTIONS FOR COMPLETING EACH PART

Below are specific instructions that differ from those provided for annual Reports.

Identifying Information

BLOCK 3. Date of Report. For a JUDICIAL EMPLOYEE, a date that is no more than 30 days after your entry in the position if you entered before November 1. If you entered between November 1 and December 31, the "Date of Report" should be no later than March 15. For a person nominated to be a JUDICIAL OFFICER, the date should be no more than 5 days after submission of your nomination to the Senate.

BLOCK 5. Report Type. Check the appropriate report form and in the case of a nomination Report show the date your nomination was transmitted to the Senate.

BLOCK 6. Reporting Period. The beginning date (January 1 of the year preceding the year you assumed your office or were nominated) and the ending date (a date you choose that precedes the "Date of Report" by no more than 30 days).

I. Positions

The reporting period is the two calendar years preceding the date of the Report through the filing date in the current calendar year. Section 102(a)(6)(A).

III. Non-investment Income

The reporting period is the calendar year preceding the date of the Report and the year of filing. Section 102(b)(1)(A).

In addition, you must report compensation, other than from the United States Government, in excess of \$5,000 in any of the two calendar years prior to the calendar year during which you file your first Report. Section 102(a)(6)(B).

You must include the identity of each source of such compensation and a brief description of the nature of the duties performed or services rendered by the reporting person for each source. Section 102(a)(6)(B).

You are not required to report any information which is considered confidential as a result of a privileged relationship, established by law between the reporting person and any person nor are you required to report any information with respect to any person for whom services were provided by any firm or association of which the reporting person was a member, partner, or employee unless the reporting person was directly involved in the provision of such services. Section 102(a)(6)(B).

IV. and V. Reimbursements and Gifts

You are not required to complete these Parts of the Report. Section 102(b)(1). Note "exempt" in these two spaces.

VI. Liabilities

The reporting period is the calendar year preceding the date of the Report through a date which is less than thirty-one days before the filing date. Section 102(b)(1)(B).

VII. Investments and Trusts

The reporting period for providing income information for assets is the calendar year preceding the date of the Report and the year of filing. Section 102(b)(1)(A). The reporting period for providing value information for assets is the calendar year preceding the date of the Report through a date which is less than thirty-one days before the filing date. Section 102(b)(1)(B). **You are not required to complete Subpart D "Transactions."** Section 102(b)(1). Note "exempt" in these two spaces.

APPENDIX II**FINAL REPORTS****WHO MUST FILE AND WHEN**

A JUDICIAL OFFICER who works 60 days or more in a calendar year is required to file a final Report within thirty days after resigning under 28 U.S.C. § 371(a) or otherwise ceasing to continue in such position. A JUDICIAL OFFICER who retires under 28 U.S.C. § 371(b) is not required at that time to file a final Report, but continues to be obligated to file an annual Report for any year in which the relevant Judicial Council authorizes the employment by the judge of at least one law clerk or secretary, unless the judge certifies that he or she did not perform the duties of his or her office for more than sixty (60) days.

A JUDICIAL EMPLOYEE who works 60 days or more in a calendar year is required to file a final Report within thirty days of termination of employment. Section 101(e).

A JUDICIAL OFFICER OR JUDICIAL EMPLOYEE accepting another position in the Federal government subject to financial disclosure reporting is not required to file a final Report when changing position. Section 101(e).

INSTRUCTIONS FOR COMPLETING EACH PART

Below are specific instructions that differ from those provided for annual Reports.

Identifying Information

BLOCK 3. Date of Report. The date the Report is completed, and not more than 30 days after termination of employment.

BLOCK 5. Report Type. Check final Report.

BLOCK 6. Reporting Period. Show both the beginning and ending date of the reporting period. The beginning date will be January 1 of the current year if an annual Report has already been filed covering the preceding calendar year; otherwise, it will be January 1 of the preceding calendar year. The ending date is the date of termination of employment.

Parts I - VII.

The reporting period is the calendar year preceding the date of the Report through the filing date in the current calendar year. Section 102(c). If an annual Report was already filed covering the preceding calendar year, then the reporting period is the current calendar year through the filing date.

APPENDIX III**ADDITIONAL REFERENCES**

Regulations concerning gifts, outside earned income, honoraria, and outside employment and the codes of conduct are contained in the Guide to Judiciary Policies and Procedures, Volume II, Codes of Conduct for Judges and Judicial Employees.

The Committee on Codes of Conduct has established a database on Westlaw containing the ethical materials in Volume II of the Guide. To use this database, log on to Westlaw using your judiciary-provided Westlaw password (you cannot access this database with a password provided by anyone other than the federal judiciary). When prompted for a file name, enter CONDUCT (this file name does not appear on the Westlaw menu). Once entered into the database file, research may be conducted using established Westlaw search mechanisms.

INDEX

Agreements	14
continuation of payments	14, 15
former employer	14
future employment	14, 16
part-time magistrate judges	16
Alternative reporting format	6
Amendments	4
certification	4, 54
Basic pay	2
reemployed annuitant	2
cost of living	2
locality pay	2
Certification and signature	54
Compliance and sanctions	55
filing fee	3
failure to file	55
Covered senior employee	12, 19
Disclosure concerning family members	5
Ethical standards	55
Extensions of time to file	3
Filing fee	3
waiver	3
extraordinary circumstances	3
Filing requirements	1, 2
60 day rule	1, 2
annual report	1
initial report	57
final report	59
nomination report	57
Final report	59
reporting period	59
Financial interest	52, 53
Gifts	28
bar association	31
definition	28
foreign government	25
honorary/reduced-rate memberships	28, 31
investitures and similar ceremonies	30
personal hospitality	26
received by a spouse and dependent children	28

relative	26, 28
solicitation	26
special occasions	30
spouse	28
subscriptions	28
Honoraria	20, 23
donated to charity	21
prohibition on receipt	20, 23
Initial report	57
non-investment income	19, 58
reporting period	57
Investments	35
accounts with financial institutions	35
bank accounts	35
brokerage accounts	50
capital gain	46
common investment fund	52
common trust fund	38, 40
description of assets	37
financial statements	35
income	41
income threshold	35, 36
interest	41
IRAs	43, 50
joint-ownership	38
mutual funds	38
"NONE"	41
parenthetical "(X)"	38
partnership	9, 36
private investment clubs	50
rental income	37, 41
reportable assets	35, 36
spouse	36
stocks, bonds, and other securities	37
tax deferred	41
tax-deferred retirement or pension accounts	43
transactions	46
U.S. Savings Bonds	41
value	43
value method	44
value threshold	35, 36
widely held investment fund	50
Judicial officer	1
Liabilities	32

credit cards	33
dependent children	32, 33
mortgage	33
owed to a spouse	32
personal residence	32
political campaign funds	33
relatives	32
spouse	32, 33
Non-investment Income	17
annuities	17
commissions	17
compensation for services	17
covered senior employees	19
death benefits	18
dependent children	17
dividends on life insurance policies	17, 19
employment by the United States	17
fiduciary relationship for compensation	20
honoraria	17, 23
life insurance policies	17, 19
limitations on outside employment	19, 20, 23
practicing a profession	20
royalties	17, 19
spouses	17
teaching	20, 24
vested pension plans	17
Part-time employees	2
Personal information	7
Positions	9
Guardian	9
Executor	9, 38
honorary	9
investment partnership	9
judges	10
judicial employees	12
limited partner	9
part-time magistrate judges	9, 12
reporting period	9
trustee	9, 38
Public access	55
felons	56
unlawful purpose	56
Reconciliation with prior reports	7
Reimbursements	25

bar association	27
definition	25
foreign government	25
food, lodging, or entertainment	25
personal hospitality	26
travel expenses	25
Reviewing judge	8
certification	8
Senior covered employee	19
Senior judge	2, 21
Teaching	20, 21
approval	24
ordinary and necessary expenses	22
senior judge	21
Transactions	46
capital gains	47
buy	46
deposits or withdrawals from bank accounts	47
exchange of properties	47
inherit	46
liquidation of a bank account	46
merger	46
partial	47
personal residence	47
Trusts	38, 49
beneficial interest	49
blind trust	50
contingent interest	50
dependent child	50
exemptions	50
spouse	38, 50
Value Method	44
Q --Appraisal	44
R --Cost	44
S --Assessment	44
T --Cash/Market	44
U --Book	44
V --Other	44
W --Estimated	44
Where to file	4

AD-IR Rev. 1/2000		FINANCIAL DISCLOSURE REPORT FOR CALENDAR YEAR 1999		Report Required by the Ethics in Government Act of 1978, (5 U.S.C. App. 4, §§101-111)	
1. Person Reporting (Last name, first, middle initial) Porteous (Jr.), Gabriel T.		2. Court or Organization United States District Court Eastern District of Louisiana		3. Date of Report 5/5/00	
4. Title <i>(Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)</i> ACTIVE United States District Court Judge		5. Report Type (check appropriate type) ___ Nomination Date _____ ___ Initial ___ Annual ___ Final		6. Reporting Period 1/1/99 - 12/31/99	
7. Chambers or Office Address United States District Court, EDLA 500 Camp St., C206 New Orleans, La. 70130		8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____			
IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Never falsify data.					

I. POSITIONS. (Reporting individual only; see pp. 9-13 of Instructions.)

POSITION	NAME OF ORGANIZATION/ENTITY
<input checked="" type="checkbox"/> NONE (No reportable positions.)	
1 _____	
2 _____	
3 _____	

RECEIVED
 MAY 8 9 48 AM '00
 FINANCIAL
 DISCLOSURE OFFICE

II. AGREEMENTS. (Reporting individual only; see pp. 14-16 of Instructions.)

DATE	PARTIES AND TERMS
<input checked="" type="checkbox"/> NONE (No reportable agreements.)	
1 _____	
2 _____	
3 _____	

III. NON-INVESTMENT INCOME. (Reporting individual and spouse; see pp. 17-24 of Instructions.)

DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
<input checked="" type="checkbox"/> NONE (No reportable non-investment income.)		
1 _____		\$ _____
2 _____		\$ _____
3 _____		\$ _____
4 _____		\$ _____
5 _____		\$ _____

SC00235

HP Exhibit 105(a)

FINANCIAL DISCLOSURE REPORT

Name of Person Reporting

Porteous (Jr.), Gabriel T.

Date of Report

5/5/00

V. REIMBURSEMENTS - transportation, lodging, food, entertainment
(Includes those to spouse and dependent children. See pp. 25-27 of Instructions.)

	<u>SOURCE</u>	<u>DESCRIPTION</u>
<input type="checkbox"/>	NONE (No such reportable reimbursements.)	
1		
2	Jefferson Bar Association	4/15/99 Speaker CLE Seminar, Biloxi, Mississippi (Hotel)
3	Louisiana State Bar Association	6/9-6/12/99 Speaker CLE Seminar, Destin, Fla. and Mileag (Hotel, Food
4	LSU Trial Advocacy Training Program	8/9-8/11/99 Faculty Member, Baton Rouge, La. and Mileage
5		
6		
7		

V. GIFTS. (Includes those to spouse and dependent children. See pp. 28-31 of Instructions.)

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
<input checked="" type="checkbox"/>	NONE (No such reportable gifts.)		
1			\$
2			\$
3			\$
4			\$

VI. LIABILITIES. (Includes those of spouse and dependent children. See pp. 32-34 of Instructions.)

	<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE*</u>
<input type="checkbox"/>	NONE (No reportable liabilities.)		
1	MBNA	Credit Card	J
2	Citibank	Credit Card	J
3			
4			
5			
6			



FINANCIAL DISCLOSURE REPORT

Name of Person Reporting Porteous (Jr.), Gabriel T.	Date of Report 5/5/00
---	---------------------------------

VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 33-35 of Instructions.)

A Description of Assets (including trust assets) <i>Please "10" after each asset except from prior disclosure.</i>	B Income during reporting period		C Dividends during reporting period		D Interest during reporting period		E Other items during reporting period	
	Type (See Col. B)	Amount (See Col. B)	Type (See Col. C)	Amount (See Col. C)	Type (See Col. D)	Amount (See Col. D)	Type (See Col. E)	Amount (See Col. E)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)								
1 Fidelity Investments								
2 Fidelity Management Trust-IRA	D	Distrib.	J	T	None			
3 Noble Drilling Corp. Common Stock		None	J	T	None			
4 Oberweis FDS								
5 Emerging Growth Mutual Fund		None	J	T	None			
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
17								
18								

FINANCIAL DISCLOSURE REPORT

Name of Person Reporting

Porteous (Jr.), Gabriel T.

Date of Report

5/5/00

III. ADDITIONAL INFORMATION OR EXPLANATIONS (Indicate part of Report.)

X. CERTIFICATION.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

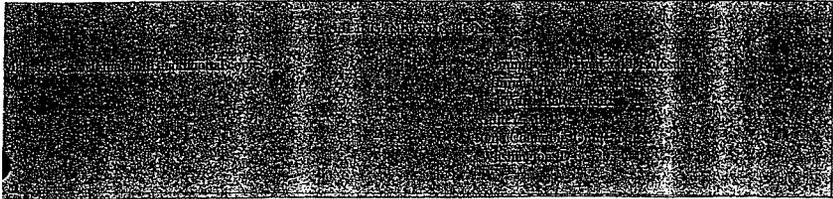
I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. 4, § 501 et. seq., 5 U.S.C. § 7353 and Judicial Conference regulations.

Signature

[Handwritten Signature]

Date 5/5/00

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. App. 4, § 104.)



SC00238

Financial Disclosure Report

**Filing Instructions
for Judicial Officers
and Employees**

**Committee on Financial Disclosure
Administrative Office of the U.S. Courts
One Columbus Circle, N.E., Suite 2-301
Washington, D.C. 20544
202-502-1850
January 2, 2000**

HP Exhibit 105(b)

**Major Changes to Financial Disclosure
Instructions for 1999**

The Committee agreed upon a proposal to allow filers to aggregate income and value codes in the reporting of the contents of IRAs, trusts, investment clubs, and similar arrangements. After reviewing the issue, the Committee changed the filing instructions for calendar year 1999 reports to allow the use of aggregate value codes for the reporting of IRAs, trusts, investment clubs, and similar arrangements that qualify as Aggregate Ownership Arrangements. The essential characteristics of an entity that is an Aggregate Ownership Arrangement are:

- a. an entity, distinct from the filer, in which the filer has a reportable interest, and*
- b. an entity that owns, or is utilized to hold, investments that are themselves subject to reporting requirements.*

Filers can complete Part VII, Columns A-D, for the Aggregate Ownership Arrangement and on subsequent lines in Part VII complete Column A for each asset in the arrangement and Column D if there were reportable transactions for the particular asset. The Committee finds that the use of the Aggregate Ownership Arrangement satisfies the reporting requirements of section 102 of the Ethics in Government Act of 1978 (5 U.S.C. app. 4 § 102) for reportable assets where the ownership arrangement is an entity separate from the owner. Thus, IRAs, trusts, investment clubs, and similar arrangements can be reported as Aggregate Ownership Arrangements. Brokerage accounts would normally not qualify since they are personally owned and have no separate legal identity (pages 51-54).

For security reasons, the Committee has removed the requirement to designate the ownership of an asset as belonging to spouse (S), dependent child (DC), or joint (J). However, you must still report those assets of your spouse and dependent child that meet the reporting thresholds.

The Committee has removed the "Ethics Certification" of compliance with the recusal statute, 28 U.S.C. § 455, heretofore included in Part IX, Certification. The certification is based on information not included within the report and adds to the existing confusion by filers and the public over the role of the Committee on Financial Disclosure and the Committee on Codes of Conduct.

The Committee continues to find it difficult to close reports that attach financial statements in lieu of completing Part VII, Investments and Trusts, of the Financial Disclosure Report (AO Form 10). Such reports often fail to provide the required information and lack a consistent and uniform format necessary for Committee review. Moreover, they often provide confidential information that is not required, such as account numbers, Social Security numbers, and home addresses. The use of bank or brokerage house statements as an alternative form of filing must have the advanced approval of the Committee in accordance with page 6 of the filing instructions. Any request should be made sufficiently in advance of the filing deadline to permit careful consideration and discussion with the reporting person.

SECURITY ISSUES

Every filer should be aware that the Ethics in Government Act of 1978 makes your Financial Disclosure Report a **PUBLIC DOCUMENT**. This means that a person seeking to harm or harass you and your family can get a copy of your Financial Disclosure Report. There have been instances of such misuse of information provided by filers.

The Committee makes the following recommendations so that you can satisfy the financial disclosure requirements of the Act while accommodating appropriate security concerns:

(1) When filing your report, enter your CHAMBERS OR OFFICE ADDRESS in Block 7. Do NOT use your home address for any purpose in connection with your report.

(2) In Part VII, do NOT provide more financial detail than is required by the Instructions. For example, for bank accounts, provide only the name of the institution and the city and state in which it is located. For certificates of deposit, provide only the name of the institution that issues the certificate. Do not include your social security number or the financial account numbers of brokerage accounts, IRAs, or bank accounts. For rental properties, provide only the city (or county) and state in which the property is located. If you have more than one rental property in a particular location, you may identify the properties as "Rental Property #1, Cincinnati, Ohio," "Rental Property #2, Cincinnati, Ohio," and so on.

(3) It is not necessary to report your personal residence or residences in Part VII (unless a portion of your residence is rented to a third party). Similarly, do not report any mortgage, equity loan, or line of credit secured by a personal residence, vehicle, boat, or motor home in Part VI.

(4) In addition, some filers wish to provide their federal income tax return. Paradoxically, this method provides too much information, and at the same time not enough information. The tax return shows interest and dividends in Schedule B and sales of assets in Schedule D in specific detail, but it does not provide the protection of the income and value codes and does not include lists of your current holdings. Therefore, a tax return does not meet the requirements of the Act.

(5) Similarly, financial statements, deeds, and trust agreements provide too much information including home addresses and account numbers. They are not necessary in order to identify an asset. Do not attach such documents to your report.

(6) The reporting requirements do not require the name of your spouse, your child, or your relatives. Use of the parenthetical codes "S," "J," and "DC" is no longer required. Identify relatives as "father" or "mother-in-law."

If your Financial Disclosure Report is requested, you will be notified of the request. If you have any concerns or questions about the release of your report, please call the staff of the Committee at (202) 502-1850 or discuss the matter with your local United States Marshal.

**FINANCIAL DISCLOSURE INSTRUCTIONS FOR
JUDICIAL OFFICERS AND EMPLOYEES**

TABLE OF CONTENTS

	Page
INTRODUCTION	1
WHO MUST FILE, WHEN AND WHERE	1
Extensions of Time to File	3
Filing Fee	3
Where to File	4
Amendments	4
Waivers	5
GENERAL INSTRUCTIONS	5
"None" Box	5
Disclosure Concerning Family Members	5
Extra Pages; Attachments	6
Alternative Format For Reporting	6
Reconciliation with Prior Reports	7
Personal Information	7
INSTRUCTIONS FOR COMPLETING EACH PART	9
I. Positions	9
II. Agreements	14
III. Non-investment Income	17
A. General Non-investment Income	17
B. Outside Employment and Honoraria	19
C. General Provisions	21
IV. Reimbursements of Transportation, Lodging, Food, Entertainment	25
V. Gifts	28
VI. Liabilities	32
VII. Investments and Trusts	35
1. General	35
2. Description of Assets	37
3. Income	41
4. Value	43
5. Transactions	46
6. Widely Held Investment Funds	50
7. Aggregate Ownership Arrangements - Trusts, IRAs, and Investment Clubs	51
A. Aggregate Reporting	51
B. Trusts	53
8. Qualified Blind Trust (Employees Other Than Judges)	54
VIII. Explanatory Comments	55
IX. Certification and Signature	55
COMPLIANCE AND SANCTIONS	56

ETHICAL STANDARDS	56
PUBLIC ACCESS	56
APPENDIX I - INITIAL REPORTS	58
Who Must File and When	58
Instructions for Completing Each Part	58
Identifying Information	58
I. Positions	59
III. Non-investment Income	59
IV. and V. Reimbursements and Gifts	59
VI. Liabilities	59
VII. Investments and Trusts	59
APPENDIX II - FINAL REPORTS	60
Who Must File and When	60
Instructions for Completing Each Part	60
Identifying Information	60
Parts I. - VII.	60
APPENDIX III - Additional References.	61
INDEX	62

INTRODUCTION

Three types of Financial Disclosure Reports--initial, annual, and final--are required by the Ethics in Government Act of 1978, as amended, published in Title 5 of the United States Code Annotated, Appendix 4, §§ 101-111.

These filing instructions govern the preparation and filing of AO Form 10, which is to be used by judicial officers and employees for all reports due after January 1, 2000. The body of the filing instructions covers reporting requirements for annual reports, which in some cases also apply to initial and final reports. Where requirements for initial and final reports differ from the annual reporting requirements, specific information can be found in Appendices I and II, respectively, of these instructions.

The Act requires that the Committee on Financial Disclosure review each report to assure that, on the basis of the information provided, the reporting person is in compliance with applicable laws and regulations. Section 106(b)(1). The Committee also reviews reports to determine potential conflicts of interest or ethical problems.

Questions concerning the reporting requirements (and suggestions for improving the AO Form 10 or these instructions) should be addressed to: Committee on Financial Disclosure, Administrative Office of the United States Courts, One Columbus Circle, N.E., Suite 2-301, Washington, D.C. 20544.

WHO MUST FILE, WHEN AND WHERE

JUDICIAL OFFICERS AND JUDICIAL EMPLOYEES are required to file an annual report by May 15 following each calendar year in which they performed their duties for more than sixty (60) days. Section 101(d). Filing before the due date is encouraged to ease the burden on members of the Committee on Financial Disclosure who review the reports, as required by the Act.

JUDICIAL OFFICERS are defined in the Act as the Chief Justice and Associate Justices of the Supreme Court, and the judges of United States courts of appeals, United States district courts, including the district courts in Guam, the Northern Mariana Islands, and the Virgin Islands, Court of International Trade, Tax Court, Court of Federal Claims, Court of Veterans Appeals, United States Court of Appeals for the Armed Forces, and any court created by an Act of Congress, the judges of which are entitled to hold office during good behavior. Section 109(10).

A JUDICIAL EMPLOYEE is any employee, other than a JUDICIAL OFFICER of the judicial branch of Government, of the United States Sentencing Commission, of the Tax Court, of the Court of Federal Claims, of the Court of Veterans Appeals, or of the United States Court

of Appeals for the Armed Forces, who

- (a) is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, e.g., bankruptcy judges and magistrate judges; or
- (b) who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule.

Section 109(8).

Persons whose obligation to file reports may vary from year to year, e.g., a senior judge, or recalled bankruptcy judge or magistrate judge who may perform more than 60 days of service in one year but not in another, should certify their exempt status to the Committee on Financial Disclosure by May 15th, if they are exempt from filing for the prior year. This will avoid an inquiry from the Committee concerning failure to file. When they file their next reports, they should explain any apparent inconsistencies resulting from the "gap" between the two reporting periods.

For information on who must file initial and final reports, and when they must be filed, see Appendices I and II, respectively.

Commentary

The General Counsel of the Administrative Office has determined that the term "basic pay" within the definition of a judicial employee does not include locality pay or geographic cost-of-living allowance (COLA) received by some employees in Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands. Geographic COLAs are considered additional allowances for the cost of living rather than part of the basic rate of pay. Similarly, there is no express statutory authority permitting court employees to receive locality pay. Payment is based upon the Director of the Administrative Office's authority to set compensation and is treated in the same manner that locality pay is treated in the Executive Branch, which does not consider locality pay as a part of basic pay.

Part-time employees without adjudicatory functions are deemed to satisfy the filing threshold if the basic rate of pay fixed for the position held meets the statutory minimum. Thus, the "rate of basic pay" rather than actual pay received, is used to determine the need to file a report. In addition, the Committee has held that the "rate of basic pay" to be used to determine whether a reemployed annuitant who is not authorized to perform adjudicatory functions must file a report does not include the annuity.

A part-time magistrate judge whose annual salary level is less than 16.4% of the salary of a full-time magistrate judge will normally perform the duties of his or her office for less than sixty-one (61) days each year and accordingly is not required to notify the Committee of his or her exempt status.

Extensions of Time to File

The Committee on Financial Disclosure may grant reasonable extensions of time for filing initial, annual, and final reports. Requests for extension should be submitted in writing to the Committee before the due date and should explain why the extension is necessary. The maximum extension permitted by the Act is 90 days. Section 101(g).

Emergency requests for extension may be made by telephone to the Committee staff if the reason for the request could not have been reasonably anticipated. A letter confirming the request should be sent promptly to the Committee. A letter confirming the oral response will be sent promptly by the Committee.

Filing Fee

The statute requires a person to file a timely report. One who files a report more than thirty (30) days after the date the report was due may be assessed a filing fee of \$200.00. If for good reason it is necessary to request a delay in filing, extensions of time of up to 90 days may be granted by the Committee on Financial Disclosure. The statute states that extensions beyond 90 days are not permissible. Absent a waiver, those granted a full 90 day extension will have to pay the fee if they do not file by the 120th day. Section 104(d)(1).

The Committee may waive the filing fee for extraordinary circumstances. Requests for waivers must be submitted in writing to the Committee with explanation of the reason(s) the report was not filed on time. Section 104(d)(2).

Commentary

When a report is filed more than 30 days after the date it is due, the filer is assessed a late filing fee of \$200. The fee is deposited in the United States Treasury. If a filer requests a waiver of the fee due to extraordinary circumstances, the Committee has delegated the authority to approve waivers involving failure of the postal system or physical incapacity of the filer to the Subcommittee on Compliance. Requests for waiver of the fee for any other "extraordinary circumstance" require a decision by the Committee as a whole. Please note, that reports are deemed to have been filed five (5) days prior to physical receipt for the purpose of determining whether the report has been timely filed.

Where to File

Effective January 1, 1991, the original and three copies of the report, and of any amendments (including amendments in response to letters of inquiry) are to be filed with:

Committee on Financial Disclosure
Administrative Office of the United States Courts
One Columbus Circle, N.E., Suite 2-301
Washington, D.C. 20544

Section 103(h)(1)(B).

The additional copies of the report may be made by photocopying the original, rather than by retyping or using carbons.

Commentary

Reports are not considered to have been received unless they are physically received by the staff of the Committee on Financial Disclosure and contain an original signature of the filer. Reports will be date stamped as soon as they are received by the staff. Reports sent to the Committee on Financial Disclosure by facsimile or other electronic means are not considered to be received until a copy with an original signature is received.

Amendments

A report may be amended by filing an amended AO Form 10 for that year, fully explaining items added to, or changed from, the original submission.

Alternatively, additional information may be submitted by a separate letter addressed to the Committee. You should identify the report(s) and part(s) being corrected and provide complete information for the item(s) being corrected. Sign the letter personally, which will constitute your certification to the accuracy and completeness of the report(s) as amended.

Regardless of which method is used, you should file amendments in the same manner as for the original, i.e., a signed original and three copies with the Committee.

Commentary

Self-initiated amendments will be certified in the same manner as an original report. Each reviewer will complete Block 8 on the AO Form 10 for each amendment as amended.

Amendments must be submitted over the signature of the filer. Amendments submitted on the filer's behalf by accountants, lawyers, or others are not acceptable.

Waivers

The Committee may grant a request for a waiver of any reporting requirement for one who is expected to perform the duties of the office or position less than one hundred and thirty (130) days in a calendar year, but only if the Committee determines that:

- (1) the person is not a full-time employee of the federal government;
- (2) the person is able to provide services specially needed by the federal government;
- (3) it is unlikely that the person's outside employment or financial interests will create a conflict of interest; and
- (4) public financial disclosure by the person is not necessary under the circumstances.

Any request for such a waiver must be directed in writing to the Committee with a detailed explanation of the facts upon which the Committee can make the determinations required under the Act. All such requests are available to the public. Section 101(i).

GENERAL INSTRUCTIONS

The report should be legible. Its format has been designed to be completed on most typewriters. The name of the person and date of the report should appear on each page. Financial Disclosure Report software is available upon request from the Committee.

"None" Box

Parts I through VII of the report must be completed. If you have no reportable items in any of these parts, do not simply leave it blank or mark it as "N/A," but instead mark the "None" box as an affirmative declaration of the fact.

Disclosure Concerning Family Members

A reporting person is required to disclose financial information concerning a spouse and dependent children, and the form is designed for inclusion of this information. Section 102(e)(1). The requirement to disclose trust information for a spouse and dependent children

only when a beneficial interest exists is found on pages 53 and 54. The Act does not require disclosure of the financial interests of other family members, nor is it required with respect to a spouse who is living separate and apart with the intention of terminating the marriage or permanently separating. Section 102(e)(2).

The Act defines a dependent child as a "son, daughter, stepson, or stepdaughter . . . who-- (A) is unmarried and under age 21 and is living in the household of the reporting person; or (B) is a dependent of the reporting person within the meaning of section 152 of the Internal Revenue Code of 1986." (26 U.S.C. § 152)

Section 109(2).

Extra Pages: Attachments

If more space is needed for any part than is provided on the form, make the additional entries on a new page and include it as a numbered attachment. The identifying information (name and date of report) must appear on each attachment page. If you make these entries on other than a photocopy of a page from the form, make sure that the part being continued is indicated and that all the required information is given.

Alternative Format For Reporting

The computer program available from the Committee provides an acceptable format for reporting.

It is permissible in exceptional circumstances to provide the required information in any part of the report in an alternative format but only upon a specific written determination by the Committee that such alternative reporting is acceptable. Those wishing to use alternative formats should seek permission to do so by writing to the Committee stating in detail the format to be used, why the request is being made, and whether it is for the current report only or for future reports, as well. All information submitted must be in a format easily reconciled with prior reports. Section 102(b)(2)(A).

In the absence of permission to use an alternative format, no extrinsic reports or documents may be used as substitutes for disclosure on the AO Form 10 as provided. This limitation is necessary to avoid additional burdens that would occur in the review process if a variety of documents, with different formats and often with extraneous information, were permitted.

Reconciliation with Prior Reports

Each report should be complete in itself. No information may be adopted by reference to prior reports. If letters approving a specific transaction, position, or agreement have been received from the Committee, or if the Committee on Codes of Conduct has approved particular conduct or actions, a copy of the letter of approval should be attached to each report to avoid a letter of inquiry.

Compare the information on your current report with that in the prior report to assure that each is complete and correct.

To assist the Committee during the review process, list items in each part of the report in the same order as shown in the prior report (placing any new items at the bottom of the list or of the appropriate subdivision of the list).

Personal Information

<div style="border: 1px solid black; padding: 2px; display: inline-block;">AC-10 Rev. 1/2000</div> FINANCIAL DISCLOSURE REPORT FOR CALENDAR YEAR 1999		<i>Report Required by the Ethics in Government Act of 1978 (5 U.S.C. App. 4, 101-111)</i>
1. Person Reporting <i>(Last name, first, middle initial)</i> Smith, John B.	2. Court or Organization U.S. District Court, North Dakota	3. Date of Report April 16, 2000
4. Title <i>(Article III Judges indicate active or senior status; Magistrate Judges indicate full- or part-time)</i> U.S. District Judge - Senior Status	5. Report type <i>(check appropriate type)</i> ___ Nomination, Date _____ ___ Initial <input checked="" type="checkbox"/> Annual ___ Final	6. Reporting Period January 1, 1999 - December 31, 1999
7. Chambers or Office Address U.S. Courthouse 44 West 32 nd Street Fargo, North Dakota 58107	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	
IMPORTANT NOTES: <i>The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on last page.</i>		

Notes to filer:

- ___ Are Blocks 1 through 7 filled in?
- ___ Does Block 4 show your status?
- ___ Does Block 5 indicate the type of report?
- ___ Does Block 6 cover the correct reporting period?

Commentary

Blocks 1 through 8 of the heading to the report should be filled in as indicated:

Block 6. Reporting Period. The following entry should be made for annual reports: January 1, 1999-December 31, 1999.

Block 8. Certification. Reviewing official will sign and date this block when the report is complete. The front page of the AO-10 with the reviewing judge's original signature will be returned to the staff of the Committee on Financial Disclosure for permanent filing.

Certification by the reviewing judge or staff counsel, as reviewing officials, certifies that the information in the report, any amendments, or attached correspondence has been disclosed in accordance with applicable laws and regulations. The reviewing official has the authority to approve the report as submitted, direct that a letter of inquiry be sent, or waive an error as de minimis and approve the report. The reviewing official can also approve a report and direct that an advisory letter be sent to provide the filer with guidance for future reports. All letters of inquiry are prepared for the Chair's signature on Committee letterhead stationery. The Chair has authority to revise or waive a letter of inquiry and approve a report.

INSTRUCTIONS FOR COMPLETING EACH PART

I. Positions

Only information pertaining to the reporting person is required in this part.

In this part, a complete listing is required of all positions held by the reporting person as an officer, director, executor, administrator, trustee, guardian, custodian, or similar fiduciary, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. Disclose your position even if you are not compensated and even if neither you nor a member of your family has any financial interest in the entities herein listed. Please note that positions held are reported in this part while assets owned or held are reported in Part VII. **You need not report any positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature. Section 102(a)(6)(A).**

In completing this part, for annual reports, the reporting period consists of the calendar year preceding the date of the report, and the time to the date of the report. Section 102(a)(6)(A). For initial and final reports, refer to Appendices I and II, respectively, of these instructions.

An interest as a limited partner in an investment partnership, if you have no managerial responsibilities, reflects assets held or owned, but not a position held. The position as such a limited partner need not be reported in Part I, but the interest must be disclosed in Part VII.

For Article III judges, bankruptcy judges, and magistrate judges, the Codes of Conduct for United States Judges specify additional constraints on the positions that may be held. See especially Canon 5. Part-time magistrate judges are governed by special rules as provided in 28 U.S.C. § 632(b) and the Guide to Judiciary Policies and Procedures, Volume II, Chapters I and III.

Additional information--e.g., an opinion from the Committee on the Codes of Conduct, or approval from a Judicial Council--that bears on the question whether a position presents a potential conflict of interest problem or problem under the Code of Conduct for United States Judges should be provided in Part I or Part VIII or on an attached page.

If you did not hold any reportable positions at any time during the reporting period, check the "None" box rather than leaving Part I blank.

I. POSITIONS. <i>(Reporting individual only; see pp. 9-13 of Instructions.)</i>	
<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
<input type="checkbox"/> NONE (No reportable positions)	
¹ Director	Fargo Boys Club
² Trustee	John Smith III Trust
³	

Notes to filer:

___ Do you have any reportable positions? If not, is the NONE box checked?

___ Did you provide the full name of the position and the organization?

___ Does the position appear to represent a conflict of interest?

___ Does the position require a listing of assets in Part VII?

Commentary

In completing this part, the reporting period is not always consistent with the reporting period delineated in Block 6 of the heading. For annual reports, the reporting period consists of the calendar year of the report and the current year up to the date of the report.

The positions a filer can hold are normally determined by the filer's status. Each category is affected by the Canons and statutes governing the creation and duties of the position held. Examples are as follows:

Judges

A judge should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of judicial duties. "Member of the judge's family means any relative of a judge by blood, adoption, or marriage or any other person treated by a judge as a member of the judge's family." (Canon 5D.)

The duties of a co-trustee, even if nominal, are fiduciary in nature. Canon 5D would seem to rule out service as fiduciary for other than a trust for a member of the judge's family. Even service as a fiduciary for other than a member of the family, covered by the Canon's section on "Effective Date of Compliance," and amended, for federal judges, by action of the Judicial Conference at its April 1973 meeting, seems to contemplate a relationship with an individual. In any event, such a relationship should be terminated unless a substantial interest of the estate or person would thereby be jeopardized. (Advisory Opinion No. 33.)

A judge who, before ascending the bench, served as an executor of the estate of a nonfamily member, or as trustee of a nonfamily trust may, with the approval of the judicial council of the circuit, continue in that capacity if resignation would cause undue hardship to the estate and its beneficiaries, but may not receive compensation for such service. (Compendium § 5.1-3(a) (1999).)

Note: A judge may serve as a part-time special lecturer in law or as a faculty member at a law school. It is necessary for the judge to obtain advance approval from the chief judge of the circuit, or in the case of the chief judge from the judicial council, before engaging in teaching activity. The normal restrictions on extra judicial compensation apply; the compensation must be reasonable in amount, no greater than a similarly situated non-judge would receive for the same service; the 15% cap on outside earned income is applicable; and the payments must be included in Part III of the report. The teaching duties should not in any way interfere with the performance of judicial duties.

If a judge fails to obtain prior approval of teaching, the approving chief judge has authority to approve teaching for compensation nunc pro tunc if satisfied that the failure was occasioned by excusable neglect, the application would have been approved if timely filed, and other criteria for approval are satisfied. If circumstances do not justify nunc pro tunc approval, the judge's only recourse is to refund the compensation. (Compendium § 35.7 (1999).)

In a partnership engaged in real estate investment, a judge may have a passive investment as a general partner. Canon 5C(2) prohibits active business participation.

Note: In the case of partnerships, the report should clearly reflect the purpose and the assets of the business, including the percentage owned by the filer. If the partnership owns or trades in securities, individual stocks and transactions should be reported in Part VII.

It is permissible for a judge to be an uncompensated officer or director of a business wholly owned by members of the judge's family. (Compendium § 5.2-3(c)(1999).)

A judge may serve as a member of the board of directors of a nonprofit social club, or a nonprofit club whose object is to promote an interest in and to enlighten its membership on important governmental, economic and social issues, provided that (a) the club does not engage in partisan politics and (b) the judge does not take positions on issues which would embarrass the judge in the exercise of judicial duties. (Advisory Opinion No. 15.)

A judge may serve on the board of trustees of a university foundation (no fund-raising involved). (Compendium § 5.3-3(b)(1999).)

Senior judges designated in 5 U.S.C. app. 4, § 502(b), (justices and senior judges) are excluded from the 15% cap on compensation received from approved teaching. Even if the Ethics Reform Act is satisfied, provisions of the Code of Conduct for United States Judges must also be satisfied.

Part-time Magistrate Judges

Part-time United States magistrate judges render such service as judicial officers as is required by law. While so serving they may engage in the practice of law, but may not serve as counsel in any criminal action in any court of the United States, or act in any capacity that is inconsistent with the proper discharge of their office. Within such restrictions, they may engage in any other business, occupation, or employment which is not inconsistent with the expeditious, proper, and impartial performance of their duties as judicial officers. (28 U.S.C. § 632(b).)

Judicial Employees

a. No covered senior employee, as defined in the "Regulations of the Judicial Conference of the United States Under Title VI of the Ethics Reform Act of 1989 Concerning Outside Earned Income, Honoraria, and Outside Employment," Guide to Judiciary Policies and Procedures, Volume II, Chapter VI, Part H, shall:

- (1) affiliate with or be employed by a firm, partnership, association, corporation, or other entity to provide professional services which involve a fiduciary relationship for compensation;*
- (2) permit the use of his or her name by any such firm, partnership, association, corporation, or other entity;*
- (3) practice a profession which involves a fiduciary relationship for compensation;*
- (4) serve for compensation as an officer or member of the board of any association, corporation, or other entity; or*
- (5) receive compensation for teaching, without the prior notification and approval as herein provided.*

Note: Senior employees of the Court of International Trade or the Court of Federal Claims must obtain approval from the chief judges of those courts. Senior employees of the Tax Court must obtain approval from the chief judge of the Tax Court. Commissioners and senior employees of the Sentencing Commission shall obtain approval from the Chairman of the Sentencing Commission. Senior employees of the Administrative Office of the United States Courts must obtain approval from the Director of the Administrative Office.

b. Judicial Employees. A judicial employee may engage in such activities as civic, charitable, religious, professional, educational, cultural, avocational, social, fraternal, and recreational activities, and may speak, write, lecture, and teach. If such outside activities concern the law, the legal system, or the administration of justice, the judicial employee should first consult with the appointing authority. (Code of Conduct for Judicial Employees, Canon 4A.)

c. Federal Public Defenders. A defender employee should not engage in the private practice of law. Notwithstanding this prohibition, a defender employee may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the defender employee's family, so long as such work does not interfere with the defender employee's primary responsibility to the defender office. (Code of Conduct for Federal Public Defender Employees, Canon 5D.)

II. Agreements

Only information pertaining to the reporting person is required in this part.

In this part a complete listing is required of any agreement with respect to:

- (a) future employment;
- (b) a leave of absence during government service;
- (c) continuation of payments by a former employer other than the United States; and
- (d) continuing participation in an employee welfare or benefit plan maintained by a former employer.

Report the date, parties, and terms of the agreement. Section 102(a)(7).

For all reports, show any such agreements currently in force.

Any additional information--e.g., an opinion from the Committee on Codes of Conduct, or approval from a Judicial Council--that bears upon the question whether an agreement presents a potential conflict of interest problem or problem under the Codes of Conduct for United States Judges should be provided in Part II or on an attached page.

If you did not have any reportable agreements during the reporting period, check the "None" box, rather than leaving Part II blank.

II. AGREEMENTS. <i>(Reporting individual only; see pp. 14-16 of Instructions.)</i>		
	<u>DATE</u>	<u>PARTIES AND TERMS</u>
<input type="checkbox"/>	NONE (No reportable agreements)	
1	1999	Jones & Smith Retirement Plan with former law firm, no control
2	_____	_____
3	_____	_____

Notes to filer:

_____ Do you have any reportable agreements? If not, is the NONE box checked?

_____ Did you list the date, parties, and terms of the agreement?

_____ Is the agreement permissible?

Commentary

Continuation of payments by a former employer other than the United States

It is permissible for judges to receive appropriate payment for their interests in a law firm and compensation for legal services they rendered before becoming judges. (Compendium § 2.7(a)(1999).)

A termination of partnership agreement provides for payment of an agreed amount representing the retiring partner's interest and some of these payments can be paid in years following the partner's appointment as a United States judge. (Advisory Opinion No. 24.)

The Committee on Codes of Conduct is of the opinion that when a partner leaves a law firm to become a federal judge, he should, if possible, agree with his partners on an exact amount which he will receive for his interest in the firm, whether that sum is to be paid within the year or over a period of years. (Id.)

Such payments may continue to be made to the judge, provided it is clear (1) that he is not sharing in profits of the firm earned after his departure, as distinguished from his sharing in amount representing the fair value of his interest in the firm, including the fair value of his interest in fees to be collected in the future for work done before he left the firm, and (2) the judge does not participate in any case in which his former firm or any partner or associate thereof is active as counsel until the full amount which he may be entitled to receive under the agreement has been paid to him. (Id.)

In addition, it is permissible for the departing judge to share in contingent fees received at the end of litigation, provided a fixed percentage or fixed ceiling is agreed upon, and reasonably reflects the value of services previously rendered by the departing judge. While it is permissible for a judge to share in future contingent fees, the judge should first attempt to reach agreement with his former partners on a fixed sum. (Compendium § 2.7(b) and (b-1)(1999).)

Continuing participation in an employee welfare or benefit plan maintained by a former employer

A judge should recuse in all cases involving members of the former law firm where the judge has left a retirement account in the former law firm's profit sharing trust. If there are frequent recusals, the judge should withdraw the account if feasible. (Compendium § 5.2-4(a) and (a-1)(1999).)

When, long after the judge's departure, additional assets are discovered which should have been transferred to the judge at the time of his departure (e.g. delayed refund under a health insurance plan), there is no ethical impediment to the judge's receipt of the appropriate distribution. (Compendium § 2-7(e)(1999).)

A judge who is a participant in a law firm's KEOGH plan has a financial interest in all of the corporations whose stock is owned by the plan, and must keep informed of the plan's investments, unless the plan is a common fund. (Compendium § 3.1-1(i)(1999).)

A law firm's KEOGH plan or 401 (k) plan which is managed by the firm or a small number of participants, and for which the judge has ready access to investment information does not qualify for the "common fund" exception. However, a law firm's retirement qualifies for the "common fund" exception where 1) the interest is indirect (due to the number of participants and the size and diversity of investments), 2) directed investment by participants is not available, and 3) the participants do not know about a fund's portfolio. (Compendium § 3.1-3(c).)

Other Employment

Part-time United States magistrates render such service as judicial officers as is required by law. While so serving, they may engage in the practice of law and, within certain restrictions, engage in any other employment which is not consistent with the expeditious, proper, and impartial performance of their duties as judicial officers. (28 U.S.C. § 632.)

A part-time judge is a judge who serves on a continuing or periodic basis, but is permitted by law to devote time to some other profession or occupation and whose compensation for that reason is less than that of a full-time judge. A part-time judge: (1) is not required to comply with Canons 5C(2), D, E, F, and G, and Canon 6C; (2) except as provided in the Conflict-of-Interest Rules for Part-time Magistrate Judges, should not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, or act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

A judge should require law clerks to keep the judge reasonably informed of their future employment plans as required by the Code of Conduct for Law Clerks. A law clerk should have no involvement whatsoever in pending matters handled by a prospective employer when an offer of employment has been made to the law clerk and has been, or may be, accepted by the law clerk. (Advisory Opinions Nos. 74 and 81.)

III. Non-investment Income

Information pertaining to the reporting person and the spouse, as noted, is required in this part.

A. General Non-investment Income

In this part, report non-investment income from whatever source, including but not limited to these items: compensation for services, including fees, commissions, etc.; income derived from business; royalties; annuities; income from life insurance and endowment contracts; and fixed benefits from vested pension plans. Amounts reported should be net income, except for income derived from a business, can be listed as net or gross, and indicated as such. Section 109(7). Dividends on life insurance policies not held in whole or in part as an investment or for the production of income need not be reported.

Report the source, type, amount or value, of income from any source aggregating \$200 or more in value. Honoraria are treated differently. Section 102(a)(1)(A). See Part III B. below. See below for specific exemptions.

For spouses, report the source of items of earned income from any person which exceeds \$1,000 and the source and amount of any honoraria which exceed \$200. If the spouse is self-employed in business or a profession, the nature of such business or profession should be reported. Section 102(e)(1)(A).

To indicate that income was earned by your spouse (and hence that the amount need not be shown), leave the column under "Gross Income" blank.

You are not required to disclose in Part III the following:

- compensation for current employment by the United States. Section 102(a)(1)(A).
- income that from a single source did not aggregate \$200 or more during the reporting period. Section 102(a)(1)(A).
- the amount of the spouse's "earned income", or any information about that "earned income" that from a single source did not aggregate more than \$1,000 during the reporting period. Section 102(e)(1)(A).
- any information about dependent children's non-investment income. Section 102(e)(1)(A).

- information with respect to a spouse living separate and apart with the intention of terminating the marriage or providing for permanent separation or with respect to any income or obligations arising from the dissolution or permanent separation. Section 102(e)(2).
- any political campaign funds, including campaign receipts. Section 102(g).
- income derived from any retirement system under title 5, United States Code (including the Thrift Savings Plan under Subchapter III of Chapter 84 of such title) or any other retirement system maintained by the United States for officers or employees of the United States. Section 102(i)(1).
- benefits received from Social Security. Section 102(i)(2).
- death benefits under insurance policies, gifts, inheritances, tort recoveries and other compensation for injuries and sickness, disability compensation, and veteran's benefits.

III. NON-INVESTMENT INCOME. <i>(Reporting individual and spouse; see pp. 17-24 of Instructions)</i>		
<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>GROSS INCOME</u> (Yours, not spouse's)
<input type="checkbox"/> NONE (No reportable non-investment income)		
1 1999	Evans County School District	\$
2 July 1999	Idaho Law School, Seminar (3 weeks)	\$ 3,500
3		\$

Notes to filer:

_____ Do you have any reportable non-investment income over \$200.00?

_____ Does your spouse have any reportable non-investment income over \$1,000.00?

_____ If no reportable income, is the NONE box checked?

_____ Is the date, source, type, and amount for your reportable income reported? If spouse's income, is the column under Gross Income left blank?

_____ Is the income subject to the 15% limitation (\$20,505) for calendar year 1999?

_____ *Is the income an honorarium or reported as such?*

Commentary

Although various types of non-investment income have been listed, some elaboration on several sources of income may be useful to provide a clearer distinction between non-investment and investment income.

No income should be disclosed in this part if it is derived from an investment asset that should be reported in Part VII. Sources of royalty payments include publications and oil, gas, and mineral interests. It should be noted that an interest in the real property from which these oil, gas, or mineral interests are derived should be disclosed in Part VII like any other investment property. Annuities and any other types of retirement income should be reported if they represent defined benefits from a vested pension plan. Retirement income from IRAs or other investment funds that varies due to the performance of the individual assets should be reported in Part VII since it represents income from an investment asset.

Ordinarily, income from life insurance policies need not be reported because most insurance policies are not held as investments or for the production of income. Policy dividends that reduce premiums or provide additional or paid-up insurance are not treated as income. Dividends or other income from life insurance policies, received in excess of \$200, which are reportable for income tax purposes, should be disclosed in this part. Several types of insurance policies that probably require reporting are "universal," "variable life," or "universal variable life."

Special attention will be given to the review of nomination and initial reports. The filer must report compensation, other than from the United States Government, in excess of \$5,000 in any of the two calendar years prior to the calendar year during which a first report is filed.

B. Outside Employment and Honoraria

Special attention should be given to regulations relating to Outside Employment and Honoraria at Appendix III.

Covered Senior Employees

In accordance with the Ethics Reform Act of 1989, and the Judicial Conference regulations implementing this Act, covered senior employees, other than justices of the United States who retired from regular active service under Section 371(b) of title 28, United States Code; judges of the United States who retired from regular active service under Section 371(b) of title 28, United States Code and who have met the requirements of subsection (f) of Section 371(b) of title 28, United States Code, as certified in accordance with such subsection; and,

justices and judges of the United States who retired from regular active service under Section 372(a) of title 28, United States Code, who receive compensation for teaching, are prohibited from:

- Receiving more than 15% of the pay rate for Executive Level II in earned income from outside employment if the officer or employee occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule and is not a career civil servant (See 5 U.S.C. § 5313 for the pay rate for Executive Level II). 5 U.S.C. app. 4 § 501(a)(1). Those covered by the provisions of this Act for only a portion of a year, must pro-rate the 15% on the basis of the number of days the person will actually work in that calendar year. 5 U.S.C. app. 4, § 501(a)(2).
- Being affiliated with or being employed by a firm, partnership, association, corporation, or other entity to provide professional services which involve a fiduciary relationship for compensation, serving for compensation as an officer or member of the board of any association, corporation, or other entity. 5 U.S.C. app. 4, § 502.
- Receiving compensation for teaching without prior notification and approval from the appropriate official, if the officer or employee occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule and is not a career civil servant. See Section 5 of Appendix III for the procedures for requesting approval. 5 U.S.C. app. 4, § 502.

NOTE: Covered senior employees are defined by Judicial Conference approved regulations as all judicial officers (except for part-time magistrate judges), commissioners and staff of the Sentencing Commission, the Director and Deputy Director of the Administrative Office of the United States Courts, and senior employees of the Administrative Office of the United States Courts serving at the pleasure of the Director (Schedule C status).

Judicial Officers and All Employees

In accordance with the Ethics Reform Act of 1989, and the Judicial Conference regulations implementing this Act, all judicial officers and all employees of the judicial branch are prohibited from accepting honoraria for any "appearance, speech, or article." Actual and necessary travel expenses incurred by the person and one relative are not deemed to constitute honoraria. 5 U.S.C. app. 4, § 501(b).

- No judicial officer or employee of the judicial branch (except for part-time magistrate judges), may accept honoraria, but a payment may only be made on behalf of such officer or employee to a charitable organization in lieu of the honorarium, so long as the payment does not exceed \$2,000, and is not made to a charitable organization from which the filer or the filer's parent, sibling, spouse, child, or dependent relative derives any financial benefit. 5 U.S.C. app. 4, § 501(b) and (c). In such instances, the filer should report the source, date, and amount of payments made to charitable organizations in lieu of honoraria and shall simultaneously file with the Committee on Financial Disclosure, on a confidential basis, a corresponding list of recipients of all such payments together with their dates and amounts. Section 102(a)(1)(A).

C. General Provisions

For annual reports, the reporting period is the calendar year preceding the date of the report. Section 102(a)(1)(A). For initial and final reports, see Appendices I and II, respectively, for the appropriate reporting periods.

If neither you nor a spouse had any reportable income during the reporting period, check the "None" box rather than leaving Part III blank.

Commentary

Contained within these Instructions and Appendix III are detailed instructions and regulations relating to limitations imposed on certain judicial officers and employees with respect to certain types of outside employment and income. Several important guidelines need to be emphasized for the benefit of the reviewing official.

Covered senior employees (defined in the cited appendix) are prohibited from receiving more than 15% of the pay rate for Executive Level II (currently \$136,700) in earned income from outside employment. The limitation for 1999 is \$20,505. However, senior judges who receive compensation for teaching, part-time magistrate judges, officers and employees of the Supreme Court, and employees of the Federal Judicial Center are exempted as to teaching income and are not restricted to this outside income limitation.

In addition, all judicial officers and all employees of the judicial branch (except for part-time magistrate judges) are prohibited from accepting honoraria for any "appearance, speech, or article." Any filer listing honoraria will be questioned for clarification and may eventually be referred to the Committee on Codes of Conduct for an advisory opinion.

Frequently, difficulty arises for the reviewing official and staff examiner concerning what constitutes outside earned income (which is attributed solely to the filer and not to the spouse). The following lists common examples of compensated activities which are subject to the calendar year income limitation, less the ordinary and necessary expenses paid or incurred in producing the income:

- (1) teaching,
- (2) serving as trustee of a family trust or executor of a family estate, and
- (3) writing.

In addition, the following common examples do not constitute outside earned income and have no limitations imposed on the filer:

- (1) pensions, annuities, and deferred compensation for services rendered prior to becoming a judicial officer or senior employee,
- (2) investment funds,
- (3) funds received from a family owned business,
- (4) publication royalties, fees, and their functional equivalent, and
- (5) compensation received by a senior judge for teaching.

Advisory Opinion Number 86, "Honoraria, Teaching, and Outside Earned Income Limitation," provides detailed interpretation on these issues and may serve as a helpful guideline. In addition, the following are summaries contained in Compendium, Sections 31-35 (1999), concerning recent advice given by the Committee on Codes of Conduct in response to confidential inquiries:

Outside Earned Income Limitation

- (1) Where service as a family fiduciary involves work performed over several years but fee is paid in a single year, it is consistent with the statute and regulations for the judge, in applying the 15% cap, to allocate the amount of the fee over the several years. (Compendium § 33.1(a) (1999).)
- (2) Flat fee of \$250 received by judge from a publisher for writing a chapter in a publisher's treatise is not excludable from the definition of outside earned income. The payment is a fixed and unconditional cash payment for a manuscript that is wholly unrelated to the sale or distribution of the publication. Thus, the fee is subject to the 15% cap. (Compendium § 33.2-5(a) (1999).)
- (3) Where judge serves as editor-in-chief of a law journal and receives a royalty of 15% of the net cash receipts from the sale of the publication, the amount is considered a royalty and thus not subject to the 15% cap. (Compendium § 33.2-5(b) (1999).)

(4) *Outside earned income is attributed solely to the actual earner regardless of community property laws. (Compendium § 33.3 (1999).)*

Prohibition on Receipt Of Honoraria

(1) *It is a violation of the statute and regulations for a law clerk to write an article for compensation during clerkship even though publication of the article and receipt of the honorarium occur after the clerkship ends. (Compendium § 34(a) (1999).)*

(2) *Fee for performing wedding is not an honorarium. However, a judge is barred from accepting additional compensation for performing judicial activities. (Compendium § 34.1(a) (1999).)*

(3) *Reimbursement of travel expenses for judge and one relative does not constitute an honorarium. (Compendium § 34.1(b) (1999).)*

(4) *Where a judge's paper for a continuing legal education program was later published and later still won \$3000 cash award at sponsor's annual award program, the award is not a payment for the speech or article and thus not an honorarium. An after-the-fact award based on merit for scholarly work is an award in recognition. (Compendium § 34.1(d) (1999).)*

(5) *Compensation for teaching a seminar for prospective law students and preparation of course materials does not constitute an honorarium. (Compendium § 34.1-2(d) (1999).)*

(6) *Fee received by judge as editor-in-chief of a law journal is not an honorarium, but rather compensation for a writing more extensive than an article. (Compendium § 34.1-3(a) (1999).)*

Limitations On Outside Employment

(1) *Serving as a fiduciary of a family estate or trust as permitted by Canon 5D of the Codes of Conduct does not constitute practicing a profession involving a fiduciary relationship. (Compendium § 35.3(a) (1999).)*

(2) *Service for compensation as editor-in-chief of a bankruptcy law journal is not the equivalent of being an officer or member of the board of an entity, and thus is not barred by this section. (Compendium § 35.4(a) (1999).)*

(3) *A judge cannot receive compensation for service as family fiduciary where the trust directs the operating policy of a charity because that would be the functional equivalent of serving as an officer or member of the board of directors. However, it is acceptable for the judge to serve as family fiduciary charged only with duties normally exercised by a family fiduciary. Compensation received is subject to the 15% cap. (Compendium § 35.4(b) (1999).)*

(4) *A judge's status as partner of a family partnership or shareholder of a family corporation is not the equivalent of serving as officer or member of the board of an entity, and thus the financial return to the judge as partner or shareholder is not prohibited. (Compendium § 35.4(c) (1999).)*

(5) *Where a judge failed to obtain prior approval of teaching, Chief Judge has authority to approve teaching for compensation nunc pro tunc if satisfied that the failure was occasioned by excusable neglect, the application would have been approved if timely filed, and other criteria for approval are satisfied. If circumstances do not justify nunc pro tunc approval, the judge's only recourse is to refund the compensation. (Compendium § 35.7(a) (1999).)*

**IV. Reimbursements of
Transportation, Lodging, Food, Entertainment**

Information pertaining to the reporting person and a spouse and dependent children, as noted, is required here.

In this part report information about reimbursements received by you, your spouse and dependent children, exclusive, however, of any items received by them totally independent of their relationship to you. Sections 102(a)(2)(A) and (C); and 102(e)(1)(C) and (D). For initial reports, there are separate rules for completing this part, found at Appendix I of these instructions.

A reimbursement means any payment or other thing of value, other than gifts, to cover travel related expenses. Section 109(15).

For annual reports, the reporting period is the calendar year preceding the date of the report. Section 102(a)(2)(B). For final reports, see Appendix II for the appropriate reporting period.

In this part, provide:

the identity of the source and a brief description (including location, dates, and nature of expenses provided) of reimbursements received from any source aggregating \$250 or more in value. Section 102(a)(2)(B).

You are not required to report in Part IV:

- food, lodging, or entertainment received from a relative. Section 102(a)(2)(A).
- food, lodging, or entertainment received as personal hospitality. Section 102(a)(2)(A).
- reimbursements received by your spouse and dependent children, independently of their relationship to you. Section 102(e)(1)(C) and (D).
- reimbursements received in a period when you were not an officer or employee of the federal government. Section 102(h).
- food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States, the District of Columbia, or a state or local government or political subdivision thereof; food and beverages not consumed in connection with a gift of overnight lodging; Section 109(5).

- reimbursements provided by the United States, the District of Columbia, or a state or local government or political subdivision thereof; required to be reported under 5 U.S.C. § 7342; or required to be reported under 2 U.S.C. § 434. Section 109(15).

Relative means one who is related to the reporting person, as father, mother, son, daughter, brother, sister, uncle, aunt, great uncle, great aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting person, and shall be deemed to include the fiance or fiancée of the reporting person. Section 109(16).

Personal hospitality means hospitality extended for a nonbusiness purpose by one, not a corporation or organization, at the personal residence of that person or his family or on property or facilities owned by that person or family. Section 109(14).

Beginning on January 1, 1991, in accordance with the Ethics Reform Act of 1989, and the Judicial Conference regulations implementing this Act, officers and employees are prohibited from soliciting or accepting anything of value from a person seeking official action from, doing business with, or whose interests would be substantially affected by, the performance or nonperformance of official duties. 5 U.S.C. § 7353. This prohibition applies to all reimbursements and gifts covered in Parts IV and V of the Financial Disclosure Report.

If you, your spouse, and your dependent children did not receive any reimbursements reportable in Part IV, check the "None" box rather than leaving Part IV blank.

IV. REIMBURSEMENTS --transportation, lodging, food, entertainment.	
<i>(Includes those to spouse and dependent children. See pp. 25-27 of Instructions.)</i>	
<u>SOURCE</u>	<u>DESCRIPTION</u>
<input type="checkbox"/> NONE (No such reportable reimbursements)	
1 Staley Foundation	June 15 - Haymarket, VA, Mtg of Board of Directors (Transportation, Meals, and Room)
2 FREE Foundation	Aug. 7-14 - Butte, MT - Environmental Seminar (Travel, Housing, Food, and Tuition)
3 VA CLE	Nov 7 - Williamsburg, VA - TAX CLE Seminar (Transportation, Food, and Hotel)

Notes to filer:

- ___ Do you, your spouse, or any dependent child have any reportable reimbursements or expense paid education or other trips? If not, is the NONE box checked?
- ___ Did you identify the source of the reimbursement, and provide a brief description including location, dates, and nature of expenses?
- ___ Can the reimbursement be accepted by you, your spouse, or dependent child?

Commentary

The following opinions issued by the Committee on Codes of Conduct provide guidance on issues associated with this part.

Attendance of judges and their spouses as guests at bar association dinners is proper, and a judge may accept reimbursement for the judge's or the judge's spouse's travel and hotel expenses to attend such a dinner sponsored by lawyer organizations even when the judge does not speak or render other services at the function. (Advisory Opinion No. 17.)

Although mere attendance (along with others similarly situated) without paying a registration fee would not create an appearance of impropriety, it would create an appearance of impropriety for employees of the Administrative Office to accept from a legal publishing firm a gift of transportation, lodging and meals in connection with a professional training program sponsored by the firm. (Compendium § 2.9(b) (1999).)

A judge participating as a faculty member in a two-week seminar of general interest organized on a nonprofit basis and financed by tuition and subsistence payments by nonfaculty attendees may accept reimbursement for the judge's and the judge's spouse's travel and subsistence expenses. (Advisory Opinion No. 3.)

A judicial employee may receive compensation and reimbursement of expenses for outside activities provided that receipt of such compensation and reimbursement is not prohibited or restricted by this Code, the Ethics Reform Act, and other applicable law, and provided that the source or amount of such payments does not influence or give the appearance of influencing the judicial employee in the performance of official duties or otherwise give the appearance of impropriety. Expense reimbursement should be limited to the actual cost of travel, food and lodging reasonably incurred by a judicial employee. (Code of Conduct for Judicial Employees, Canon 4E.)

V. Gifts

Information pertaining to the reporting person and the spouse and dependent children, as noted, is required in this part.

In this part report information about gifts other than transportation, lodging, food or entertainment aggregating \$250 or more in value received by you, your spouse and dependent children from any source other than a relative during the preceding calendar year. Gifts from separate sources with a fair market value of \$100 or less need not be aggregated to determine if the \$250 reporting threshold has been met. Section 102(a)(2)(A).

A gift is a payment, advance, forbearance, rendering, or deposit of money, or anything of value, unless consideration of equal or greater value is received by the donor. Section 109(5).

If you have been extended an honorary membership in an organization and you avail yourself of the privileges, rights, etc., to a substantial degree, and the dues are in excess of \$250 a year, you must report the honorary membership in this part.

You are not required to disclose information about:

- gifts received from a relative. Section 102(a)(2)(A).
- gifts received by a spouse and dependent children, totally independent of their relationship to you. Section 102(e)(1)(C).
- gifts received in a period when you were not an officer or employee of the federal government. Section 102(h).
- gifts that are bequests and other forms of inheritance. Section 109(5)(A).
- communications to the offices of a reporting person, including subscriptions to newspapers and periodicals. Section 109(5)(E).
- suitable mementos of a function honoring the reporting person. Section 109(5)(B).

If you, your spouse, and your dependent children did not receive any gifts reportable in Part V, check the "None" box rather than leaving Part V blank.

For the definition of relative, refer to Part IV of these instructions.

For annual reports, the reporting period is the calendar year preceding the date of the report. Section 102(a)(2)(A). For initial and final reports, see Appendices I and II, respectively,

for the appropriate reporting period and rules.

V. GIFTS. <i>(Includes those to spouse and dependent children. See pp.28-31 of Instructions.)</i>		
<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
<input type="checkbox"/> NONE (No such reportable gifts)		
1 Former Law Clerks	Painting - 20 th Anniversary on Bench	\$ 325.00
2 The Executive Club	Honorary Membership (dues, like privileges)	\$ 1200.00
3		\$

Notes to filer:

___ Do you, your spouse, or any dependent child have any reportable gifts other than transportation, lodging, food, or entertainment? If not, is the NONE box checked?

___ Did you list the identity of the source, a description of the gift, and the actual dollar value?

___ Can the gift be accepted?

Commentary

If stock is listed as a gift, the stock should also be reported in Part VII, Investments and Trusts.

The value of a gift is shown by a dollar amount, not by a value code.

If the gift is from an individual, the individual must be specifically named. It is not acceptable to identify the source of the gift as "boyfriend," "girlfriend," "friend," or "significant other."

The following opinions issued by the Committee on Codes of Conduct provide guidance on issues associated with this part.

Investitures and Similar Ceremonies

(a) *It is permissible for a judge to accept a gavel and a \$500 gift from a former client on the occasion of the judge's investiture. (Compendium § 5.4-2(a) (1999).)*

(b) *It is permissible for a judge to accept a gavel and a contribution toward the cost of the reception from a local bar association on the occasion of the judge's investiture. (Compendium § 5.4-2(b) (1999).)*

(c) *It is permissible for a judge to accept leather notebook and pen from Law Institute as a memento of a judge's presentation. (Compendium § 5.4-2(c) (1999).)*

(d) *It is permissible for a judge to be the guest of honor at a public dinner arranged by former law clerks, attended by lawyers and other members of the public, as well as the law clerks. The law clerks should make clear on the invitations and other papers relating to the dinner, not only the fact that the dinner is sponsored solely by present and former law clerks, but that the amount paid by other attendees is solely to cover the cost of the dinner, that no fundraising activity is involved, and that no part of the amount paid for the dinner will be employed in the purchase of a gift for the honoree. (Compendium § 5.4-5(c) (1999).)*

Gifts on Special Occasions

(a) *A judge may accept a gift of a trip aboard a cruising ship (costing about \$1500) on the occasion of his 20th anniversary as a United States judge where the donees consist exclusively of persons who have worked directly with him (i.e., law clerks, secretaries, courtroom deputies, and court reporters), there are a sufficient number of donees that no individual contribution to the gift is unusually large, and the judge is not made aware of the amounts contributed by the respective donees. (Compendium § 5.4-7(a) (1999).)*

(b) *On occasion of taking senior status, judge may accept gift from law clerks of golfing trip. (Compendium § 5.4-7(b) (1999).)*

(c) *It is not improper for former law clerks to solicit funds from other law clerks to establish scholarship in honor of retiring judge. The Judge and present law clerks should not solicit. (Compendium § 5.4-7(c) (1999).)*

(d) *It would create an appearance of impropriety for a judge to permit a for-profit company to host a reception following the judge's investiture, where the judge had no pre-existing relationship with the company, would not otherwise have been required to recuse, and the circumstances would convey the impression that the company was in a special position to influence the judge. (Canon 2B and Compendium § 2.10(c) (1999).)*

Miscellaneous Gift Rulings

(a) *It is permissible to accept books from West Publishing Company for official use. (Compendium § 5.4-Z(a) (1999).)*

(b) *It is permissible for a judge's children to accept scholarships awarded on the same terms and based on the same criteria applied to other applicants. (Compendium § 5.4-Z(b) (1999).)*

(c) *Gifts from a friend not prohibited where friend not likely to ever appear in judge's court. (Compendium § 5.4-Z(c) (1999).)*

(d) *It is permissible for a judge to attend, and accept hospitality at bar association events and meetings of other organizations devoted to improvement of the law, legal system, or the administration of justice. With respect to attendance at cocktail parties hosted by law firms in connection with bar meetings, judicial conferences, and the like, there is no impropriety in a judge accepting such invitations in the absence of reason to believe that such attendance will reasonably reflect unfavorably on the judge's impartiality or is likely to be exploited by the law firm. (Advisory Opinion No. 17.)*

(e) *It is permissible for judges to attend bar association events such as receptions where a legal publishing firm has donated the hors d'oeuvres and beverages to the bar association. It is not appropriate, however, for a group of judges or judicial personnel to allow a legal publishing firm or other vendor doing business with their court to donate food and beverages for a meeting of the judges or judicial employees. (Compendium § 2.9(a) (1999).)*

Honorary/Reduced-Rate Memberships

(a) *It is permissible for a judge to accept a free membership in a country club, including a waiver or reduction in the initiation fee, or to accept a free or reduced membership in a YMCA if it is customary in that community, similar privileges are extended to other public officials, the interests of the organizations have not and are not likely to come before the judge, and the judge is satisfied that the membership is not being used by the organization to promote its endeavors. (See Advisory Opinion No. 47.)*

(b) *It is permissible for a judge to accept a free membership in the "American Board of Trial Advocates," the organization being devoted to the improvement of the law. (Compendium § 5.4-1(b) (1999).)*

(c) *It is permissible to accept free membership in a local bar association. (Compendium § 5.4-1(c) (1999).)*

VI. Liabilities

Information pertaining to the reporting person, spouse, and dependent children is required in this part.

In this part, list all of your, your spouse's and dependent children's liabilities to any creditor other than a spouse, parent, brother, sister, or child, which exceeded \$10,000 at any time during the reporting period. Sections 102(a)(4) and 102(e)(1)(E).

For annual reports, the reporting period is the calendar year preceding the date of the report. Section 102(a)(4). For initial and final reports, see Appendices I and II, respectively, for the appropriate reporting periods.

In this part, list the identity and category of value of each liability. The identity includes the name of the creditor and a description of the liability. Section 102(a)(4). To assist the reviewer, liabilities should be listed in the same order as in the previous report.

The category codes for the amount owed as of the end of the reporting period are shown on the report and are as follows:

J - \$15,000 or less	P1 - \$1,000,001 to \$5,000,000
K - \$15,001 to \$50,000	P2 - \$5,000,001 to \$25,000,000
L - \$50,001 to \$100,000	P3 - \$25,000,001 to \$50,000,000
M - \$100,001 to \$250,000	P4 - more than \$50,000,000
N - \$250,001 to \$500,000	
O - \$500,001 to \$1,000,000	

Section 102(d)(1).

The reporting requirement relates to obligations that at any time during the reporting period exceeded \$10,000, but the amount to be shown by the category code is the amount owed as of the end of the reporting period.

You are not required to report:

- any liability owed to a spouse, parent, brother, sister, or child. Section 102(a)(4).
- any mortgage secured by real property which is a personal residence of you or your spouse. Section 102(a)(4)(A).

- any loan secured by a personal motor vehicle, household furniture, or appliances that does not exceed the purchase price of the item securing the liability. Section 102(a)(4)(B).
- any information with respect to a spouse living separate and apart from you with the intention of terminating the marriage or providing for permanent separation or with respect to any income or obligations arising from the dissolution of the marriage or permanent separation. Section 102(e)(2).
- any revolving charge account whose balance did not exceed \$10,000 as of the close of the preceding calendar year.
- political campaign funds, including campaign receipts and expenditures. Section 102(g).
- any liability which is the sole liability or responsibility of the spouse or child; which is not derived from the assets, income or activities of the reporting person; from which the reporting person does not derive or expect to derive a benefit; and of which the reporting person has no knowledge. Section 102(e)(1)(E). Omission of such data indicates a certification of these statutory conditions. This rule also applies to the reporting of investments and trusts, see the Instructions for Part VII.

If you, your spouse, and your dependent children did not have any reportable liabilities, check the "None" box rather than leaving Part VI blank.

VI. LIABILITIES. <i>(Includes those of spouse and dependent children. See pp. 32-34 of Instructions.)</i>		
<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE*</u>
<input type="checkbox"/> NONE (No reportable liabilities)		
1 Old National Bank	Credit Card	L
2 NationsBank	Mortgage on Rental Prop. #1, Alexandria, VA (Pt VII, line 2)	M
3		

* Value Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000
 P4=\$50,000,001 or more

Notes to filer:

_____ Do you, your spouse, or dependent child have any reportable liabilities over \$10,000?

____ *Did you list the identity of the creditor, a description of the liability, and a value code for the amount?*

____ *If a mortgage is listed, is there a corresponding entry for the property in Part VII?*

VII. Investments and Trusts

Information pertaining to the reporting person, spouse, and dependent children is required in this part.

1. General

In this part a complete listing is required of reportable assets owned by the reporting person, spouse, and dependent children. **Each asset must be individually listed and identified except as may be specifically provided otherwise (see Part 7B Trusts below).** Bank or brokerage house reports are not acceptable for compliance with these reporting requirements unless they succinctly contain all necessary information without requiring the reader to perform calculations or select out necessary data from a larger body of information. The use of bank or brokerage house statements as an alternative form of filing must have the advanced approval of the Committee in accordance with page 6 of the filing instructions. Any request should be made sufficiently in advance of the filing deadline to permit careful consideration and discussion with the reporting person. For initial reports, there are separate rules for completing this part, found at Appendix I of these instructions.

Report assets held during the preceding calendar year in a trade or business, or for investment or the production of income, which have a fair market value in excess of \$1,000 at the end of the year or from which you received income in excess of \$200 during the preceding calendar year. Sections 102(a)(3) and 102(a)(1)(B).

You are not required to report:

- Investments in the Thrift Savings Plan. Section 102(i)(1)(A).
- Any property, real or personal, not held in a trade or business, or for investment or the production of income. As examples, you need not report a private residence or personal automobiles. Section 102(a)(3).
- Any personal liability owed to you, your spouse, or dependent children by a spouse, or by a parent, brother, sister, or child of you or your spouse. Sections 102(a)(3) and 102(e)(1).
- Accounts in a financial institution (any form of deposit in a bank, savings and loan association, credit union, or similar financial institution), unless the aggregate amount of income for all an individual's income producing accounts at the institution for the reporting year is in excess of \$200, or the aggregate value at the end of the reporting year of all such income producing accounts is more than \$5,000. If either condition is met, each such account must be separately reported. Sections 102(a)(1)(B) and 102(a)(3).

- Asset information with respect to a spouse living separate and apart with the intention of terminating the marriage or providing for permanent separation. Section 102(e)(2).
- Political campaign funds, including campaign receipts and expenditures. Section 102(g).
- In Part VII, information associated with property which is the sole financial interest or responsibility of the spouse or child; which is not derived from the assets, income or activities of the reporting person; from which the reporting person does not derive or expect to derive a benefit; and of which the reporting person has no knowledge. Section 102(e)(1)(E). Omission of such data indicates a certification of these statutory conditions. This rule also applies to the reporting of liabilities, see the Instructions for Part VI.

To help reporting persons in instances where a position held in an economic entity may have a bearing on reporting requirements, the following should be used as guidance:

When a Financial Disclosure Report contains information reflecting a filer's interest in a partnership or other business enterprise, the filer must disclose the assets held by the business entity if a filer can direct, influence or in any other manner affect the purchase, exchange, sale or disposition of the entity or property owned by the entity, or when the filer can influence policy decisions which affect the purchase, exchange, sale or disposition of the entity or of property which it owns.

For annual reports, the reporting period is the calendar year preceding the date of the report. Section 102(a)(1)(B). For final reports, see Appendix II for the appropriate period.

If you, your spouse, and your dependent children did not have assets subject to reporting, check the "None" box rather than leaving Part VII blank.

Commentary

Investment income is to be contrasted with earned income. The crucial factor is the filer's services. If the filer's services are a material factor in the production of income, it is earned income and should be reported in Part III. However, limited partners usually receive investment income from the partnership, since they normally do not perform services for the partnership. Investment income includes returns on investments rather than compensation for personal services. It includes income derived from all forms of property, such as securities, funds, accounts, real estate, partnerships, joint ventures, businesses, and interests in trusts and estates.

When determining whether or not an investment asset should be reported, either the income threshold (in excess of \$200 during the preceding calendar year) or the value threshold (in excess of \$1,000) at the end of the year is sufficient to require reporting. For accounts in a financial institution, assets must be in excess of \$5,000 or produce income in excess of \$200. It has been a fairly common misconception from filers that both thresholds must be met before an asset is required to be disclosed.

Normally, any information pertaining to a personal residence is exempted from reporting. However, a second personal residence (e.g., a weekend or vacation home) should be reported if rental income is received for the use of the property.

The reporting of accounts in a financial institution does require some clarification. If the aggregate amount of income for all of an individual's accounts or the value of all such income producing accounts exceeds the established thresholds, then each such account must be separately reported for each individual. It is important to apply the "threshold test" separately to each individual owner of the accounts, which would include the following:

- (1) accounts individually owned by filer,*
- (2) accounts individually owned by spouse,*
- (3) accounts individually owned by dependent child, and*
- (4) accounts jointly owned by filer and spouse or dependent child.*

It should be understood that a reporting exemption for failure to meet a threshold amount, or for any other reason, does not affect any inquiry or recusal obligation under the Code of Conduct for United States Judges.

2. Description of Assets

In completing Part VII, a separate description of each asset listed is required. To assist the reviewer, assets should be listed in the same order as in the previous report. Each asset reported should be described in sufficient detail so the reader can tell what the property is. As examples:

- For stocks, bonds, and other securities indicate the type of the holding, "common," etc., and its name. Commonly understood abbreviations are permitted.

- For an account within a financial institution, give sufficient information so that it can be identified. Aggregate information may be provided for accounts in each financial institution.
- For notes or accounts receivable, indicate the nature of the receivable and the name of the debtor(s).
- For each real estate interest, indicate the general geographic location, such as city or county and state. If more than one parcel of real estate is owned in the same geographic area, you may identify each parcel by number, i.e., Parcel 1, 2, 3, etc., rather than identifying each parcel by street address, lot, or block number.
- For an interest in a trust, indicate the nature of the interest (e.g., "income beneficiary"), the name (if any) of the trust, and the name and location of the trustee.
- For an interest in a mutual fund or pooled or common trust fund administered by an independent financial or brokerage institution, furnish the name of the fund.

At times, reporting persons inadvertently omit the listing of assets, and correct the previous year's errors in the following year's report. Also, assets which were reported in one year may fail a qualifying requirement (such as a value of \$1,000) in the following year and thus are not reported. When this occurs, put an explanatory item in Part VII or in Part VIII, with a reference in Part VII to avoid a letter of inquiry.

In addition, identify with a parenthetical "(X)" assets which have been previously exempt from disclosure and now are reportable. The parenthetical "(X)" should also be used to identify an asset that meets the reporting threshold and is other wise exempt from the reporting requirements for gift under Part V. This should preclude a letter of inquiry from the Committee.

VII. Page 1 INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children. See pp. 33-55 of Instructions.)

A. Description of Assets (including trust assets) <i>Place "(0)" after each asset except from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(A)	If not exempt from disclosure			
	Amt. Code (A-H)	Type (e.g., div., rent or int.)	Value Code (E-F)	Value Method Code (Q-W)	Type (e.g., buy, sell, merger, redemption)	(X) Date Month Day	(Y) Value Code (J-P)	(Z) Gain Code (A-H)	(3) Identity of Buyer/Seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions)									
1 Lego Common Stock									
2 Rental Property #1, Alexandria, VA (1995 \$200,000)									
3 NationsBank (IRA) (CDs)									
4 Cabin Creek National Bank Stock (X)									
5 Court Employee Federal Credit Union IRA (Cash Equivalent)									
6 Fidelity Magellan Mutual Fund									
7 NY State Urban Dev. Corp. Muni. Bond									
1. Income Code (see 1-100 of instructions)	A=100,001-\$100,000 (See Code H) (B4)	B=101,001-\$2,000	C=201,001-\$500,000	D=501,001-\$1,000,000	E=1,001,001-\$5,000,000	F=5,001,001-\$10,000,000	G=10,001,001-\$50,000,000	H=50,001,001-\$100,000,000	I=100,001,001-\$500,000,000
2. Value Codes (see Code G) (D3)	L=\$1,000 or less	M=\$1,001-\$50,000	N=\$50,001-\$100,000	O=\$100,001-\$1,000,000	P=\$1,000,001-\$5,000,000	Q=\$5,000,001-\$25,000,000	R=\$25,000,001-\$50,000,000	S=\$50,000,001-\$250,000,000	T=More than \$250,000,000
3. Value Method Codes (see Code E) (E2)	Q=Appraisal L=Book value		R=Cost (real estate only) V=Other		S=Assignment W=Estimated		T=Cash/Market		

Notes to Filer:

- _____ Do you identify the asset in Column A in sufficient detail to clearly identify the type of property? If no assets are listed, is the NONE box checked?
- _____ If a real estate interest is listed, is the city or county and state listed?
- _____ If a financial institution is listed, is the institution clearly identified?
- _____ If a note or account receivable is listed, are the debtor names and the nature of the debt described?

- _____ *If a gas, oil, or mineral interest is listed, do you identify the city or county and state and the name of the energy company or other payor of royalties, working interests, or rentals?*
- _____ *Do you clearly identify stocks, bonds, mutual funds and the underlying assets of IRAs and brokerage accounts?*
- _____ *If the asset was not listed on the previous report, do you include transactional information in Column D or a parenthetical "(X)" in Column A denoting that the asset was exempt from disclosure on the previous report?*
- _____ *If you listed a position in Part I as trustee, administrator, custodian, etc., is the estate or trust listed and the assets therein properly identified?*

Commentary

When listing stocks, bonds, and other securities, the individual name or commonly understood abbreviation should be provided. Stocks should be indicated as "common" or "preferred." Bonds and other securities should have enough detail in the description to differentiate that asset from other similar assets listed. This is particularly helpful for the reviewer and examiner when the filer reports multiple bonds or securities in the same or similar series, or brokerage accounts that lists its accounts in the name of the firm.

When reporting accounts with financial institutions, the type of account does not need to be listed.

When reporting an interest in a mutual fund or common trust fund, only the name of the fund is required. There is no requirement to list the individual assets. An interest in a trust, estate, or similar entity requires the listing of each individual asset unless the exemptions from disclosure of the individual assets in paragraph 7B. Trusts are met.

The reviewer and examiner will note when an asset appears on the current report and is not listed on the prior report and there is no transaction information in Column D. In this situation, the filer should place a parenthetical "(X)" in Column A denoting that the asset was exempt from disclosure in the prior report.

It is important to recognize that in almost every instance where a filer is a trustee, executor, administrator, custodian etc., the filer has the legal authority and responsibility to exercise control over and manage the assets in a trust or estate. It is this authority based on the filer's fiduciary responsibilities to control the purchase, sale, or other disposition of the assets that requires the filer to list the assets in this part.

3. Income

In Column B of Part VII, the income from listed assets must be shown. The disclosure of the gross amount and the type of income -- dividends, rent, interest, or income from discharge of indebtedness -- is required. Sections 102(a)(1)(B) and 109(7). All income is reportable, whether taxable, tax deferred, or tax exempt. When no income is received (or there is a loss) Column B1 under Amount should be left blank and the word "NONE" should appear in Column B2 under Type. When some income is received, the appropriate code, reflecting the amount, should be used. If the type of income is not a dividend, rent, interest, or income from discharge of indebtedness, it should be explained either in Part VII or Part VIII. The ranges are required by statute and the coded amounts for income are listed on the reporting form as follows:

A	-	\$1,000 or less
B	-	\$1,001 to \$2,500
C	-	\$2,501 to \$5,000
D	-	\$5,001 to \$15,000
E	-	\$15,001 to \$50,000
F	-	\$50,001 to \$100,000
G	-	\$100,001 to \$1,000,000
H1	-	\$1,000,001 to \$5,000,000
H2	-	More than \$5,000,000

Section 102(a)(1)(B).

The same ranges and codes are used to report capital gains associated with transactions in Column D of Part VII. However, capital gains associated with "distributions" should be treated and reported as dividends in Column B.

The income from U.S. Savings Bonds, and similar investments should be reported if the minimum of \$200 is reached.

VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 35-55 of Instructions.)

A. Description of Assets (including trust assets) <i>Place "X" after each asset exempt from prior disclosure</i>	B. Income during reporting period		C. Gives Value at end of reporting period		D. Transactions during reporting period					
	(1)	(2)	(1)	(2)	(1)	If not exempt from disclosure				
	Am't. Code (A-H)	Type (e.g., div., int.)	Value Code (I-J)	Value Code (K-W)	Type (e.g., Div., Merger, Redemption)	(1) Date (DD)	(2) Date (DD)	(3) Code (A-H)	(4) Code (A-H)	(5) Code (A-H)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions)										
1 Lego Common Stock		NONE								
2 Rental Property #1, Alexandria, VA. (1995 \$200,000)	D	Rent								
3 NationsBank (IRA) (CDs)	A	Interest								
4 Cabin Creek National Bank Stock (X)	B	Dividend								
5 Fidelity Magellan Mutual Fund	B	Dividend								
6 NY State Urban Dev. Corp. Muni. Bond	A	Interest								

Notes to filer:

_____ Do you disclose in Column B the amount and type of income?

_____ If you indicate "NONE" in Column B(2), did you leave Column B(1) blank?

Commentary

Column B(1), the income amount code, and Column B(2), the type of income, should both be completed if you have income. If no income was received, Column B(1) should be left blank and the word "None" should appear in Column B(2). When some income is received, then the appropriate income amount code and type should be provided.

The statute lists only four types of income- dividends, rent, interest, or income from discharge of indebtedness. If the filer lists another type, then it should be explained in Part VII or Part VIII.

Some filers question whether to report income from IRAs (Individual Retirement Account) or other retirement or pension plans where they are not actually drawing income from the account. All income should be reported, whether taxable, tax deferred, or tax exempt.

Filers will take special care when disclosing an IRA. They are merely arrangements for holding other investments on a tax-deferred basis. The focus should be placed on the underlying investments which should be disclosed. Many IRAs are invested in cash or cash-equivalent accounts, such as a money market fund or other deposit account in a bank. No further information about these accounts is required to be disclosed. However, if any other type of entity, such as a broker holds IRA assets for a filer, the filer must disclose the underlying holdings in the account. IRAs may contain almost any investment, such as mutual funds, stocks, or bonds.

Other tax-deferred retirement or pension accounts (such as Simplified Employee Pensions-SEPs, Keogh Plans-HR-10, 401(k), and 403b Plans) are similar to IRAs and are self-directed where the filer has control over the funds. Therefore, the underlying investments should also be disclosed.

4. Value

In Column C, the gross value of the asset at the end of the reporting period is reported. Section 102(a)(3). The statutory value ranges and a value code for each range are listed on the bottom of the form. These same values are used for the value of reported assets in Column C and for the value of assets reported in the transaction part of Part VII, Column D. They are as follows:

J	-	\$15,000 or less
K	-	\$15,001 to \$50,000
L	-	\$50,001 to \$100,000
M	-	\$100,001 to \$250,000
N	-	\$250,001 to \$500,000
O	-	\$500,001 to \$1,000,000
P1	-	\$1,000,001 to \$ 5,000,000
P2	-	\$5,000,001 to \$25,000,000
P3	-	\$25,000,001 to \$50,000,000
P4	-	More than \$50,000,000

Section 102(d)(1).

In addition, the method used for valuation should be reported in Column C. These are coded as follows:

- Q -- Appraisal. Indicate in Part VII-A or Part VIII the date of the appraisal.
- R -- Cost. This method may be used only for real property or an interest in a real estate partnership. If used, show in Part VII-A or Part VIII the date of purchase and the amount, not just the category code, of the purchase price.
- S -- Assessment -- assessed value for tax purposes. If this method is used, show in Part VII-A or Part VIII the amount, not just the category code, of the assessed value and, if the property is assessed at less than 100% of its value, adjust the assessed value to reflect the current value and explain your adjustment.
- T -- Cash/Market. The quoted market price of publicly traded stocks and other securities; the face value of interest bearing corporate or municipal bonds or comparable securities; the balance or surrender value of certificates of deposit, savings and checking accounts, money market funds, etc.
- U -- Book. The net worth of a proprietorship, partnership interest, or corporate stock according to the books of such entity. This method may be used only for property interests not publicly traded.
- V -- Other. Any other recognized indication of value, such as current selling price of a comparable interest. If this method is used, you must describe in Part VII-A or Part VIII the method used.
- W -- Estimated. Your good faith estimate of the value of property if its exact value is not known and a more accurate determination of its value cannot be easily obtained by another method.

The gross value of the property should be indicated without reductions for mortgages, etc. References may be made in Part VII to mortgages included in Part VI (Liabilities).

VII. Page 1 INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children. See pp. 35-55 of Instructions.)

A. Description of Assets (including trust assets) <i>Please "X" after each asset except from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	if not exempt from disclosure			
	Ann. Code1 (A-H)	Type (e.g., rent or int.)	Value Code1 (J-P)	Value Method Code2 (Q-W)	Type (e.g., buy/sell, mergers, redemption)	Date Month- Day	Value Code2 (J-P)	Gain Code1 (A-H)	(5) Identify buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions)									
1 Lego Common Stock		NONE	K	T					
2 Rental Property #1, Alexandria, VA (1995 \$200,000)	D	Rent	M	R					
3 NationsBank (IRA) (CDs)	A	Interest	J	T					
4 Cabin Creek National Bank Stock (X)	B	Dividend	J	U					
5 Fidelity Magellan Mutual Fund	B	Dividend	K	T					
6 NY State Urban Dev. Corp. Muni. Bond	A	Interest	J	T					
1. Income/Gain Codes: A-\$1,000 or less; B-\$1,001-\$2,500; C-\$2,500-\$5,000; D-\$5,001-\$15,000; E-\$15,001-\$50,000; F-\$50,001-\$100,000; G-\$100,001-\$1,000,000; H-\$1,000,001-\$5,000,000; I-\$5,000,000+; J2-More than \$5,000,000 2. Value Codes: J-\$15,000 or less; K-\$15,001-\$50,000; L-\$50,001-\$100,000; M-\$100,001-\$250,000; N-\$250,001-\$500,000; O-\$500,001-\$1,000,000; P-\$1,000,001-\$5,000,000; Q-\$5,000,001-\$25,000,000; R2-More than \$50,000,000 3. Value Method Codes: Q=Appraised; R=Cost (real estate only); S=Assessment; T=Cash/Market (See Col. C2); U=Book value; V=Other; W=Estimated									

Notes to Filer:

- _____ Do you list in Column C(1) the gross value code (J-P) at the end of the reporting period?
- _____ Do you list in Column C(2) the correct value method code (Q-W) reflecting how the value of the asset was determined?
- _____ If you used value method codes "Q," "R," "S," or "V," did you include the appropriate information in Column A or Part VIII?

Commentary

If an asset is entirely sold during the reporting period, then Column C should be left blank. However, if an asset is partially sold (such as a portion of the total shares of stock owned), then Column C should be completed.

In addition, it should be emphasized that in Column C(2), there are four value method codes which require additional information in either Column A or Part VIII. Filers tend to forget that each report must stand on its own and as a result often fail to provide the following on their report each year:

- (1) "Q"-Appraisal- the date of the appraisal.
- (2) "R"-Cost- the date of purchase and the dollar amount of the purchase price.
- (3) "S"-Assessment- the dollar amount of the assessed value.
- (4) "V"-Other- the filer must describe the method used in Column A (Description) or Part VIII.

5. Transactions

Information on transactions should be entered in Column D. Transactions to be reported involve any purchase, sale or exchange during the reporting period which exceeds \$1,000. Section 102(a)(5).

As to each acquisition or disposition, you should disclose:

- a) the type of transaction, e.g., buy, sell, merger, inherit, redeem, etc.;
- b) the date of the transaction;
- c) the value category code indicating the value of the consideration paid or received;
- d) the capital gain, if exceeding \$200, realized on a disposition, using the appropriate income category code (codes A-H);
- e) the identity of the buyer or seller unless the transaction was conducted through public trading, as on a stock or commodities exchange;
- f) the liquidation of a bank account or money market fund that may have been reported on a prior report.

If an asset has been bought and sold during the same reporting period, provide the required information about both transactions on successive lines.

On an exchange of properties, e.g., exchange of stock of ABC Co. for stock in XYZ Co. as a result of merger, list both the disposition of the ABC stock, and show any capital gain, whether or not recognized, and the acquisition of the XYZ stock.

The value category codes, codes J-P, which for convenient reference are also shown at the bottom of the report, are listed above under VALUE.

The income category codes, codes A-H, for reporting capital gains, which for convenient reference are also shown at the bottom of the report, are listed above under INCOME. If there is a loss, or no gain or loss, Column D4 under GAIN should be left blank.

You are not required to provide detailed transactional data on:

- transactions solely between yourself, your spouse, and your dependent children. Section 102(a)(5).
- transactions in which the then fair market value of consideration paid or received did not exceed \$1,000. Section 102(a)(5).
- transactions involving property used solely as the personal residence of you or your spouse. Section 102(a)(5)(A).
- transactions involving a mere change of form of assets, e.g., a stock split.
- deposits or withdrawals from bank accounts and money market funds.
- transactions involving the reinvestment of dividends, interest, and capital gain distributions.

If property listed in Part VII is acquired (or created) or disposed of (or liquidated) during the year in a transaction that is exempt from disclosure as above noted, indicate in Column D the type of transaction.

If property is partially disposed of during the reporting year, Columns C and D may both require information. To avoid a response to questions of possible errors in reporting, indicate in Column D(1) that it was "part sold."

VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 35-55 of Instructions.)

A Description of Asset (including trust assets) <i>Place "NY" after each asset, except for muni. disclosure</i>	B Income during reporting period		C Gross value as of 12/31/ reporting period		D Transactions during reporting period					
	(1)	(2)	(1)	(2)	(1)	If for exempt from disclosure				
	Am. Code (A-H)	Type (e.g., div., rent or m.)	Value Code (A-H)	Value Method Code (G-W)	Type (e.g., buy, sell, matur., redemption)	Date Month/ Day	Value Code (A-H)	Am. Code (A-H)	Member of payer/celler (if private transaction)	
<input type="checkbox"/> NONE (No reportable income, assets, or transactions)										
1 Lego Common Stock		NONE	K	T	Buy	7/10	J			
2					Partial Sale	9/1	J	A		
3					Buy	12/1	J			
4 Rental Property #1, Alexandria, VA (1995 \$200,000)	C	Rent			Sold	12/5	N	C	Joc Smith	
5 NationsBank (IRA) (CDs)	A	Interest	J	T	Buy	11/10	J			
6 Bell Atlantic	A	Dividend			Buy	2/5	K			
7					Sold	11/3	K	A		
8 Cabin Creek National Bank Stock (X)	B	Dividend	K	U	Partial Sale	4/8	J	A	Jerry West	
9 Fidelity Magellan Mutual Fund	B	Dividend	K	T	Buy Monthly		J			
10 NY State Urban Dev. Corp. Muni. Bond	A	Interest			Redeem	7/5	J			
1. Income/Corp. Code: (See Col. B1, D4)	A = \$1,000 or less		B = \$1,001-\$2,500		C = \$2,501-\$5,000		D = \$5,001-\$15,000		E = \$15,001-\$50,000	
2. Value Codes: (See Col. C1, D3)	F = \$15,000 or less		K = \$15,001-\$50,000		L = \$50,001-\$100,000		M = \$100,001-\$250,000		N = \$250,001-\$500,000	
3. Value/Method Codes: (See Col. C2)	O = Appraisal		R = Cost (real estate only)		S = Assessed		T = Cash/Market		U = Other	
	V = Book value		W = Other							

Notes to filer:

_____ If the asset is a new listing, do you list in Column D information on the transaction?

- _____ Do you list the date of the transaction in Column D(2)?
- _____ Do you list in Column D(3) the value code (J-P) indicating the value of the consideration paid or received for the asset?
- _____ Do you list in Column D(4) capital gain (income codes A-H) realized on the disposition of the asset or leave this column "blank" if there was no gain or a loss?
- _____ If an asset is partially disposed of or sold, did you indicate "partial sale" in Column D(2)?
- _____ If an asset was completely disposed of or sold, did you leave Column C blank and complete Columns D(1)-(5) as appropriate?
- _____ Do you list the identity of the buyer or seller for all transactions not conducted through public trading, as on a stock or commodities exchange?

Commentary

In addition to purchases and sales, other types of transactions such as mergers, gifts, inheritances, and redemptions require completion of all parts of Columns D(1)-(3).

If an asset was disposed of (sale or redemption), then Column D(4)- the capital gain code should also be provided. In addition, Column D(5) should be completed as to the identity of the buyer or seller if it was a private transaction (as opposed to a transaction conducted through public trading, as on a stock or commodities exchange).

It should be noted that some filers leave Column D blank when they have a transaction which does not require complete details. However, Column D(1) should be completed to provide the type of transaction. This is a common omission when the filer either opens or closes an account in a financial institution. The following are common examples of these types of transactions:

- (1) opening and closing of accounts in financial institutions, including the rollover of an account from one financial institution to another,*
- (2) transactions solely between the filer, his or her spouse, and dependent children,*
- (3) transactions in which the then fair market value of consideration paid or received did not exceed \$1,000, and*
- (4) transactions involving a mere change of form of assets, e.g., a stock split.*

6. Widely Held Investment Funds

A fund is a widely held investment fund if it

is publicly traded or the assets of the fund are widely diversified, and the reporting person neither exercises control, nor has the ability to exercise control over the financial interests held by the fund. Section 102(f)(8).

A reporting person must report holdings in widely held investment funds. The reporting person must report the income from the fund, the end of period value, and transactions with regard to the fund. The reporting person is not required to report the individual assets owned by the fund, or the transactions engaged in by the fund. Rather, the fund itself, is considered to be the source of the income obtained therefrom, even though that income includes dividends, interest on capital gains earned with respect to stocks, bonds, etc., held by the fund. Accordingly, a reporting person would report a widely held fund as follows:

VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children - See pp 35-53 of Instructions.)

A Description of Assets (Including trust assets) <i>Place "00" after each asset. Exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1)	(2)	(3)	(4)	(5)				
	Int. Code (A-H)	Div. Code (I-K)	Value Code (L-N)	Value Method Code (O-W)	Buy	Sell	Div.	Gift	Identify of buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions)									
1 Washington Growth Mutual Fund	C	Dividend	L	T					
2 Janus Enterprise Mutual Fund	B	Dividend			Sell	11/3	K	A	
3 Fidelity Growth Mutual Fund	A	Dividend	K	T	Buy	3/2	J		
4									
1 Income/Gain Codes: A-\$1,000 or less (See Col. B1, D4) B-\$1,001-\$2,500 C-\$2,501-\$5,000 D-\$5,001-\$15,000 E-\$15,001-\$50,000 F-\$50,001-\$100,000 G-\$100,001-\$1,000,000 H-\$1,000,001-\$5,000,000 I-\$5,000,001-\$50,000,000 J-More than \$50,000,000 2 Value Codes: J-\$15,000 or less (See Col. C1, D3) K-\$15,001-\$50,000 L-\$50,001-\$100,000 M-\$100,001-\$250,000 N-\$250,001-\$500,000 O-\$500,001-\$1,000,000 P-\$1,000,001-\$5,000,000 Q-\$5,000,001-\$25,000,000 R-\$25,000,001-\$50,000,000 P4-More than \$50,000,000 3 Value Method Code: Q-Appraisal U-Book value R-Cost (real estate only) V-Other S-Assessment W-Estimated T-Cash/Market									

7. Aggregate Ownership Arrangements – Trusts, IRAs, and Investment Clubs

A. Aggregate Reporting

The Committee has established special rules for reporting assets held in an ownership arrangement which is separate from the reporting person himself or herself, referred to herein as an "Aggregate Ownership Arrangement." A personal stock account with a brokerage is not considered an Aggregate Ownership Arrangement. As discussed below, a reporting person will have to identify each separate asset held in the Aggregate Ownership Arrangement and report transactions regarding each asset. However, the reporting person can report the aggregate (total) income and end of period value of the asset and need¹ not provide the separate income and end of period value of each separate asset therein.

The basic rule is that the income, value, and transactions of the holdings of any Aggregate Ownership Arrangement in which the reporting person, spouse, or dependent child has a beneficial interest must be reported if the arrangement itself had ownership of any asset having a value of \$1,000 at the end of the reporting period, regardless of the value of the reporting person, spouse, or dependent child's individual share. Thus, there must be a list of each asset owned by the Aggregate Ownership Arrangement having a value in excess of \$1,000 or affected by any transaction in excess of \$1,000.

As to each Aggregate Ownership Arrangement, the reporting person shall provide, on a line in Part VII, the following:

- (1) The identity of the Aggregate Ownership Arrangement in Column A.
- (2) Aggregate income information in Column B.
- (3) Aggregate gross value in Column C.
- (4) Transaction as the the Aggregate Ownership Arrangement itself in Column D.

On the lines following the line for the Aggregate Ownership Arrangement, each separate asset owned by, or in, the arrangement during the reporting period must be reported as follows:

- (1) The identity of the separate asset in Column A, preceded by a dash to show that it is part of the aggregate entry.
- (2) Column B, income information, is left blank.

¹ Of course, if the reporting person wishes to provide the income and end of period value with respect to each separate asset, it is permissible to do so.

- (3) Column C, gross value, is left blank.
- (4) Transactions of the Aggregate Ownership Arrangement as to the separate assets are reported in Column D.

If the Aggregate Ownership Arrangement was utilized for a substantial number of assets and there is available clear documentation of all required information, the reporting person may apply to the Committee for leave to report the assets in an alternate manner. Any request should be made sufficiently in advance of the filing deadline to permit careful consideration and discussion with the reporting person.

There follows an illustration of the method for reporting an Aggregate Ownership Arrangement in accordance with the foregoing discussion:

VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 35-55 of Instructions.)*

Description of Assets (including trust assets) <i>Place "X" after each asset exemption prior to listing.</i>	B. Income during reporting period		C. Gross value as of end of reporting period		D. Transactions during reporting period					
	(1)	(2)	(1)	(2)	Buy	Sell	Gift	Other	Identify of	Identify of
	Am. Code (A-F)	Div. & Int. (A-F)	Value Code (A-F)	Value Method Code (A-F)	Buy/Sell/Transfer/Resumption	Date (MM/DD)	Value (A-F)	Cost (A-F)	Identify of	Identify of
<input type="checkbox"/> NONE (No reportable income, assets, or transactions)										
1 George Washington Trust	B	Div. & Int.	L	T						
2 - IBM Stock										
3 - Merrill Lynch 20 th Century Mutual Fund										
4 - NY City Transportation Bonds					Buy	12/21	L			
5 Merrill Lynch - IRA	E	Div. & Int.	M	T						
6 - Merrill Lynch Health Mutual Fund										
7 - Merrill Lynch Growth Mutual Fund					Buy	1/8	K			

8	- Capitol Holding Stock					Sell	4/5	K	A	
9	Blue Sky Investment Club	B	Div. & Int	K	T	Buy	1/4	K		
10	- IBM Common									
11	- General Motors					Buy	3/6	K		
12	- AOL					Partial Sale	8/10	L	C	
<small>1. Income/Gain Codes: A=\$1,000 or less; B=\$1,001-\$2,500; C=\$2,501-\$5,000; D=\$5,001-\$15,000; E=\$15,001-\$50,000; F=\$50,001-\$100,000; G=\$100,001-\$1,000,000; H=\$1,000,001-\$3,000,000; I=\$3,000,001-\$5,000,000; J=More than \$5,000,000. 2. Value Codes: J=\$15,000 or less; K=\$15,001-\$50,000; L=\$50,001-\$100,000; M=\$100,001-\$250,000; N=\$250,001-\$500,000; O=\$500,001-\$1,000,000; P1=\$1,000,001-\$5,000,000; P2=\$5,000,001-\$25,000,000; P3=\$25,000,001-\$50,000,000; P4=More than \$50,000,000. 3. Value Method Codes: O=Original; U=Book value; R=Cost (real estate only); V=Other; S=Assessment; W=Estimated; T=Cash/Market.</small>										

Notes to filer:

_____ Did you complete the appropriate columns for each asset required to be individually listed in a trust, estate, investment club, or other similar financial arrangement?

B. Trusts

The reporting of a position in Part I as trustee, executor, administrator, custodian, or any similar position requires a listing in Part VII of the assets involved if either you, your spouse, or any of your dependent children (1) has a beneficial interest in the estate or fund with which you are associated, or (2) controls the purchase, sale, or other disposition of the estate or fund.

A reporting person must also report all trusts² in which he or she, his or her spouse or dependent child has a beneficial interest. However, a reporting person does not have to report a contingent interest in a trust if the reporter has no control over the assets of the trust. An interest is contingent if there is no present right or ability to any income or principal, and the future is uncertain either by survivorship or otherwise.

A reporting person who is required to report a trust, etc. must report the separate assets of the trust or estate as an Aggregate Ownership Arrangement discussed above. However, the reporting person need not report the separate assets of a trust

² Except, for employees other than judges, the assets of a qualified blind trust which is approved by the Committee need not be reported. See the discussion in paragraph C.

- (1) which was not created directly by the reporting person, his spouse, or any dependent child; and
- (2) the holdings or sources of income, of which the person, his spouse, or any dependent child have no knowledge. Section 102(f)(2).

C. Qualified Blind Trust (Employees Other Than Judges)

A qualified blind trust is subject to special rules. Section 102(f).

The reporting person, other than a judge, is not required to report in Column A the individual assets of a "qualified blind trust." Section 102(f)(1). The effect of the Code of Conduct for United States Judges (Canon 3(c)(2)) precludes qualified blind trusts for judges, their spouses, and dependent children. Other judicial employees may own beneficial interests in qualified blind trusts as defined and conditioned in the pertinent statutes. Judicial employees considering the establishment of a qualified blind trust are directed specifically to Section 102(f)(3)(D), which requires approval by the Committee on Financial Disclosure.

Commentary

The following are examples of statutory guidelines on related subjects extracted from The Codes of Conduct For Judges and Judicial Employees. These guidelines should provide assistance as to the propriety of disclosing certain financial interests.

(1) "Financial interest" means ownership of a legal or equitable interest, however small. (Canon 3(C)(3)(c).)

(2) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund. (Canon 3(C)(3)(c)(i).)

(3) An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization. (Canon 3(C)(3)(c)(ii).)

(4) A policy holder in a mutual insurance company, a depositor in a mutual savings association, or owner of government securities has a "financial interest," if the outcome of any proceeding in which the filer participates could substantially affect the value of the interests. (Canon 3(C)(3)(c)(iii) and (iv).)

(5) *An interest in a limited partnership designed to engage in particular investment strategies can fall within the concept of a "common investment fund" when the judge has no control or influence over the general partner or over the investment decisions. The investment vehicle is similar to a mutual fund. (Compendium § 3.1-3(e) (1999).)*

(6) *A judge has a "financial interest" in each of the named underlying equity securities when the judge's IRA owns units of an investment vehicle which holds 15 named corporations, the portfolio is not actively managed, and it is not contemplated the securities will be sold or exchanged prior to termination of the investment vehicle in ten years. Investment vehicle does not qualify as "mutual fund or common investment fund" under Canon 3C. (Compendium § 3.1-3(f) (1999).)*

(7) *A law firm's KEOGH plan or 401k plan managed by the firm, small number of participants, ready access to investment information does not qualify for the "common fund" exception under Canon 3C. (Compendium § 3.1-3(c) (1999).)*

(8) *A law firm's retirement fund qualifies for the "common investment fund" exception under Canon 3C where the financial interest is indirect (due to the number of participants and the size and diversity of investments), directed investment by participants is not available, and the participants do not know and cannot easily find out about a fund's portfolio, which turns over frequently. (Compendium § 3.1-3(c-1) (1999).)*

VIII. Explanatory Comments

Use this part to add information clarifying other portions of the report. Of particular importance is any information, such as a reference to opinions of the Committee on Codes of Conduct and actions of a Judicial Council, that bears on possible conflicts of interest or problems under the Code of Conduct for United States Judges. Also use this part to explain any apparent inconsistencies between the current report and past reports.

Place explanatory comments either with the item or in Part VIII that will facilitate "tracing" items from one report to the next. For example, indicate if an asset has a different name from that used in the prior report because of a reorganization or change of name.

Use attachment pages if more space is needed.

IX. Certification and Signature

The certifications provided on the form cover (1) a certification that the report is accurate, true, and complete as to all information required by the Act to be reported; and (2) a certification

that earned income from outside employment and honoraria and the acceptance of gifts that have been reported are in compliance with the provisions of applicable laws and regulations.

The original report that is to be filed with the Committee must bear the original signature of the reporting person; the other three copies may be copies of the signed original. At least one copy of an amended return or of a clarifying letter responding to a Committee inquiry must bear the original signature of the reporting person; all other copies shall be copies of the signed original. The signature of the reporting person may be excused only during a period of physical or mental incapacity of that person.

Promptly upon discovery that an error has been made in a report, amend the report by one of the methods explained on page 4.

COMPLIANCE AND SANCTIONS

Compliance with filing and reporting requirements is monitored pursuant to 5 U.S.C. app. 4, § 106.

One who knowingly and willfully falsifies or fails to file or report any information required under the Act is subject to civil and criminal sanctions. Section 104(a).

ETHICAL STANDARDS

The disclosure requirements and exemptions from disclosure contained in the Act neither define nor limit the standards imposed by the Code of Conduct for United States Judges and other rules of the Judicial Conference of the United States or the statutory provisions for disqualification or recusal.

For example, disclosure of financial interests under the Act is required only for interests exceeding a stated minimum amount of value and only with respect to certain members of a person's family, whereas 28 U.S.C. § 455(b)(4) applies to financial interests without regard to amount and 28 U.S.C. § 455(b)(5) applies to participation in litigation by a person within the third degree of relationship to the judge. Similarly, the Act exempts from disclosure matters relating to campaign receipts and campaign disbursements, most of which would be prohibited under the Code of Judicial Conduct for United States Judges, which also precludes qualified blind trusts for judges.

PUBLIC ACCESS

Financial Disclosure Reports are public documents, open to inspection and copying at the office of the Committee on Financial Disclosure. Reports will be made available to the public in accordance with the regulations of the Judicial Conference of the United States on Access to Financial Disclosure Reports Filed by Judges and Judiciary Employees Under the Ethics in Government Act of 1978, as Amended. Sections 105(a) and (b)(1).

A report will be made available only to a person who completes the AO Form 10A, Request for Examination of Report Filed by a Judicial Officer or Employee, in writing.

It shall be unlawful for any person to obtain or use a report--

- (A) for any unlawful purpose;
- (B) for any commercial purpose other than by news and communications media for dissemination to the general public;
- (C) for determining or establishing the credit rating of any person; or
- (D) for use directly or indirectly, in the solicitation of money for any political, charitable, or other purpose. Section 105(c)(1).

The Attorney General may bring a civil action against any person who obtains or uses a report for any prohibited purpose described above. The court in which such action is brought may assess against such person a penalty in any amount not to exceed \$10,000. Such remedy shall be in addition to any other remedy available under statutory or common law. Section 105(c)(2).

APPENDIX I**INITIAL REPORTS****WHO MUST FILE AND WHEN**

Persons nominated to be JUDICIAL OFFICERS must file an initial report within 5 days of the transmittal of their nomination by the President to the Senate. Section 101(b)(1).

Newly-appointed JUDICIAL EMPLOYEES must file an initial report within 30 days of assuming their positions, Section 101(a), if they assume their position before November 1. Newly-appointed JUDICIAL EMPLOYEES who assume their positions between November 1 and December 31 must file an initial report by March 15 of the subsequent year.

Judicial employees who receive a promotion or change in the rate of pay which results in pay equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule before November 1, must file an initial report within 30 days of the promotion or pay change. If the promotion or pay adjustment occurs between November 1 and December 31, judicial employees must file an initial report by March 15 of the subsequent year.

A JUDICIAL EMPLOYEE who is not expected to perform the duties of the office or position for more than sixty (60) days in a calendar year is not required to file an annual report. However, if the person actually performs duties for more than sixty (60) days, an initial report must be filed within fifteen (15) days of the sixtieth day. Section 101(h).

INSTRUCTIONS FOR COMPLETING EACH PART

Below are specific instructions that differ from those provided for annual reports.

Identifying Information

BLOCK 3. Date of Report. For a JUDICIAL EMPLOYEE, a date that is no more than 30 days after your entry in the position if you entered before November 1. If you entered between November 1 and December 31, the "Date of Report" should be no later than March 15. For a person nominated to be a JUDICIAL OFFICER, the date should be no more than 5 days after submission of your nomination to the Senate.

BLOCK 5. Report Type. Check the appropriate report form and in the case of a nomination report show the date your nomination was transmitted to the Senate.

BLOCK 6. Reporting Period. The beginning date (January 1 of the year preceding the year you assumed your office or were nominated) and the ending date (a date you choose that precedes the "Date of Report" by no more than 30 days).

I. Positions

The reporting period is the two calendar years preceding the date of the report through the filing date in the current calendar year. Section 102(a)(6)(A).

III. Non-investment Income

The reporting period is the calendar year preceding the date of the report and the year of filing. Section 102(b)(1)(A).

In addition, you must report compensation, other than from the United States Government, in excess of \$5,000 in any of the two calendar years prior to the calendar year during which you file your first report. Section 102(a)(6)(B).

You must include the identity of each source of such compensation and a brief description of the nature of the duties performed or services rendered by the reporting person for each source. Section 102(a)(6)(B).

You are not required to report any information which is considered confidential as a result of a privileged relationship, established by law between the reporting person and any person, nor are you required to report any information with respect to any person for whom services were provided by any firm or association of which the reporting person was a member, partner, or employee unless the reporting person was directly involved in the provision of such services. Section 102(a)(6)(B).

IV. and V. Reimbursements and Gifts

You are not required to complete these parts of the report. Section 102(b)(1). Note "exempt" in these two spaces.

VI. Liabilities

The reporting period is the calendar year preceding the date of the report through a date which is less than thirty-one days before the filing date. Section 102(b)(1)(B).

VII. Investments and Trusts

The reporting period for providing income information for assets is the calendar year preceding the date of the report and the year of filing. Section 102(b)(1)(A). The reporting period for providing value information for assets is the calendar year preceding the date of the report through a date which is less than thirty-one days before the filing date. Section 102(b)(1)(B). **You are not required to complete Subpart D "Transactions."** Section 102(b)(1). Note "exempt" in Column D(1).

APPENDIX II**FINAL REPORTS****WHO MUST FILE AND WHEN**

A JUDICIAL OFFICER who works 60 days or more in a calendar year is required to file a final report within thirty days after resigning under 28 U.S.C. § 371(a) or otherwise ceasing to continue in such position. A JUDICIAL OFFICER who retires under 28 U.S.C. § 371(b) is not required at that time to file a final report, but continues to be obligated to file an annual report for any year in which the relevant Judicial Council authorizes the employment by the judge of at least one law clerk or secretary, unless the judge certifies that he or she did not perform the duties of his or her office for more than sixty (60) days.

A JUDICIAL EMPLOYEE who works 60 days or more in a calendar year is required to file a final report within thirty days of termination of employment. Section 101(e).

A JUDICIAL OFFICER OR JUDICIAL EMPLOYEE accepting another position in the federal government subject to financial disclosure reporting is not required to file a final report when changing position. Section 101(e).

INSTRUCTIONS FOR COMPLETING EACH PART

Below are specific instructions that differ from those provided for annual reports.

Identifying Information

BLOCK 3. Date of Report. The date the report is completed, and not more than 30 days after termination of employment.

BLOCK 5. Report Type. Check final report.

BLOCK 6. Reporting Period. Show both the beginning and ending date of the reporting period. The beginning date will be January 1 of the current year if an annual report has already been filed covering the preceding calendar year; otherwise, it will be January 1 of the preceding calendar year. The ending date is the date of termination of employment.

Parts I. - VII.

The reporting period is the calendar year preceding the date of the report through the filing date in the current calendar year. Section 102(c). If an annual report was already filed covering the preceding calendar year, then the reporting period is the current calendar year through the filing date.

APPENDIX III**ADDITIONAL REFERENCES**

Regulations concerning gifts, outside earned income, honoraria, and outside employment and the codes of conduct are contained in the Guide to Judiciary Policies and Procedures, Volume II, Codes of Conduct for Judges and Judicial Employees.

The Committee on Codes of Conduct has established a database on Westlaw containing the ethical materials in Volume II of the Guide. To use this database, log on to Westlaw using your judiciary-provided Westlaw password (you cannot access this database with a password provided by anyone other than the federal judiciary). When prompted for a file name, enter CONDUCT (this file name does not appear on the Westlaw menu). Once entered into the database file, research may be conducted using established Westlaw search mechanisms.

INDEX

Aggregate Ownership Arrangements	51
Aggregate Reporting	51
Agreements	14
continuation of payments	14, 15
former employer	14
future employment	14, 16
part-time magistrate judges	16
Alternative reporting format	6
Amendments	4
certification	4, 55
Basic pay	2
reemployed annuitant	2
cost of living	2
locality pay	2
Certification and signature	55
Compliance and sanctions	56
filing fee	3
failure to file	56
Covered senior employee	12, 19
Disclosure concerning family members	5
Ethical standards	56
Extensions of time to file	3
Filing fee	3
waiver	3
extraordinary circumstances	3
Filing requirements	1, 2
60 day rule	1, 2
annual report	1
initial report	58
final report	60
nomination report	58
Final report	60
reporting period	60
Financial interest	54
Gifts	28
bar association	31
definition	28
foreign government	25
honorary/reduced-rate memberships	28, 31
investitures and similar ceremonies	30

personal hospitality	26
received by a spouse and dependent children	28
relative	26, 28
solicitation	26
special occasions	30
spouse	28
subscriptions	28
Honoraria	20, 23
donated to charity	21
prohibition on receipt	20, 23
Initial report	58
non-investment income	19, 59
reporting period	58
Investments	35
accounts with financial institutions	35
bank accounts	35
brokerage accounts	51
capital gain	46
common trust fund	38, 40
description of assets	37
financial statements	35
income	41
income threshold	35, 37
interest	41
IRAs	43, 51
joint-ownership	38
mutual funds	38, 50
"NONE"	41
parenthetical "(X)"	38
partnership	9, 36
private investment clubs	51
rental income	37, 41
reportable assets	35, 36
spouse	36
stocks, bonds, and other securities	37
tax deferred	41
tax-deferred retirement or pension accounts	43
transactions	46
U.S. Savings Bonds	41
value	43
value method	44
value threshold	35, 36
widely held investment fund	50
Judicial officer	1

Liabilities	32
credit cards	33
dependent children	32, 33
mortgage	33
owed to a spouse	32
personal residence	33
political campaign funds	33
relatives	32
spouse	32, 33
Non-investment Income	17
annuities	17
commissions	17
compensation for services	17
covered senior employees	19
death benefits	18
dependent children	17
dividends on life insurance policies	17, 19
employment by the United States	17
fiduciary relationship for compensation	20
honoraria	17, 23
life insurance policies	17, 19
limitations on outside employment	19, 20, 23
practicing a profession	20
royalties	17, 19
spouses	17
teaching	20, 24
vested pension plans	17
Part-time employees	2
Personal information	7
Positions	9
Guardian	9
Executor	9, 53
honorary	9
investment partnership	9
judges	10
judicial employees	12
limited partner	9
part-time magistrate judges	9, 12
reporting period	9
trustee	9, 38, 53
Public access	56
unlawful purpose	57
Qualified Blind Trust	54
Reconciliation with prior reports	7

Reimbursements	25
bar association	27
definition	25
foreign government	25
food, lodging, or entertainment	25
personal hospitality	26
travel expenses	25
Reviewing judge	8
certification	8
Senior covered employee	19
Senior judge	2, 21
Teaching	20, 21
approval	24
ordinary and necessary expenses	22
senior judge	21
Transactions	46
capital gains	47
buy	46
deposits or withdrawals from bank accounts	47
exchange of properties	47
inherit	46
liquidation of a bank account	46
merger	46
partial	47
personal residence	47
Trusts	53
beneficial interest	53
blind trust	54
contingent interest	53
dependent child	53, 54
exemptions	54
spouse	53, 54
Value Method	44
Q --Appraisal	44
R --Cost	44
S --Assessment	44
T --Cash/Market	44
U --Book	44
V --Other	44
W --Estimated	44
Where to file	4
Widely Held Investment Funds	50