



JUDICIAL INVESTIGATION COMMISSION

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

March 25, 2005

Re: JIC Advisory Opinion 2005-05

Dear

You recently asked for an advisory opinion from the Judicial Investigation Commission. In your request you stated that you are the owner of one-half of the stock of a corporation that has a single asset, a rental building in , West Virginia. Your son is a lawyer with the Law Firm and you are required to recuse yourself in all cases in which he is involved. Your son's law firm would like to rent the building from the corporation and you would, of course, recuse yourself since you are already required to do so anyway. You asked whether you are prohibited from renting this property to the law firm.

To address the question which you raised, the Commission has reviewed relevant sections of Canon 4. These sections state:

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.

March 25, 2005

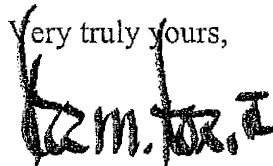
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The Commission feels that while you may not be involved in a continuing business relationship with lawyers or other persons likely to come before you because you are required to recuse yourself in those cases involving the Law Firm, the provision which prohibits you from engaging in business dealings that may reasonably be perceived to exploit your judicial position would prohibit you from renting the building to the law firm.

While the perception would no doubt be unfounded, it could in the mind of the public be perceived as an exploitation of your judicial position since the public would not know about the requirement that you recuse yourself in all cases involving the law firm.

It is hoped that this opinion fully addressed the question which you raised. If there is any further question regarding this matter do not hesitate the Commission.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Fred L. Fox, II". The signature is stylized with a large, prominent "F" and "L".

Fred L. Fox, II, Chairperson
Judicial Investigation Commission

FLF,II:nb