

JUDICIAL INVESTIGATION COMMISSION

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

March 24, 2008

Re: JIC Advisory Opinion 2008-03

Dear Mr. [REDACTED]:

In a letter to the Judicial Investigation Commission you asked for an advisory opinion. You stated that you are a member of a West Virginia limited liability company holding an equal interest with two other members. The other members are not attorneys. The purpose of this LLC is to own and manage residential and commercial real estate. None of your tenants are attorneys. You plan to run for judge in 2008 and want to be certain that retaining your interest in this LLC as a candidate and, if successful, as a judge is acceptable.

To address the inquiry which you have made, the Commission has reviewed Canon 4 of the Code of Judicial Conduct. This Canon 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.

(3) A judge shall not serve as an officer, director, manager, general partner, adviser or employee of any business entity except that a judge may, subject to the requirements of this Code, manage and participate in:

(a) a business closely held by the judge or members of the judge's family,
or

(b) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.

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Based upon the language contained in the relevant section of Canon 4, it is the opinion of the Commission that while you could maintain your interest in the LLC while you are a candidate for judicial office it would not be appropriate or proper for you to maintain that interest if you are successful in the campaign and become a judge.

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, bold "F" and "L", and a smaller "II" at the end.

Fred L. Fox, II, Chairperson
Judicial Investigation Commission

FLF:nb