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FORMAL OPINION NO. 31

Inquiry has been made concerning the ethical propriety of a lawyer donating legal services to a charitable organization or nonprofit corporation to be auctioned at fund-raising promotions.

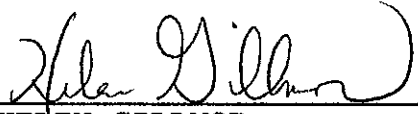
A lawyer may donate his or her legal services to a charitable cause or nonprofit corporation, to be auctioned to the highest bidder in fund-raising promotions, provided that:

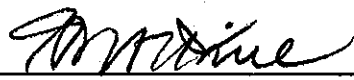
- (a) only services for which the lawyer has the requisite competence are donated;
- (b) the legal services donated and the identity of the lawyer who will perform the services must be clearly designated at the auction (for example, "preparation of a will by John Doe, Esq.");
- (c) the lawyer retains the right to decline his or her provision of the donated services in the event of a conflict of interest or for similar cause, in which event the lawyer must take steps to ensure that any auction bid paid by the prospective client is promptly refunded by the charitable organization, nonprofit corporation, or by the lawyer; and
- (d) the lawyer takes steps to ensure that communications or advertisements regarding the auction (i) accurately describe the donated legal services and the identity of the lawyer who will perform the services, and (ii) are not false, fraudulent, misleading or deceptive.

The Board does not, of course, pass upon legal issues, such as whether the auction of legal services by charitable organizations or nonprofit corporations as part of fund-raising promotions is legal. If such conduct is illegal, then it is, of course, unethical.

To the extent that IAL 251 (1978) is inconsistent with this opinion, it is overruled.

DATED: Honolulu, Hawaii, May 28, 1992.

  
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HELEN GILLMOR  
CHAIRPERSON, DISCIPLINARY BOARD

  
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