

## **JUDICIAL INVESTIGATION COMMISSION**

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February 16, 2001

JIC Advisory Opinion 2001-04

Dear Justice :

Your recent inquiry to this office seeking an advisory opinion was reviewed by the Commission. In your correspondence you asked whether you could continue to serve as a Trustee for the \_\_\_\_\_ Foundation which has a primary interest in research on and public awareness of a disease known as cardiomyopathy. You stated that the foundation made small contributions to community projects in the \_\_\_\_\_ area. Its funds are derived primarily from family contributions although some contributions have been made from outside the family, especially as memorials for deceased persons. The foundation does not publicly seek contributions. You also ask if you could serve as Trustee of the \_\_\_\_\_ Foundation, a former client. That foundation also relies on contributions from private sources and does not solicit funds. It is an operating foundation and its self-operated projects have, to date, centered on the processes by which public policy is or might be made.

Based on an advisory opinion issued November 3, 1995, the Commission stated that in its opinion you could serve as Trustee for the family foundation. The Commission, at that time stated that the language set forth in Canon 4C(3), Canon 4D, and Canon 4E of the Code of Judicial Conduct would permit you to serve in that capacity. The Commission feels that opinion accurately states the intent set forth in those sections of the Code of Judicial Conduct and that you could continue to serve as Trustee for the family foundation. A copy of the November 3, 1995, advisory opinion is attached hereto.

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In addressing the inquiry about your service as Trustee of the \_\_\_\_\_ Foundation, the Commission reviewed Canon 4C(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.

C. Governmental, civic, or charitable activities.

(3) Civic and charitable activities. A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of the judge's judicial duties. A judge may serve as an officer, director, trustee, or nonlegal adviser of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members subject to the following limitations:

(a) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court.

(b) A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of office for that purpose; but a judge may be listed as an officer, director, or trustee of such an organization, so long as the listing is not used for fund-raising purposes. A judge should not be a speaker or the guest of honor at an organization's fund-raising events, but may attend such events.

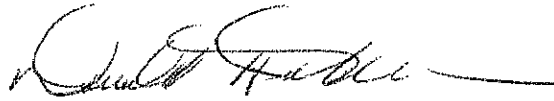
(c) A judge should not give investment advice to such an organization, but a judge may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions. (Emphasis supplied)

Based upon the language contained in Canon 4C(3) and the definition of the foundation which you have provided, it is the opinion of the Commission that you may serve as Trustee for the \_\_\_\_\_ Foundation. The service would be contingent upon the restrictions set forth in Canon 4C(3) and the fact that the foundation is not conducted for the economic or political advantage of its members.

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It is hoped that this opinion fully addresses the issues which you have raised. If there is any further question regarding this matter do not hesitate to contact me.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Donald H. Cookman', followed by a long horizontal flourish.

Donald H. Cookman, Chairperson

DHC:nb  
Enclosure