



## JUDICIAL INVESTIGATION COMMISSION

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September 15, 2000

JIC Advisory Opinion 2000-39

Dear Mr.           :

You have written the Judicial Investigation Commission asking for an advisory opinion. In your letter you state that you are a Candidate for Magistrate of           County and that you are a self-employed independent insurance agent in that county being the owner of           Insurance Associates. You asked for an opinion as to whether your ownership of the insurance agency would constitute a conflict of interest if you were elected magistrate.

To address the inquiry, the Commission reviewed Canon 4D(3) of the Code of Judicial Conduct. That Section of Canon 4 states in relevant part:

Canon 4. A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations.

D. Financial activities.

(3) A judge shall not serve as an officer, director, manager, general partner, adviser or employee of any business entity except that a judge may, subject to the requirements of this Code, manage and participate in:

- (a) a business closely held by the judge or members of the judge's family, or
- (b) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.

The Commentary to that Section of Canon 4 states:

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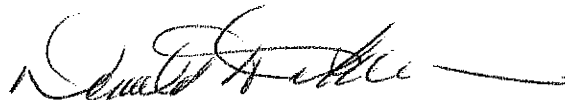
**Commentary** - Subject to the requirements of this Code, a judge may participate in a business that is closely held either by the judge alone, by members of the judge's family, or by the judge and members of the judge's family.

Although participation by a judge in a closely-held family business might otherwise be permitted by Section 4D(3), a judge may be prohibited from participation by other provisions of this Code when, for example, the business entity frequently appears before the judge's court or the participation requires significant time away from judicial duties. Similarly, a judge must avoid participating in a closely-held family business if the judge's participation would involve misuse of the prestige of judicial office.

While it is the opinion of the Commission that pursuant to the language contained in this Section of Canon 4 you could participate in your insurance business, you must be very careful about certain cases which may come before you if elected. For example, it would be inappropriate for you to hear any cases involving your policyholders and it would also be wrong for you to solicit business from parties who are appearing in your court. While you may continue to participate in your insurance business under the terms set forth in Canon 4, you must do so within the confines of preventing any appearance of impropriety or any conflict or misuse of the judicial office in doing so.

It is hope that this fully addresses the question which you have raised, if you have any further question regarding this matter do not hesitate to contact the Commission.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Donald H. Cookman", followed by a horizontal line extending to the right.

Donald H. Cookman, Chairman

DHC:nb