



JUDICIAL INVESTIGATION COMMISSION

212 Dickinson Street
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June 14, 1995

Re: JIC Advisory Opinion 1995-14

Dear

Your inquiry dated April 3, 1995, was reviewed by the Judicial Investigation Commission at its most recent meeting. In that correspondence you asked about the propriety of remaining involved in a corporation with other attorneys. The corporation was formed for the sole purpose of owning a building in which two of the other corporate owners retained their offices and one other attorney rents space in the building.

You specifically stated that you own one-third interest in the corporation which is organized for the sole purpose of owning a building and leasing out office space in the building. There are three attorneys including you who own stock in the corporation. The three owners are in sole practice and have not associated in the practice of law. The three owners individually pay rent to the corporation and in addition have one attorney as a tenant. The corporation also leases ten offices to the Area Chamber of Commerce and has two other commercial tenants. You asked whether it would be permissible for you to continue to own one-third of the corporation while you sit on the bench; whether, if it is permissible for you to continue to own the building, the individuals would be permitted to appear in front of you. You asked this because one of the individuals is not an owner of the building, but just a tenant.

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Canon 4D 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

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.

The commentary to this Canon states that "a judge must avoid financial and business dealings that involve the judge in frequent transactions or continuing business relationships with persons likely to come either before the judge personally or before other judges on the judge's court."

Based on the language contained in the Canon and the commentary language it would not be permissible for you to continue to own one-third of the corporation while you sit on the bench. It would not be permissible for you to continue to own the building or to have individuals appear in front of you. See also Matter of Means (Supreme Court of Appeals of West Virginia, November 24, 1994).

If there is any further question regarding the matters which you have raised, do not hesitate to contact the Commission.

Very truly yours,



Fred L. Fox, II, Chairman

FLF,II/bl