

**JUDICIAL INVESTIGATION COMMISSION**

212 Dickinson Street  
Post Office Box 1629  
Charleston, West Virginia 25326-1629  
(304) 558-0169 FAX (304) 558-0831

December 12, 1994

Re: JIC Advisory Opinion 1994-21

Dear :

Your recent letter to Counsel was reviewed by the Judicial Investigation Commission at its last meeting.

In that letter you request an advisory opinion regarding whether you must disqualify yourself in cases involving the employer of your adult stepson. You state that your adult stepson who does not reside in your household is an employee of a local hospital. The hospital has a number of matters pending in litigation in the circuit court as both a plaintiff and a defendant. Your stepson is not a party or witness in any of the proceedings and does not serve as an officer, director, or trustee of any party. You indicate that you are not aware of any interest that he has which would substantially be affected by the proceedings.

Based on the information which you have provided, it is the opinion of the Commission that you do not have to disqualify yourself in proceedings involving the hospital based on the language contained in Canon 3E which states that "a judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned . . .". However, it is felt that you should disclose this information on the record so that the parties or their lawyers might consider the question of disqualification. The commentary to Canon 3E suggests that a judge disclose on the record information that the judge

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believes the parties or their lawyers might consider relevant to the question of disqualification even if the judge believes there is no real basis for disqualification.

If there are any further questions regarding this issue, do not hesitate to contact the Commission.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Fred L. Fox, II". The signature is written in a cursive, somewhat stylized font.

Fred L. Fox, II, Chairman

FLF,II/bl