



JUDICIAL INVESTIGATION COMMISSION

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March 23, 2009

Re: JIC Advisory Opinion 2009-10

Dear Judge

In a recent letter to the Judicial Investigation Commission you asked for two advisory opinions regarding some of your community activities. You first attached an email in which the President of the _____ County Board of Education has asked you to serve on the Comprehensive Educational Facilities Plan Committee for _____ County. The duties of the committee were outlined in the email and include developing an educational facilities plan for the county school system for the next decade. You asked if you could serve on this committee and you also note that your wife is a teacher in the county school system.

You said that while you were an attorney you assisted two families in the creation of charitable foundations. The first one was the _____ Foundation which was established in 2002 in honor and memory of a young child who died of cancer. The foundation has raised substantial amounts of money to assist families and children and the funds are primarily raised by holding two fund-raising events. You asked whether you could continue to serve as the spokesperson for the foundation as long as you are not soliciting funds and are not identified as a circuit judge. You asked whether you could appear in an interview by local media for the purpose of speaking about the foundation but with the understanding that you would not solicit funds and would not be identified as a circuit court judge.

The other foundation you mentioned is a charitable foundation focused to help children and others who suffer from Crohn's Disease. This foundation has also raised a substantial amount of money through an annual golf tournament.

To address the questions which you have raised, the Commission has reviewed Canon 4 of the Code of Judicial Conduct. Canon 4 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.

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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. 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.

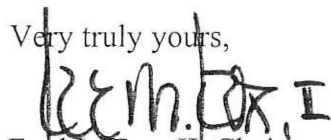
(b) A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of office for that purpose; but a judge may be listed as an officer, director, or trustee of such an organization, so long as the listing is not 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.

Based upon the language contained in this section of Canon 4, it is the opinion of the Commission that you should not serve on the Comprehensive Educational Facilities Plan Committee since the County Board of Education is an organization likely to be engaged in proceedings that would come before the Court.

Likewise, it is the opinion of the Commission that you should not continue to serve as the spokesperson for the foundation you mentioned in your correspondence since it would be difficult for the public to discern between the foundation fund-raising and your identity as a circuit court judge. Likewise, you should not appear and be interviewed by local media for the purpose of speaking about the foundation since it would be difficult for the public to distinguish between the foundation's fund-raising activities and your service as the circuit court judge.

It is hoped that these opinions fully address the questions which you have raised. If there is any further question regarding this matter do not hesitate to contact the Commission.

Very truly yours,



Fred L. Fox, II, Chairperson
Judicial Investigation Commission