



JUDICIAL INVESTIGATION COMMISSION

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

August 28, 1995

Re: JIC Advisory Opinion 1995-24

Dear

In a letter to Counsel you asked for an advisory opinion regarding whether or not the wife of a judge can have a political fundraiser in the home in which the judge and his wife reside. This request was reviewed by the Commission at its recent meeting.

The relevant language set forth in sections of Canon 5 addresses the question which you have raised. Canon 5A states in pertinent part:

CANON 5

A JUDGE OR JUDICIAL CANDIDATE SHALL REFRAIN FROM INAPPROPRIATE POLITICAL ACTIVITY

A. All Judges and Candidates.

(1) Except as authorized in Sections 5B(2), 5C(1), and 5C(3), a judge or a candidate for election or appointment to judicial office shall not:

. . . .

(b) publicly endorse or publicly oppose another candidate for public office;

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. . . .

(e) solicit funds for a political organization or candidate.

. . . .

(3) A candidate for a judicial office

(a) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary, and shall act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, and should encourage members of the candidate's family to adhere to the same standards of political conduct in support of the candidate that apply to the candidate; . . .

Canon 5C of the Code of Judicial Conduct states in pertinent part:

C. Judges and Candidates Subject to Public Election.

(1) A judge or a candidate subject to public election may, except as prohibited by law:

(a) at any time

(i) purchase tickets for and attend political gatherings;

(ii) identify himself or herself as a member of a political party; and

(iii) contribute to a political organization;

. . . .

(2) A candidate shall not personally solicit or accept campaign contributions or personally solicit publicly stated support. A candidate may, however, establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums, and other means not prohibited by law. Such committees may solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. . . .

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Based on the language contained in these relevant sections of Canon 5, it is the opinion of the Commission that the wife of a judge could have a political fundraiser in the home in which the judge and the wife reside as long as the judge was not involved in raising funds or endorsing any candidate. The judge should be very careful about any such activity since the language in Canon 5 is clear in prohibiting the public endorsement or public opposition of another candidate for public office by a judge and the solicitation of funds for a political organization or candidate by a judge.

It is hoped that this correspondence addresses the issue which you have raised for the Commission. If there is any further question regarding this matter, 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 stylized with a large, sweeping "F" and "L".

Fred L. Fox, II, Chairman

FLF,II/bl