



JUDICIAL INVESTIGATION COMMISSION

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

April 20, 2004

Re: JIC Advisory Opinion 2004-15

Dear

In a recent letter to the Judicial Investigation Commission you asked for an advisory opinion. In your correspondence you asked whether you could participate as a panelist in a continuing legal education seminar presented by Professional Education Systems Institute, LLC (PESI). You stated that PESI is a for-profit continuing legal education provider that offers seminars on various subjects throughout West Virginia. You have been asked to participate as a panelist in a seminar entitled "West Virginia Evidence Workshop" in Morgantown, West Virginia on April 29, 2004. The seminar lasts one day and involves a series of video vignettes arising out of a fictional lawsuit which raise evidentiary questions. The panelists divide among themselves, as compensation, the sum of \$10 per participant in the seminar.

You also asked whether you could serve as an assistant instructor in an expert witness testimony class offered in the Forensic and Investigative Science Program at West Virginia University. The class is offered to undergraduate students in that program. You would be assisting one of your former law clerks in teaching the class. You would assist in classroom lectures and since the class provides many opportunities for the students to participate in exercises which involve testimony, expert and otherwise, you would assist in monitoring, critiquing and grading those exercises. You would be compensated as a part-time employee of West Virginia University and the compensation would be approximately \$2,500 per semester.

To address the questions which you have raised, the Commission has reviewed Canon 4 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.

April 20, 2004

Page Two

A. Extra-judicial activities in general. A judge shall conduct all of the judge's extra-judicial activities so that they do not:

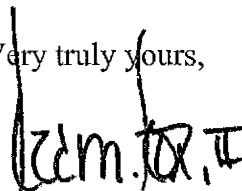
- (1) cast reasonable doubt on the judge's capacity to act impartially as a judge;
- (2) demean the judicial office; or
- (3) interfere with the proper performance of judicial duties.

B. Avocational activities. A judge may speak, write, lecture, teach, and participate in other extra-judicial activities concerning the law, the legal system, the administration of justice, and non-legal subjects to the requirements of this Code.

Based upon the information which you have provided to the Commission and the fact that both activities in which you will engage are part-time, it is the opinion of the Commission that you may engage in the activities which you have described. Canon 4 clearly indicates that a judge may write, speak, lecture or teach in activities concerning the law. The activities which you describe in your correspondence to the Commission do not contravene the requirements of Canon 4.

It is hoped that this opinion fully addresses the questions which you have raised. If there is 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 "Fred L. Fox, II", written over a vertical line.

Fred L. Fox, II, Chairperson
Judicial Investigation Commission

FLF,II:nb