



## JUDICIAL INVESTIGATION COMMISSION

Room E-400, State Capitol

Charleston 25305

September 19, 1988

Re: JIC Advisory Opinion 1988-06

Dear

Your letter of inquiry to Chief Justice Thomas McHugh has been referred to the Judicial Investigation Commission for an Advisory Opinion. In your correspondence to Justice you asked whether you may serve as a member of the Board of Directors for \_\_\_\_\_ Mental Health-Mental Retardation Center, Inc.

This matter is addressed by a review of Canon 5 of the Judicial Code of Ethics. In its pertinent part, Canon 5 states:

### CANON 5

#### A Judge Should Regulate His Extra-Judicial Activities to Minimize the Risk of Conflict with His Judicial Office

- B. Civic and Charitable Activities. A judge may participate in civic and charitable activities that do not reflect adversely upon his impartiality or interfere with the performance of his judicial duties. A judge may serve as an officer, director, trustee, or non-legal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

(1) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before him or will be regularly engaged in adversary proceedings in any court.

A judge could serve on the Board of an organization as defined in Canon 5B of the Judicial Code of Ethics subject to the

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limitation set forth in that section of the Judicial Code of Ethics.

It is the understanding of the Commission that numerous individuals are referred to \_\_\_\_\_ Mental Health-Mental Retardation Center, Inc., for evaluations and that these individuals and evaluations are subsequently brought before judges, including yourself, in the Thirteenth Judicial Circuit. In such an event, you would be placed in the position of ruling on activities engaged in by \_\_\_\_\_ Community Mental Health-Mental Retardation Center, Inc. While the agency would not be directly involved as a party in many of these proceedings, its work product could be at issue in many cases and subject to rulings by you and other judges in the \_\_\_\_\_ Judicial Circuit.

Based upon the information provided it, the Judicial Investigation Commission feels that at this time you should not serve on the Board of Directors for the

\_\_\_\_\_ Mental Health-Mental Retardation Center, Inc. because of the limitation contained in Canon 5B(1) of the Judicial Code of Ethics. If there is any further question concerning this matter, please do not hesitate to contact the Commission.

Very truly yours,

JUDICIAL INVESTIGATION COMMISSION

By:   
Dan C. Robinson, Chairman

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