



JUDICIAL INVESTIGATION COMMISSION

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

November 8, 1993
JIC Advisory Opinion 1993-21

Dear Magistrate :

In recent correspondence to Counsel for the Judicial Investigation Commission, you asked for an advisory opinion on various matters. You first stated that since February, 1992, you have been a member of _____ and recently have been asked to serve as a group leader for one night a week in _____. You would be paid a small fee of \$12.00 for doing this. You asked whether the Code of Judicial Conduct would permit this activity.

Canon 4D of the Code of Judicial Conduct states in pertinent part:

CANON 4

D. Financial Activities.

(1) A judge shall not engage in financial and business dealings that:

(a) may reasonably be perceived to exploit the judge's judicial position, or

(b) involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves.

Based on the factual scenario which you have represented in your letter and the language contained in Canon 4D, it is the opinion of the Judicial Investigation Commission that you may serve in the capacity you described.

Second you stated that you had been invited by the President of State College to serve on an Advisory Committee to the Criminal Justice Program at the College. You asked if you would be permitted to do so by the Code of Judicial Conduct. A review of the description of the Criminal Justice Program Advisory Committee suggests that the Committee helps the criminal justice faculty by reviewing the goals, curriculum, and operation of the Criminal Justice Program. It further operates to maintain an up-to-date Criminal Justice Program which is periodically reviewed and changed to keep pace with the changing needs and emphasis in the criminal justice field. The Advisory Committee professionals are utilized because they hold insights from the practitioners' perspective that are valuable to the review and realignment process.

Canon 4C of the Code of Judicial Conduct states in pertinent part.

CANON 4

A JUDGE SHALL SO CONDUCT THE JUDGE'S EXTRA-JUDICIAL ACTIVITIES AS TO MINIMIZE THE RISK OF CONFLICT WITH JUDICIAL OBLIGATIONS

C. Governmental, Civic, or Charitable Activities.

. . . .

- (2) Quasi-Judicial Activities. A judge may serve as a member, official, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. A judge may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund-raising activities. A judge may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.
- (3) Civic and Charitable Activities. A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of the judge's judicial duties. A judge may serve as an officer, director, trustee, or non-legal adviser 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:

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

(b) 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 office for that purpose; but a judge may be listed as an officer, director, or trustee of such an organization, so long as the listing is not used for fund-raising purposes. A judge should not be a speaker or the guest of honor at an organization's fund-raising events, but may attend such events.

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

Based upon this language it is the opinion of the Judicial Investigation Commission that you may serve on the Advisory Committee to the Criminal Justice Program at the College.

You also state in your correspondence that your husband has been appointed to fill the unexpired term of a member on the County Democrat Executive Committee. You inquire whether the Code of Judicial Conduct permits this. Language contained in Canon 5 of the Code of Judicial Conduct provides guidance in addressing this matter.

The language contained in Canon 5 lists certain restrictions which apply to all judges and candidates in the area of political activity. Those restrictions are set forth in detail in Canon 5. However, the commentary to Canon 5A states that while judges must encourage family members to adhere to the same standards of political conduct in support of a candidate that apply to the candidate, family members are free to participate in other political activity. Furthermore, Canon 5C permits a judge subject to public election to engage in certain political conduct such as contributing to a political organization and identifying him or herself as a member of a political party.

The Honorable

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Based on the language contained in Canon 5 and the relative sections cited therein, it is the opinion of the Judicial Investigation Commission that your husband may serve as a member of the County Democrat Executive Committee.

Hopefully this opinion has addressed all of the issues which you raised in your recent correspondence. If you have any further question concerning any of those matters, do not hesitate to contact the Commission.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Fred L. Fox, II", written over the typed name.

Fred L. Fox, II, Chairman

FLF,II/bl