



JUDICIAL INVESTIGATION COMMISSION

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December 7, 2000

JIC Advisory Opinion 2000-41

Dear Mr. _____ :

In a recent letter to Counsel, you requested an advisory opinion regarding the raising of additional funds by the Committee to Elect _____ for Judge to finance attorney fees and other expenses incurred to defend a petition contesting your election to the Division _____ bench in _____ County. You asked whether such action would violate Canon 5C(2) of the Code of Judicial Conduct. You indicated that the Secretary of State in conjunction with the Attorney General's office determined that another judge-elect was permitted to use campaign funds to defend a similar action challenging that individual's election.

Canon 5C(2) of the Code of Judicial Conduct states:

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

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 through media advertisements, brochures, mailings, 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. Such committees are not prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

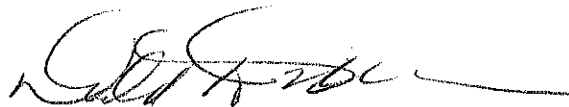
The Canon permits the committees to conduct campaigns for the candidate by specific named means and "other means not prohibited by law."

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It is the opinion of the Commission that your committee could raise funds to defend the petition contesting your election since, in the view of the Commission that would be a continuation of the activity which is permitted under the language set forth in Canon 5C(2). A cursory review of the statutory provisions governing campaign activity and election matters suggests this construction of the Canon is consistent with those cases interrupting statutory law. The activities which you now must undertake are a continuation of the campaign for judicial office which has been conducted and managed by your committee.

It is hoped that this opinion fully addresses the questions which you have raised. If there is any additional question concerning this matter do not hesitate to contact the Commission.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Donald H. Cookman', with a long horizontal flourish extending to the right.

Donald H. Cookman, Chairman
Judicial Investigation Commission

DHC:nb