

## JUDICIAL INVESTIGATION COMMISSION

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

March 10, 2008

JIC Advisory Opinion 2008-02

Dear Magistrate

In a letter to the Judicial Investigation Commission you asked for an advisory opinion. You stated that you are unclear about fundraising by a judicial officer or candidate for judicial office. You asked the local prosecuting attorney who advised you that as long as the officer or candidate does not handle the money it is okay. You asked a number of questions in your letter. First, you asked whether the prosecuting attorney was correct in his answer to you. You also asked if you could be an officer of a nonprofit organization or be a member of a committee in a nonprofit organization that routinely holds fundraisers and be a part of the planning, scheduling, setting up and conduct of those fundraisers. Could you hold such position if you have input about how the funds would be spent. You asked whether you could serve meals at dinners or sell raffle tickets. Also, you wondered if you could be the master of ceremonies at a fund raising event. You wondered if you could participate publicly, in any way, when an organization that you do or do not belong to is conducting a fund raising event.

Before turning to other questions that you have raised, the Commission will address the first series of questions which you asked. To address those questions the Commission has reviewed Canon 4 and Canon 5 of the Code of Judicial Conduct. Those Canons state 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.

C. Governmental, civic, or charitable activities.

(3) Civic and charitable activities. A judge may participate in civil and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of the judge's judicial duties. A judge may serve as an officer, director, trustee, or non-legal adviser of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members subject to the following limitations:

- (a) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court.
- (b) A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of office for that purpose; but a judge may be listed as an officer, director, or trustee of such an organization, so long as the listing is not used for fund-raising purposes. A judge should not be a speaker or the guest of honor at an organization's fund-raising events, but may attend such events.

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 persons 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 for lawyers. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

March 10, 2008  
Page Three

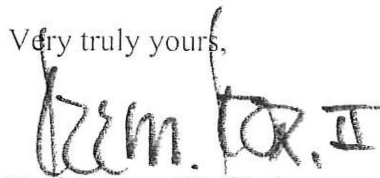
A review of these Canons would mean that you must have a committee to raise money as a judicial officer or candidate for judicial office. The language contained in the Canon sets forth specifically what the committee is permitted to do on behalf of the candidate.

Canon 4 would prohibit you being an officer in an organization that routinely holds fundraisers or be a part of the planning schedule and setting up or conduct of those fundraisers. It also prohibits you serving meals at dinners or selling raffle tickets which attempt to raise funds. You may not be the master of ceremonies at a fund raising event. You may not be the speaker or guest of honor at such an event but you may attend the event.

You further asked in your letter whether you can serve on the board of directors or be a member of a foundation for an entity that regularly uses magistrate court for the collection of their past due accounts and due to the nature of their business has been or could be in the future a part to other actions in magistrate, circuit and other state courts. You asked whether you could be the director of an association for pay who's members might possibly be parties in court actions in either magistrate, circuit, state or federal courts. Again, the language contained in Canon 4C outlines the prohibition that you may not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before you, or would be regularly engaged in adversarial proceedings in any court. For those reason you could not serve on the board of directors of such entity.

It is hoped that this opinion fully addressed the questions which you have raised. If there are any further questions 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, III". The signature is stylized with a large, looped "F" and "L".

Fred L. Fox, III, Chairperson  
Judicial Investigation Commission

FLF:nb