JUDICIAL INVESTIGATION COMMISSION

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February 7, 2000

JIC Advisory Opinion 2000-06

Dear Judge   :

In a recent letter to the Judicial Investigation Commission you asked for an advisory opinion. In your letter you stated that you have opposition in the upcoming election from a local attorney who practices in your court on a regular basis. You inquired about whether you have any obligation to disclose this matter for public record in a proceeding involving this attorney. You stated that you were concerned about whether this situation would create any limitations on your hearing cases involving the attorney.

To address your request the Commission reviewed Canon 3E(1) of the Code of Judicial Conduct which states in relevant part: A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned. The commentary following the Canon states that a judge should disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes that there is no real basis for disqualification. Based on the language contained in the Canon and the commentary following it, it is the opinion of the Commission that you should disclose the fact that you and the attorney are in a contested judicial race when that attorney appears before you. This would permit all parties and their attorneys to make an informed decision about whether to seek your recusal from that particular case. See Tennant v. Marion Health Care Foundation, Inc., 194 W.Va. 97, 359 S.E.2d 374 (1995). Obviously if you have a personal bias or prejudice concerning the attorney because of your current situation you should recuse yourself from his case.

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

Very truly yours,

Donald H. Cookman, Vice-Chairman

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