



## JUDICIAL INVESTIGATION COMMISSION

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

November 3, 1995

Re: JIC Advisory Opinion 1995-28

Dear

Your letter to Counsel for the Judicial Investigation Commission dated September 15, 1995, in which you seek an advisory opinion was reviewed by the Commission at its recent meeting. In that correspondence you raise a number of questions which will be discussed in this opinion in the order raised in your correspondence.

You asked whether you could serve as a part-time family law master and continue to act as notary public. The Commission has addressed that question in a previous advisory opinion stating that an individual may not serve as a family law master and as a notary public at the same time. The Commission feels that this opinion applies to part-time family law masters as well as full-time judicial officers.

You state that in your capacity as family law master, you have had occasion to witness the execution of certain documents which otherwise would require signature before a notary public. You have always crossed through the "notary" title and substituted "family law master." Since the Commission feels it would be improper for you to continue serving as a notary public, this inquiry appears to be moot. If you have further questions concerning it, do not hesitate to contact the Commission.

You asked whether your assistant, a full-time employee of the Supreme Court, is precluded from acting as a notary. There is no prohibition against your assistant serving as a notary. In fact this could help the efficiency of your office.

November 3, 1995

You state that you have been asked to serve as a trustee for your church. You asked whether you would be precluded from doing this and what impact it would have on your hearing cases involving individuals associated with the church. You would not be precluded from serving as a trustee for your church under the limitations set forth in Canon 4C(3) of the Code of Judicial Conduct. You should if you serve as a trustee for your church disclose that information at any hearings involving individuals associated with that church as required by Canon 3E(1) of the Code of Judicial Conduct and the following commentary.

You state that your wife is on staff with the church as a director of youth ministry and Christian education. You asked whether this raises any relevant implications to your position. The Commission feels that it does not.

You asked if you are precluded from involvement in fund-raising activities for your wife's youth group with which you volunteer. Canon 4C(3)(b) states that "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; . . ." The Commission has issued previous opinions, however, which permit judicial officers to serve in a more generic capacity such as collecting tickets at a football game or working in a concession stand during a school activity.

Finally you state that you have been invited to a dinner which features a dramatic program. The purpose is to raise funds generally for the local organization of a political party. While you understand that you may not be ethically precluded from purchasing tickets for yourself or your spouse or from attending, you are concerned about the appearance of impropriety in so supporting a party which is likely to field candidates for circuit judge and Supreme Court Justice. The provisions of Canon 6C define your position as continuing part-time judge. That section of the Canon states in pertinent part:

C. Continuing Part-time Judge. A continuing part-time judge:

(1) is not required to comply

(a) except while serving as a judge with Section 3B(9); and

(b) at any time with Sections 4D(3), 4E(1), 4F, 4G, 4H, 5A(1), 5B(2), and 5D.

November 3, 1995

This provision in the Canon exempts you from certain restrictions contained in Canon 5 dealing with inappropriate political activity on the part of a judge or judicial candidate. A review of Canon 6C and Canon 5 will address the inquiry which you have raised in your letter.

It is hoped that this opinion fully addresses those questions which you have raised. If there is any additional information needed or any questions remain concerning your inquiry, do not hesitate to contact the Commission.

Very truly yours,

  
Fred L. Fox, II, Chairman

FLF,II/bl