



JUDICIAL INVESTIGATION COMMISSION

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

December 28, 2007

Re: JIC Advisory Opinion 2007-30

Dear

In a recent letter to the Judicial Investigation Commission you asked for an advisory opinion. You stated that you are anticipating running for re-election next year. As you did in the election of 2000, you will accept no contributions; not from lawyers, not from friends, not relatives. You alone will personally pay for your re-election effort. You are expecting an opponent. The last time you spent \$52,000 of your personal savings. You may need to do the same this year, but in any event the only money spent on your re-election will be your own.

You added that notwithstanding this situation, it was your understanding from a 2000 JIC advisory opinion that you must still create a campaign finance committee even though you are the committee's sole source of revenue. You felt this requirement was silly and created a fiction. Presently, election laws would permit you to spend without limitation your own money on your behalf. However, based on election law, you cannot "contribute" to your own campaign committee anything more than \$1,000 per election cycle. This law forces you to "loan" to your committee all of its funds. At the end of the election the committee disbands and its "debt" to you is never repaid.

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You stated that you want to pay for your own election as you did the last time. You want the public to know that you are not accepting contributions. When you said that during the last election your opponent pointed out that you had loaned money to your committee and when the election was over you could expect repayment by accepting post election contributions. You did not and will not accept such contributions. You asked the Judicial Investigation Commission to reconsider its 2000 advisory opinion on this subject.

Your request for the advisory opinion was considered by the Commission at its recent meeting. To address the inquiry which you have made, the Commission reviewed Canon 5 of the Code of Judicial Conduct. Canon 5 states in relevant part:

Canon 5. A judge or judicial candidate shall refrain from inappropriate political activity.

- C. Judges and candidates subject to public election. - (2) A candidate shall not personally solicit or accept campaign contributions or personally solicit publicly stated support. A candidate may, however, establish committees of responsible person to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums, and other means not prohibited by law. Such committees may solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. Such committees are not prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

It would appear that the main objective of Canon 5C(2) is to insulate a judicial candidate from accepting or soliciting campaign contributions. The direct solicitation and acceptance of campaign money from individuals by a judge or judicial candidate could color the public's perception of judicial elections in a way that could harm the judiciary. However, you state in your letter that you will be providing your own money to finance your campaign and will accept no contributions from lawyers, friends or relatives. Your campaign would be funded from no outside money but only from your own contributions and assets.

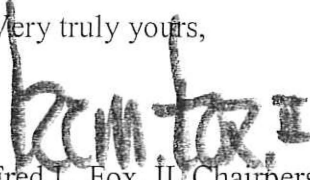
Based upon the Commission's reading of the Canon and the information which you have provided, it is the opinion of the Commission that if a judicial candidate receives no contributions from any source but uses only the candidate's personal money and/or assets to fund a judicial campaign, than no committee would be necessary.

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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 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