



JUDICIAL INVESTIGATION COMMISSION

City Center East - Suite 1200 A
4700 MacCorkle Ave., SE
Charleston, West Virginia 25304
(304) 558-0169 • FAX (304) 558-0831

January 27, 2011

Re: JIC Advisory Opinion 2012-04.

Dear Sheriff

Your January 20, 2012 request for an advisory opinion to Counsel was reviewed by the Judicial Investigation Commission. The factual scenario giving rise to your request is as follows: You wish to run for Magistrate of _____ County. You intend to loan your campaign committee monies for the purpose of financing your campaign. You want to know if it is possible for the committee to repay the loan to you using political contributions when they become available.

In order to address the question, the Commission has reviewed Canon 5C(2) of the Code of Judicial Conduct which provides:

Canon 5. A judge or judicial candidate shall refrain from inappropriate political activity.

C. Judges and candidates subject to public election.

(2) A candidate shall not personally solicit or accept campaign contributions or personally solicit publicly stated support. A candidate may, however, establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums, and other means not prohibited by law. Such committees may solicit and accept

reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. Such committees are not prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

The Comment notes that Canon 5C(2) lets a candidate running for judicial office establish campaign committees to solicit and accept public support and reasonable financial contributions. The Comment states that “[a]t the start of the campaign, the candidate must instruct his or her campaign committees to solicit or accept only contributions that are reasonable under the circumstances.” The Comment also charges campaign committees established under Section 5C(2) to “manage campaign finances responsibly avoiding deficits that might necessitate post-election fund-raising, to the extent possible.”

The Code of Judicial Conduct does not preclude a judicial candidate from making a loan to his campaign committee. Likewise, it does not bar a campaign committee from repaying the loan to the candidate. Needless to say, it is up to the campaign committee to address the mechanics of the loan repayment. However, it stands to reason that since a campaign committee's only funds, other than loans, are campaign contributions those contributions could be used to repay the loans. The only caveat is that the candidate cannot know the actual source of each of the contributions.

Based upon the foregoing, you may make a loan to your campaign committee and, in turn, seek reimbursement from that entity. However, it will be up to the campaign committee to determine the manner, method, means and time frame for the loan repayment. It is hoped that this opinion fully addresses the issues which you have raised. If there is any further question regarding this matter do not hesitate to contact the Commission.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald E. Wilson", written in a cursive style.

Ronald E. Wilson, Chairperson
Judicial Investigation Commission