



## JUDICIAL INVESTIGATION COMMISSION

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

September 28, 1998

Re: JIC Advisory Opinion 1998-14

Dear

Your request for an advisory opinion was reviewed by the Judicial Investigation Commission at its recent meeting. In your letter to the Commission you requested an advisory opinion regarding certain funds you have received while in your current position as Family Law Master. You stated that prior to becoming Family Law Master you were employed in private practice in \_\_\_\_\_ and upon your appointment to Family Law Master you agreed with your former colleague to turn over a personal injury case you had been working on in which you had filed. You stated that your agreement was that upon final resolution of the matter your colleague and you would equally divide the attorney fee portion of the proceeds and that this division was explained and agreed to by the client. You indicated that you were concerned that the receipt of any money while in office, whether it were prior to your appointment or not, from an attorney who occasionally practices before you could give the appearance of impropriety. You ask whether a simple disclosure of the fee paid would suffice or would other measures need to be taken.

When reviewing your request, the Commission could find nothing in the Code of Judicial Conduct which would prohibit you from accepting the fee since the percentage which you would receive was fixed before you became Family Law Master and the contingency fee arrangement was otherwise proper. For example, the arrangement was disclosed to the client who agreed to its provisions. See Missouri Advisory Opinion 62 (1981); U.S. Compendium of Selected Opinions § 2.7(b) (1995); New York Advisory Opinion 93-44.

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

Very truly yours,

A handwritten signature in cursive script, reading "John W. Bennett", is written over a horizontal line.

John W. Bennett, Chairman

JWB:nb