



JIC File

JUDICIAL INVESTIGATION COMMISSION

Room E-400, State Capitol

Charleston 25305

March 6, 1990

Re: JIC Advisory Opinion 1990-02

Dear

The Judicial Investigation Commission has received your letter to Counsel dated March 5, 1990, in which you request an advisory opinion. You stated in that correspondence that you had received a letter from Magistrate asking whether it would create a conflict of interest if Magistrate serves on a Board of Directors of a non-profit foundation established for the improvement of ----- State Park. Magistrate stated to you that he would receive no compensation for his service.

Canon 5B(1), (2), and (3) of the Judicial Code of Ethics addresses the question which you have raised. That Canon states in pertinent part:

CANON 5

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

- B. Civic and Charitable Activities. A judge may participate in civic and charitable activities that do not reflect adversely upon his impartiality

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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 advantages of its members, subject to the following limitations:

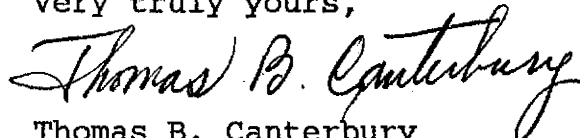
(1) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before him or will be regularly engaged in adversary proceedings in any court.

(2) A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of his office for that purpose, but he may be listed as an officer, director, or trustee of such an organization. He should not be a speaker or the guest of honor at an organization's fund-raising events, but he may attend such events.

(3) A judge should not give investment advice to such an organization, but he may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

Based upon the information contained in your correspondence, it would appear that the non-profit foundation established for the improvement of State Park would be an organization which falls within the language of Canon 5B. Based upon the information received from Magistrate and the language it contained within the Canon, it would appear that Magistrate could serve on the Board of Directors as long as he conformed such service to the conditions and prohibitions set forth in the Canon. If there is any further question concerning this matter, do not hesitate to contact the Commission.

Very truly yours,



Thomas B. Canterbury
Chairman