



## JUDICIAL INVESTIGATION COMMISSION

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January 16, 2001  
JIC Advisory Opinion 2001-02

Dear Judge :

In a recent correspondent to the Commission you asked for an advisory opinion. In your letter you stated that one of your former law partnerships became a real estate partnership in 1990 when the law firm merged with another firm. The purpose of the conversion of the law partnership into a real estate partnership was to continue to hold and rent your office buildings which you owned in two separate towns. Subsequently, you sold one of the offices and currently just own an office which you still rent to a local law firm. All of your partners in the real estate partnership are attorneys who practice with various firms in the area or are sole practitioners. You asked for an advisory opinion regarding your options with respect to your interest in the real estate partnership since you assumed the Bench at the first of this year. You asked if your only option is to sell your interest, does the buy out need to be in a lump sum or can it be in periodic payments. You asked how this situation would affect your disqualification/recusal presently, as well as, in the future from cases involving your real estate partners and also in cases involving any of the several attorneys in their firms.

To address the inquiry which you have made the Commission reviewed Canon 4D of the Code of Judicial Conduct. That Canon states in relevant part as follows:

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. (1) A judge shall not engage in financial and business dealings that:

- (a) may reasonably be perceived to exploit the judge's judicial position, or
- (b) involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves.

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Based upon the language contained in this Section of Canon 4, it is the opinion of the Commission that you would need to sell your interest in the real estate partnership which you have described. The Commission would suggest that this sale take place in a one-time lump sum so that the possibility of a continuing business relationship would not be present. Prior to this transaction you should recuse yourself from cases involving the partners who are members of the real estate partnership. See also, Matter of Means, 192 W.Va. 380, 452 S.E.2d 696 (1994).

If you have 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 "Donald H. Cookman", followed by a horizontal line.

Donald H. Cookman, Chairman  
Judicial Investigation Commission

DHC:nb