



JUDICIAL INVESTIGATION COMMISSION

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

December 28, 1999

Re: JIC Advisory Opinion 1999-19

Dear :

In a letter to the Judicial Investigation Commission you asked for an advisory opinion. In your request you stated that you were considering running for judge of the circuit court and the election laws and the Code of Judicial Conduct would require you to appoint a committee. You indicated that one of the purpose of the committee is to solicit campaign contributions because judges and judicial candidates are prohibited from soliciting campaign contributions personally. You stated that the Canons also provide that a candidate for judicial office should encourage members of the candidate's family to adhere to the same standards of political conduct and support of the candidate that applies to the candidate. You indicated that you were considering appointing your wife to your campaign committee as your treasurer. You are concerned because of the particular close relationship between a husband and wife that this would be a violation of the Code of Judicial Conduct.

To address your inquiry the Commission has reviewed Canon 5A(1)(e), 5A(3)(a) and 5C(2) of the Code of Judicial Conduct. Those sections of the Canon state in relevant part as follow:

Canon 5. A judge or judicial candidate shall refrain from inappropriate political activity.

A. All judges and candidates.

(1) Except as authorized in Sections 5B(2), 5C(1), and 5C(3), a judge or candidate for election or appointment to judicial office shall not:

(e) Solicit funds for a political organization or candidate.

* * *

December 28, 1999

Page Two

(3) A candidate for judicial office.

(a) Shall maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary, and shall act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, and should encourage members of the candidate's family to the same standards of political conduct in support of the candidate that apply to the candidate; . . .

* * *

C. Judges and candidates subject to public election.

(2) A candidate shall not personally solicit or accept campaign contributions or personally solicit publicly stated support. A candidate may, however, establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailing, candidate forums, and other means not prohibited by law. Such committees may solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. . . .

In reviewing these sections of Canon 5 it is apparent to the Commission that a candidate may not personally solicit funds. A candidate should encourage members of the candidate's family to adhere to the same standards of political conduct in the support of the candidate for the pride of the candidate. The Commission feels that this section of Canon 5 places a duty on a judicial candidate to encourage family members to not engage in conduct prohibited of the candidate. You as a candidate would not be permitted to solicit campaign contributions. You are permitted pursuant to Canon 5 to establish committees of responsible persons to conduct campaigns for the candidate and to otherwise solicit and accept campaign contributions.

Since your wife should be encouraged to adhere to the same standards of political conduct in support of your candidacy that apply to you, it would be inappropriate for your wife to personally solicit campaign contributions. It is the opinion of the Commission therefore, that the relevance sections of Canon 5 would prohibit a candidate's wife from serving as the candidate's campaign treasurer. See also, Opinion 163, Georgia Judicial Qualifications Commission April 2, 1992; Opinion 26-1998 South Carolina Advisory Committee on Standards of Judicial Conduct.

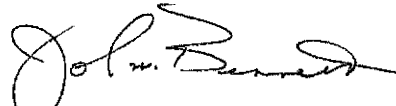
December 28, 1999

Page Three

The Commission would note however, that it just received a copy of a proposed amendment to Canon 5 which has been prepared by the Supreme Court of Appeals of West Virginia. If this amendment were adopted and promulgated by the Court as it is currently written the Commission's opinion may need to be revisited. However, under the current provisions of Canon 5 the Commission's opinion is that it would be inappropriate for a judicial candidate's spouse to serve as the candidate's committee.

If there is any further question 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". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

John W. Bennett, Chairman

JWB:nb