



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 2007-31

Dear

In a recent letter to the Judicial Investigation Commission you asked for an advisory opinion. In that correspondence you stated that your secretary's son-in-law has passed the Bar and is practicing in . He has requested to be put on your appointment list. You inquired about any ethical considerations you might have appointing him to cases in your court.

To address the question which you have raised, the Commission has reviewed Canon 3 of the Code of Judicial Conduct. Canon 3 states in relevant part:

Canon 3. A judge shall perform the duties of judicial office impartially and diligently.

- A. Judicial duties in general. The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the following standards apply.
- B. Administrative responsibilities. – (1) A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.

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- (2) A judge shall require staff, court officials, and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.

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- (4) A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the fair value of services rendered.

Based upon the language contained in the relevant sections of Canon 3, the Commission feels that you can appoint your secretary's son-in-law to cases in your court. You would be required to utilize a system which would allow you to make such appointments impartially and without favoritism shown to any of the of the appointees.

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, looped "F" and a distinct "II" at the end.

Fred L. Fox, II, Chairperson
Judicial Investigation Commission

FLF,II:nb