



JUDICIAL INVESTIGATION COMMISSION

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

August 31, 1998

Re: JIC Advisory Opinion 1998-12

Dear

Your recent letter to the Judicial Investigation Commission in which you asked for an advisory opinion has been reviewed by members of the Commission. In your correspondence you stated that you are a part-time family law master and that you are interested in competing for the recently announced vacancy of part-time United States Magistrate Judge, District of West Virginia. You further stated that your inquiries revealed that the time requirements of this position would not conflict with those of your family law master appointment. You asked the Commission whether it would be possible for you to remain a part-time family law master and hold the position of part-time United States Magistrate Judge.

In addressing the question which you have raised the Commission reviewed Article 8, §7 of the Constitution of West Virginia which states in relevant part that:

No justice, judge, or magistrate shall hold any office or accept any appointment or public trust, under this or any other government; nor shall he become a candidate for an elective public office or nomination thereto, except a judicial office; and the violation of any of these provisions shall vacate his judicial office.

...

The Commission has in previous advisory opinions interpreted this section of the Constitution to be applicable to all judicial officers in West Virginia. See JIC Advisory Opinion 10-1-97; Advisory Opinion 10-7-94; Advisory Opinion 6-18-93. Copies of these opinions are enclosed for your review.

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Based upon the language set forth in the Constitution of West Virginia it is of the opinion of the Judicial Investigation Commission that you could not hold the position of part-time United States Magistrate Judge while serving as a part-time family law master. 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 "John W. Bennett", with a long horizontal flourish extending to the right.

John W. Bennett, Chairman

JWB:nb
Enclosures