

PRESIDENT'S MESSAGE

Dr. Gerard C. Penta

The new AKC solicitation policy has caused quite a stir. Strong feelings have been expressed as a long-standing attempt to maintain an air of professionalism has been cast aside in favor of a more commercial ethic. There are many questions surrounding this abrupt policy change. How did it happen? What is the ADSJ position on this issue? Should Judges start to advertise and solicit? Where might it all lead? The ADSJ position on this policy change is still evolving, but some answers are possible at this time.

How did it happen? Since judges are viewed as independent contractors by the IRS, the SCJA threatened possible action over the AKC policy prohibiting advertising or soliciting, as an illegal restraint of trade. This threat prompted the AKC to seek legal advice on the matter. Evidentially, based on this advice, the AKC Board discarded the old policy. The new AKC policy allows judges to advertise and solicit as long as they are truthful.

It should be acknowledged, that to some extent, the AKC brought this on themselves. The interpretation and application of the old policy was so repressive that it invited this kind of backlash. A couple of examples may help to illustrate this point. The old policy was interpreted to prohibit judges from having business cards that identified them as AKC judges, and listed the breeds they were licensed to judge. The policy was also thought to prohibit a judge from telling a club, which had already hired the judge, that he or she just received new breeds. Now, not only are these things acceptable, (as they always should have been,) but the AKC has been forced to abandon their no-solicitation policy altogether. Unfortunately, there was some merit to the old policy, and most judges are not fans of the new policy or what it may portend.

Where does the ADSJ stand on this issue? We have polled our members regarding the new policy and the results were interesting. Of those expressing an opinion, our members are two to one against the new policy. Also, our ADSJ Board of Directors is unanimously opposed to the new policy. We are not unsympathetic to the plight of our members who are finding it difficult to get provisional assignments. They are typically non-group judges who are not yet sufficiently known in the sport to be invited to judge based on past performance. It was not surprising that members with less than a group comprised the majority of those in favor of the new policy. This would probably hold true in the other judges

associations as well. This is not to say that the majority of non-group judges are in favor of the new policy. On the contrary, since an overwhelming majority of all judges are opposed to the new policy, it is fair to say that many, if not most, non-group judges join with group judges in their opposition to the new policy.

At this time I can only address a limited number of points regarding the new policy and the official ADSJ position. We will be taking up a number of related issues and questions at our next ADSJ Board meeting in February. However, as already mentioned, the ADSJ is not unsympathetic to those judges who are finding it difficult to get provisional assignments, especially non-group judges. So while we will be looking at many aspects of this issue in February, we have already taken the following positions regarding the new AKC policy:

1. We believe it is proper to provide a listing of our members with less than a group who will most likely have provisional breeds. This will help show chairs easily find provisional judges that satisfy the AKC requirement for educational credit (i.e. have less than a group). It also provides additional exposure for our non-group judges and may enhance their prospects with regard to provisional assignments. We will accomplish this through our on-line photo directory by putting an asterisk after the non-group judges. If a member does not wish to have this identification it will be removed. The ADSJ will then notify all clubs that the photo directory now has this added feature.

2. We approve of judges having a business card that may include: breeds and/or groups one is approved to judge, contact information and any other information one might wish to include. However, we believe these cards should only be given when requested. Used in this way, such cards are a common sense convenience for both the judge and the person requesting information.

3. We believe it is proper to inform a show chair of one's new provisional breeds if the judge has already been contracted to judge by that club. This not only opens the possibility of a provisional breed being included in the judge's assignment, but it may be helpful to the show chair with respect to costs, coverage, scheduling and overloads.

No doubt there will be many other aspects of this advertising/solicitation topic which will need to be addressed by an emerging ADSJ position. Those issues and outcomes will be shared with our members as soon as possible.

Should Judges start to advertise and solicit? Before giving you my personal opinion regarding this question, there is a distinction that should be made.

We are told by AKC that we may now advertise and solicit, yet, there is an important subtle difference between advertising and soliciting. If we select the definitions most relevant to judges, we find that “advertise” means to describe or draw attention to a service in a public medium in order to promote sales (assignments). “Solicit” means to ask for or try to obtain something from someone, or to approach someone and offer one’s services. So, examples of advertising include taking out an ad in a magazine, setting up a web page, adding your name to a public listing of service providers, and other similar ways of drawing attention to yourself as a provider of a service. However, the wholesale distribution of cards and/or flyers, cold calling show chairs, e-mails, spam, or other similar techniques are examples of solicitation. They amount to an intrusion upon another for the purpose of obtaining something.

Although anything goes under the new policy, I would suggest that you think twice about advertising and avoid solicitations altogether. Perhaps tasteful advertising can be done in a way that will not make one look desperate, but solicitations surely will appear to be a crass and perhaps annoying form of begging. Show chairs may be less likely to be offended by advertising than soliciting. When you solicit an assignment you put the person you have approached on the spot. Their discomfort can quickly turn into animosity towards you. I have been told that some show chairs have stated that they would put any judge that solicits them for an assignment on a “Do Not Hire” list. If this sentiment is shared by most clubs, a judge would have to ask if successfully soliciting a few assignments is worth alienating most clubs.

As to advertising: for group, multiple group and all-breed judges, I can only wonder, what is the point? What are you going to put in your ad that will make clubs more likely to hire you? Most clubs are likely to hire a judge because they think the judge is competent, honest and independent. Of course, there are and always will be, less noble influences when it comes to awarding assignments. But if you think clubs will extend more invitations to you if they knew the highlights of your judging career, or would be impressed by testimonials, or how many champions you have finished, or some other facts that you could put in an advertisement, then go to it. Just be aware that there could also be a down side to advertising, at least as far as perceptions go.

Now, such advertising might be beneficial to new judges, to those with less than a group and perhaps even to some group judges. In lieu of sufficient judging performance to go on, show chairs may welcome introductory information about these

judges, such as time in the sport, original breed(s), club memberships and affiliations, etc. However, by the time one has become a multiple-group judge, if assignments are not forthcoming, the problem may not be that clubs don’t know you. As suggested earlier, a multiple-group judge who feels compelled to advertise may be hoisting a big red flag as far as some show chairs are concerned.

Where might it all lead? My guess is that there is a good chance the new policy will be a downward influence on judging fees. To illustrate how this might come about I’ll use an example which you will hear about soon, if you haven’t already. I am referring to the SCJA designed program called “Help the Provisional Judge”. The program was to provide a list of senior judges who were willing to cut their fee if the club that hired them would use the savings to also hire a provisional judge. The AKC did not allow the program because the AKC Board saw this as a thinly veiled form of solicitation. Some years later, when the SCJA thought the time was right, they tried again, and again the AKC turned the program down as a form of solicitation. Now, the SCJA leadership is very pleased to have finally removed that pesky no-solicitation policy, and they are ready to roll out their, “Help the Provisional Judge” program once again. Ironically, the program could only work if passed under the old AKC policy banning all advertising and solicitation. With the new “anything goes” policy, even if a few senior judges garnered a few more assignments, that edge would be short lived. You see, under the current policy, there is nothing to prevent any group of judges from announcing, “If you hire us, we will not only cut our fees, but your club can do whatever you please with the savings.” There goes the advantage of what may have been a cleverly crafted stealth solicitation program. When open solicitation is acceptable, solicitation masquerading as altruism may get trumped by a better offer.

In the above example you can see the potential for a judging-fee price war. This is implicit in the new policy and the SCJA program. Indeed, a few clubs may be so desperately close to folding as to encourage such short-sighted cut-throat competition among judges. Someone jokingly remarked that under the new policy it could get so bad that some judges might offer to pay for provisional assignments. Actually, there is now nothing to prevent that from happening! *