

**SUPREME JUDICIAL COURT  
ADVISORY COMMITTEE ON ETHICAL OPINIONS  
FOR CLERKS OF THE COURTS  
JOHN ADAMS COURTHOUSE  
ONE PEMBERTON SQUARE  
BOSTON, MASSACHUSETTS 02108-1750**

617-557-1161

2009-1

January 16, 2009

Dear Clerk-Magistrate :

In your letter of December 23, 2008, you request an opinion of this Committee concerning an employment opportunity to work part-time with an auto dealership. You are the First Assistant Clerk-Magistrate at the \_\_\_\_\_ Court. You state that you would be providing customer service and business assistance in matters involving the sale and service of automobiles for a dealership which is headquartered in \_\_\_\_\_, MA. You indicate that you had previously worked for this dealership and that all dealerships are located well outside of the jurisdiction of the court where you work. You also indicate that your work would be performed outside the hours of the court. You seek the Committee's advice as to what professional or ethical factors you would have to consider in entering the arrangement described above.

In the opinion of the Committee, provided that you comply with the provisions of the Canons of the Code of Professional Responsibility for Clerks of the Courts cited below, your participation in the employment opportunity described in your letter is permissible under the Code. While we cannot predict what circumstances might arise regarding the sale and service of automobiles, we caution you to abide by the following Canons as your strict guideline when assessing what course of action you might adopt. Also, we advise you to review Opinion 94-11 which dealt with outside employment.

Canon 3, titled Performance of Duties, requires that a "Clerk-Magistrate shall devote the entire time during normal court hours to the duties of his or her office ..."

Canon 4C deals with business activities and provides that:

"A Clerk-Magistrate shall not enter into any business relationship which reasonably might create a conflict with the proper performance of his or her official duty or detract from the dignity of the office. A Clerk-Magistrate shall not use the influence of the office to promote his or her business interests or those of others."

Canon 5. "Outside Activities. A Clerk-Magistrate shall regulate outside and personal activities to minimize the risk of conflict with official duties:

(A) Personal Conduct. A Clerk-Magistrate should not engage in activities which might detract from the dignity of the office of Clerk-Magistrate or interfere with the performance of the duties of the office..

(C) Financial Activities.

(1) A Clerk-Magistrate shall not conduct outside business activities in the courthouse at any time nor shall a Clerk-Magistrate conduct any outside business activities anywhere during normal court hours. A Clerk-Magistrate shall refrain from financial and business dealings that tend to reflect adversely on the Clerk-Magistrate's impartiality, interfere with the proper performance of the position of Clerk-Magistrate, or involve the Clerk-Magistrate in transactions with lawyers or other persons likely to come before the court in which the Clerk-Magistrate is serving."

The dealerships you would be affiliated with are outside of your jurisdiction and there does not appear to be a substantial likelihood they would come before your court. Nevertheless, if your customers or dealership should appear before the court in which you work the Committee advises you to consult and comply with the provisions of Canon 4 (E) on Disqualification.