



JUDICIAL INVESTIGATION COMMISSION

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

December 19, 2005

Re: JIC Advisory Opinion 2005-23

Dear _____

In a recent letter to Counsel you asked for an advisory opinion. In that letter you stated that the _____ County Commission has indicated that it wishes to give Christmas turkeys to all county employees, and to judicial employees situated in the _____ County Courthouse. You stated that you and at least one other Circuit Judge question whether or not this would be proper. You said that you did not have much doubt about a circuit judge or a direct member of the judge's staff receiving such a gift, but do question whether or not it would be proper for any other employees paid by the Administrative Office. Those employees would include: Magistrate Court Employees; Probation Department Employees; Juvenile Referee Employees; Law Librarian; Court Administrator and Circuit Court Employees. You stated that you were not requesting specifically for an advisory opinion regarding Family Judges in _____ County.

To address the question which you have raised, the Commission has reviewed Canon 4 of the Code of Judicial Conduct. Canon 4 states in relevant part:

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. - (5) A judge shall not accept, or knowingly permit staff, court officials, and others subject to the judge's direction and control to accept, and should urge members of the judge's household, not to accept a gift, bequest, favor, or loan from anyone except for:

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(h) any other gift, bequest, favor or loan, only if: the donor is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge; and, if its value exceeds \$150.00, the judge reports it in the same manner as the judge reports compensation in Section 4H.

The Commentary to that section of Canon 4 states:

Commentary - Section 4D(5)(h) prohibits judges from accepting gifts, favors, bequests, or loans from lawyers or their firms if they have come or are likely to come before the judge; it also prohibits gifts, favors, bequests, or loans from clients of lawyers or their firms when the clients' interests have come or are likely to come before the judge.

Based upon the language set forth in the above quoted section of Canon 4, it is the opinion of the Commission that the employees could accept the turkeys if the prohibitions set forth in Canon 4D(5)(h) are followed.

It is hoped that this opinion fully addresses the questions which you have raised. If there are any further questions 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, looped "F" and "L".

Fred L. Fox, II, Chairperson
Judicial Investigation Commission

FLF,II:nb