



JUDICIAL INVESTIGATION COMMISSION

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February 19, 1996

Re: JIC Advisory Opinion 1996-03

Dear

The Administrative Director of the Courts has referred your letter raising certain questions about disqualification to the Judicial Investigation Commission. The Commission reviewed your letter at its recent meeting. In that correspondence you stated that you had before you two default judgment proceedings in which WV is a party plaintiff, a creditor seeking to obtain a judgment. You stated that your wife and you own slightly in excess of 100 shares in You also discussed a 1988 advisory opinion of the Judicial Investigation Commission which concluded that a judge should not sign a default judgment order in a case in which a bank is a party to the proceeding and the judge had a small amount of stock. You asked whether you would be disqualified from hearing the two default judgment proceedings in which WV is a party plaintiff because of your stock ownership in

In addressing the question which you have raised, the Commission would note that the Canons to the Code of Judicial Conduct have been significantly amended since 1988. The language which answers the question which you have presented is found in Canon 3E(1) (d) (iii). That language states:

CANON 3

A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL
OFFICE IMPARTIALLY AND DILIGENTLY

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E. Disqualification. - (1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(d) the judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(iii) is known by the judge to have a more than de minimis interest that could be substantially affected by the proceeding; . . .

The term "de minimis" is defined as "an insignificant interest that could not raise reasonable question as to a judge's impartiality."

Based on the information provided to the Commission, it does not appear that you or your wife have more than a de minimis interest in your ownership of the Bell Atlantic stock. It is the opinion of the Commission that you could consider the two default judgment proceedings which you have described.

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

Very truly yours,



Fred L. Fox, II, Chairman

FLF,II/bl