



JUDICIAL INVESTIGATION COMMISSION

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

March 15, 2004

Re: JIC Advisory Opinion 2004-11

Dear

In a recent letter to the Judicial Investigation Commission you stated that you are seeking reelection in the current election year. You stated that your Assistant, husband is seeking the democratic nomination for Sheriff/Treasurer of your county this election. You asked whether there are any limitations that would prohibit her campaigning or fundraising on your behalf or her husband's behalf.

To address the question which you have raised, the Commission has reviewed relevant sections of Canon 5 of the Code of Judicial Conduct. Those sections of Canon 5 state as follows:

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

A. All judges and candidates. - (3) A candidate for judicial office

(b) shall prohibit employees and officials who serve at the pleasure of the candidate, and shall discourage other employees and officials subject to the candidate's direction and control from doing on the candidate's behalf what the candidate is prohibited from doing under the sections of this Canon; . . .

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 for the candidate

March 15, 2004
Page Two

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 candidate 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.

Based up the above cited language in Canon 5, your assistant would not be able to conduct fund-raising on your behalf since you are not permitted to do conduct fund-raising on your own behalf but must do that through a committee. Your assistant would be prohibited from engaging in any activity on your behalf that you are not permitted to engage in under the terms of Canon 5.

The Commission does feel that your assistant would be permitted to engage in certain activity on behalf of her spouse after office hours and outside the area where court proceedings are conducted. The Canon prohibits public display of any campaign paraphernalia in any area where judicial activities are conducted or the knowing display of such material. See Canon 5A(1)(d). Your assistant should also review the memorandum recently issued by the Administrative Office of the Courts regarding campaign activities by judicial employees.

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 "Fred L. Fox, II". The signature is stylized with a large, bold "F" and "L".

Fred L. Fox, Chairperson
Judicial Investigation Commission

FLF,II:nb