



JUDICIAL INVESTIGATION COMMISSION

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November 21, 2005

Re: JIC Advisory Opinion 2005-22

Dear

Your request for an advisory opinion has been reviewed by the Judicial Investigation Commission. In your recent request you asked for an advisory opinion with regard to the following matters:

1. Can a Judge and/or members of his family invest as a shareholder in a new out of state de novo bank which does not include the area of the Judge's Judicial Circuit in its market area?
2. Depending upon the magnitude of the investment, it is also possible there will be the opportunity to serve as a bank director. Therefore, can a Judge and/or members of the Judge's family serve on the board of directors of a closely held out of state de novo bank (which does not include the Judge's Circuit in its designated market area)?

To address the questions which you have raised, the Commission has reviewed Canon 4 of the Code of Judicial Conduct. Canon 4 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.

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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.

D. Financial activities. - (3) A judge shall not serve as an officer, director, manager, general partner, adviser or employee of any business entity except that a judge may, subject to the requirements of this Code, manage and participate in:

- (a) a business closely held by the judge or members of the judge's family, or
- (b) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.

Based upon the language contained in these relevant sections of Canon 4 of the Code of Judicial Conduct, it is the opinion of the Commission that you could invest as a shareholder in a new out of state bank which does not include the area of your circuit in its market area. However, you would not be permitted to serve on the board of directors of the bank because of the prohibition set forth in Canon 4.

It is hoped that this opinion fully addresses the questions which you have raised. If there is any further question regarding this matter do not hesitate to contact the Commission.

Very truly yours,



Fred L. Fox, II, Chairperson
Judicial Investigation Commission

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