



JUDICIAL INVESTIGATION COMMISSION

Post Office Box 1629
Charleston, West Virginia 25326-1629
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February 23, 2005

Re: JIC Advisory Opinion 2005-04

Dear

In recent correspondence to the Commission you asked for an advisory opinion. In that letter you stated that a young, single probation officer who works out of the _____ office, but who has to live in _____ County because rent is so high in _____ County, would like to live closer to _____ because he is very proactive in supervising his probationers. You stated that you are not engaged in the real estate rental business but that you do own a little cottage on the _____ about ten minutes from _____ that would probably suit him well. This man is one of the best probation officers you have and you have a fear that you may lose him to the federal system or to neighboring _____ or _____. You are willing to rent your cottage to him for roughly the same cost as he is paying in _____ County. You asked whether such an arrangement would be offensive to the Code of Judicial Conduct.

To address the question which you have raised, the Commission has reviewed relevant sections of Canon 4 of the Code of Judicial Conduct. Those sections state 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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This section of the Code of Judicial Conduct defines some of the business relationships a judge is prohibited from forming. The individual which you describe in your correspondence does not fall within either category set forth in Canon 4D(b). For those reasons it is the opinion of the Commission that you may rent your cottage to the probation officer.

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

Fred L. Fox, II, Chairperson
Judicial Investigation Commission

FLF,II:nb