



JUDICIAL INVESTIGATION COMMISSION

Building 1, Room E400
1900 Kanawha Boulevard, East
Charleston, WV 25305-0834

January 5, 1993

Re: JIC Advisory Opinion 1993-02

Dear

Your correspondence dated December 11, 1992, to Counsel for the Judicial Investigation Commission in which you request an advisory opinion has been reviewed by the Commission at its most recent meeting. In that letter you ask for an advisory opinion about whether the Code of Judicial Conduct (effective January 1, 1993) would govern your employment of your sister-in-law as your magistrate assistant.

Canon 3C (4) of the Code of Judicial Conduct addresses your question. Canon 3C (4) states:

CANON 3

A Judge Shall Perform the Duties of Judicial Office
Impartially and Diligently

C. Administrative Responsibilities.

- (4) A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the fair value of services rendered.

The Code of Judicial Conduct also defines nepotism within the terminology section of the Code:

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"Nepotism" is defined as "favoritism shown in the treatment of a member of the judge's family or person living in the judge's household." "Member of the judge's family" is defined as "a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship." Based upon the definitions provided, a sister-in-law would fall within a member of the judge's family as set forth in the Code.

Reading Canon 3C (4) of the Code of Judicial Conduct and reviewing the definition of "nepotism" as set forth in the terminology section of the Code, it is the opinion of the Judicial Investigation Commission that Canon 3C (4) of the Code of Judicial Conduct would be violated by you if you employ your sister-in-law as your magistrate assistant.

If you have any further question regarding this matter, do not hesitate to contact the Commission.

Very truly yours,


Fred L. Fox, II, Chairman

CRG/bl