



JUDICIAL INVESTIGATION COMMISSION

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

September 19, 2006

Re: JIC Advisory Opinion 2006-11

Dear

In a recent letter to the Judicial Investigation Commission you asked for an advisory opinion. Your letter requested the advisory opinion with respect to three issues. The first issue related to a contact you received from the local women's center. That organization provides shelter, counseling, and assistance to victims of domestic violence, primarily women, but occasionally men. They also operate the monitored visitation center to which you refer litigants and they have volunteers and staff who assist alleged victims of domestic violence who appear in family court for domestic violence hearings. The women's center desires to recognize the family court and your bailiffs at a candlelight vigil, a public ceremony, to be held during Domestic Violence Awareness month this October by presenting a plaque to you on behalf of their clients and staff for your dedication, professionalism, and for being so supportive. You asked whether it would violate the Code of Judicial Conduct for you and /or staff to accept the plaque.

The second issue pertains to an annual fundraising dinner of a local counseling service. The counseling service is one to which you often refer litigants for services, and the counselors there often testify in family court. You asked whether it would violate the Code of Judicial conduct for you to pay for and attend the dinner.

The third issue relates to receiving gifts. Occasionally, primarily at Christmas time, attorneys who most commonly regularly appear in family court bring to the family court gifts such as cakes, cookies, candy and fruit baskets. In addition, a foreign language interpreter who provides interpreting services for family court and who is paid for those services by the Supreme Court has offered staff members a gift certificate to a local restaurant and has brought trays of baked goods and candy. You asked whether it would violate the Code of Judicial Conduct to accept these gifts.

To address the questions which you have raised, the Commission has reviewed Canon 2 and Canon 4 of the Code of Judicial Conduct. Those Canons state in relevant part:

Canon 2. A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

A. A judge shall respect and comply with the law, shall avoid impropriety and the appearance of impropriety in all of the judge's activities, and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

* * *

Canon 4. A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations.

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.

C. Governmental, civic, or charitable activities.

- (3) Civic and charitable activities. - A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of the judge's judicial duties. . . .

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 family residing in the judge's household, not to accept a gift, bequest, favor, or loan from anyone except for:

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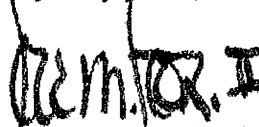
(h) any other gift, bequest, favor or loan, only if: the donor is not a party or other person who has come or is likely to come or whose interest has come or is likely to come before the judge; and, if its value exceeds \$150.00, the judge reports it in the same manner as the judge reports compensation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

Given the language contained in the relevant sections of Canon 2 and Canon 4, it is the opinion of the Commission that you should not engage in those activities set forth in paragraph one of your letter, which relate to the Family Court and the candlelight vigil during Domestic Violence Awareness month. The language in the Canons also would preclude your attendance at the annual fund raising dinner at a local counseling service to which you refer litigants for services and which has counselors who often testify in the family court.

The prohibition set forth in Canon 4D(5)(h) of the Code of Judicial Conduct would make it inappropriate for the acceptance of gifts as you set forth the facts in paragraph three of your letter. There was some feeling among the members of the Commission that the acceptance would be appropriate if the gifts were small items such as cookies or candy and those items were made available to all individuals who may be present in the court, such as litigants, witnesses, lawyers, etc. The idea was that such "community property" would not attribute the gift individually to family court staff or individuals employed by the family court.

It is hoped that the Commission has fully addressed the questions which you have raised. Also please see JIC Advisory Opinions 4/12/93, 4/11/96, 4/24/97 and 8/29/97 which are consistent with this opinion and which are attached hereto for your review. If there is any further question regarding these matters do not hesitate to contact 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, looped "F" and "L".

Fred L. Fox, II, Chairperson
Judicial Investigation Commission

FLF,II:nb

Enclosures