



JUDICIAL INVESTIGATION COMMISSION

Post Office Box 1629
Charleston, West Virginia 25326-1629
(304) 558-0169 • FAX (304) 558-0831

December 16, 2002

Re: JIC Advisory Opinion 2002-29

Dear

In recent correspondence to the Judicial Investigation Commission you asked for an advisory opinion regarding two specific questions concerning membership and/or serving on the Board of Directors of a community organization. You asked whether you would be permitted to maintain your membership with the County Chamber of Commerce; you also asked if you would be permitted to maintain your position as Vice-Chair of the Board of Directors of the Tri-County YMCA.

To address the questions which you have raised, the Commission has reviewed relevant sections of Canon 4 of the Code of Judicial Conduct. That Canon 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 non-legal 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:

December 16, 2002

Page two

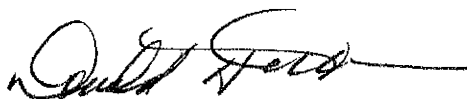
(a) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court.

(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.

Based upon the language set forth in this Canon, it is the opinion of the Judicial Investigation Commission that you should not maintain your membership in the Chamber of Commerce. See also, JIC Advisory Opinion 6/16/93, which is attached hereto for your information. Also, based upon the language contained in Canon 4, it is the opinion of the Commission that you may continue in your position as Vice-Chair of the Board of Directors of the YMCA so long as you do not participate in any solicitation of funds or permit the use of the prestige of your office for that purpose.

It is hoped that this opinion fully addresses the questions which you have raised. If you have any further question regarding these matters 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, Chairperson
Judicial Investigation Commission

DHC:nb

Enclosure



JUDICIAL INVESTIGATION COMMISSION

Building 1, Room E400
1900 Kanawha Boulevard, East
Charleston, WV 25305-0834

June 16, 1993

The Honorable [REDACTED]
Judge, [REDACTED]
[REDACTED] County Courthouse
[REDACTED], West Virginia [REDACTED]

Dear Judge [REDACTED]

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission at its recent meeting. In that correspondence you stated that you had been requested to become an associate member of the [REDACTED] County Chamber of Commerce. You also said that you had been requested to become a member of the [REDACTED] Parks and Recreation Advisory Committee. You indicated that the Committee provided suggestions to the [REDACTED] City Council on the parks and park programs which are available in the City of [REDACTED] and that occasionally you did hear criminal cases which were appealed from the Municipal Court of the City of [REDACTED]. You indicated that there were also a few civil cases pending in the Circuit Court in which the City of [REDACTED] is a party.

After reviewing your request and the pertinent language set forth in the Code of Judicial Conduct, the Judicial Investigation Commission has determined that your membership in the [REDACTED] County Chamber of Commerce would not be appropriate nor would your membership on the [REDACTED] Parks and Recreation Advisory Committee be proper under the Code of Judicial Conduct. The language set forth in Canon 4C of the Code of Judicial Conduct provides guidance on these questions.

Canon 4C states in pertinent part:

CANON 4

A Judge Shall so Conduct the Judge's Extra-Judicial Activities as to Minimize the Risk of Conflict with Judicial Obligations

June 16, 1993

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 non-legal 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.

Based upon the language set forth in this Canon, the Judicial Investigation Commission has determined that your membership in the [REDACTED] County Chamber of Commerce and on the [REDACTED] Parks and Recreation Advisory Committee would not be permitted.

The [REDACTED] County Chamber of Commerce could be construed as a civic organization conducted for the economic or political advantages of its members. The [REDACTED] Parks and Recreation Advisory Committee could be closely identified with the City of [REDACTED] which has criminal matters come before you as well as civil cases pending in the Circuit Court.

If you have any question concerning this opinion, do not hesitate to contact the Commission.

Very truly yours,

Fred L. Fox, II

Fred L. Fox, II, Chairman

FLF, II/bl