



JUDICIAL INVESTIGATION COMMISSION

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

June 23, 1997

Re: JIC Advisory Opinion 1997-17

Dear

You have recently requested an advisory opinion from the Judicial Investigation Commission. In your correspondence to the Commission you attached various documents which indicate that you feel that you cannot render a fair and impartial decision in a case involving a particular attorney. The documents indicate that you have developed certain conflicts with the attorney because of your feelings about his attitude toward your court and other dealings which he has had which make you feel that you cannot render a fair and impartial decision.

In response to your opinion the Commission would refer you to Canon 3E(1) of the Code of Judicial Conduct which states in pertinent part:

Canon 3. A judge shall perform the duties of judicial office impartiality and diligently.

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:

(a) a judge has a personal bias or prejudice concerning a party or a party's lawyer or personal knowledge of disputed evidentiary facts concerning the proceeding; . . .

This language suggests that if you are in a position where you feel that you cannot render a fair and impartial decision in a case because of those reasons set forth in

Page 2
June 23, 1997

Canon 3E(1) and following sections, you must recuse yourself from that proceeding.

If there is any further question regarding this matter, please do not hesitate to contact the Commission.

Very truly yours,


Fred L. Fox, II, Chairman

FLF,II/bl