



JUDICIAL INVESTIGATION COMMISSION

City Center East - Suite 1200 A
4700 MacCorkle Ave., SE
Charleston, West Virginia 25304
(304) 558-0169 • FAX (304) 558-0831

June 28, 2011

Re: JIC Advisory Opinion 2011-11

Dear Magistrate:

In a letter to the Judicial Investigation Commission you asked for an advisory opinion. You stated that you and your wife and another husband and wife couple have started a new business venture. You asked whether there was any conflict between your new business, Agency, and your position as County Magistrate. You stated that there are four partners in the LLC including you. The new business is called Services, LLC and is owned by the four partners listed as

You stated that the business provides homemakers to go into member's homes and provide basic duties which may include housework, preparing meals, transporting members to and from doctor's appointments or civic functions that correlate with the rules of Medicaid.

You stated that you had no day to day control of the operation of this business. You have the title because of the LLC and because you cashed in your Deputy Sheriff's Retirement plan to fund the project. You state that you know you will have to disclose any possible conflict to all parties when hearing cases of a medical nature or that may somehow revolve around this kind of business transaction and you will remain vigilant in advising parties who may appear in front of you or any possible conflicts to consider.

To address the question which you have raised, the Commission has reviewed Canon 4D(3) of the Code of Judicial Conduct. That Canon states in relevant part:

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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.

After reviewing the language contained in Canon 4D(3), it is opinion of the Commission that you could participate in the business if you can do so by acting within the language and content set forth in the Canon. It is the understanding of the Commission that you may also need the consent of the Administrative Office of the Courts to involve yourself in any outside employment beyond your job as magistrate.

It is hoped that this opinion fully addresses the question which you have raised. If you have any further question regarding this matter do not hesitate to contact this office.

Very truly yours,

Ronald E. Wilson, Chairperson
Judicial Investigation Commission

REW:nb

