



JUDICIAL INVESTIGATION COMMISSION

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

March 23, 2009

Re: JIC Advisory Opinion 2009-11

Dear

You have requested an advisory opinion regarding whether you should recuse yourself when appears in court. You indicated that is an attorney who served as your campaign manager during your campaign for circuit court judge and who with his wife is a personal friend of you and your husband. You asked specifically what disclosure, if any, should be made when he appears before you and what is the appropriate length of time for the disclosure to last.

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

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

E. Disqualification. - (1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned ...

The commentary to this Canon states that "[a] judge should disclose on the record information that the judge believes the parties or their lawyer's might consider relevant to the question of disqualification even if the judge believes there is no real reason for disqualification."

Based upon the language contained in Canon 3E and the information which you have provided to the Commission, it is the opinion of Commission that you should recuse yourself when this attorney appears before you. This opinion is based on the fact that he is a social friend of you and your husband and he served as your campaign manager when you ran for circuit judge. You should continue to recuse yourself for an extended period of time so that the language of Canon 3E is followed and there is no appearance of impropriety created.

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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 black ink, appearing to read "F. 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:nb