



JUDICIAL INVESTIGATION COMMISSION

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

December 13, 1996

Re: JIC Advisory Opinion 1996-32

Dear

Your letter to _____ in which you asked for an advisory opinion was forwarded to the Judicial Investigation Commission for review. In that letter you state that you are a newly elected magistrate for _____ County and would like an opinion regarding the possibility of keeping your current real estate license active with a local real estate agency. You indicated that the agency was owned and operated by another individual. You stated that you have been selling real estate in West Virginia for the past five years and would like to keep your license active so that you could list and sell real property on your own time.

Your inquiry is addressed by Canon 4D(3) of the Code of Judicial Conduct which states:

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.

(3) A judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that a judge may, subject to the requirements of this Code, manage and participate in:

December 13, 1996

a. a business closely held by the judge or members of the judge's family, or

b. a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.

Based on the information which you have given to the Commission, it would appear that you would be an employee for the real estate agency. Furthermore, the exceptions to the prohibition of a judge serving as an employee as set forth in Canon 4D(3) (a) and (b) are not present in your situation. You would, therefore, be precluded from continuing to serve as a real estate agent while you serve as a judicial officer.

If you have any further questions regarding this matter, do not hesitate to contact the Commission.

Very truly yours,

A handwritten signature in black ink, appearing to read "Fred L. Fox, II". The signature is stylized with a large, bold "F" and "L", and a clear "Fox, II".

Fred L. Fox, II, Chairman

FLF,II/bl