



JUDICIAL INVESTIGATION COMMISSION

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

November 10, 2011

Re: JIC Advisory Opinion 2011-19

Dear Judge

In a recent letter to the Judicial Investigation Commission you asked for an advisory opinion on a number of questions which have been raised since you have recently been appointed to the judiciary in _____ County. You stated that prior to your appointment you practiced law in _____ West Virginia for 28-years with _____

Because of your lifelong personal relationship, neither he or any member of his law firm will ever have a case before you. In your letter you asked four questions regarding various issues which you need to address since you have become judge.

The first three questions which you raise can be addressed by the language set forth in Canon 4D of the Code of Judicial Conduct which deals with the financial activities of a judge. In question number one you stated that you and _____ own equal shares of your law office space which is part of a larger building under the name _____. _____ intends to occupy the space for his law practice and his law firm will pay rent to _____. You will receive one-half of that rent, after expenses and appropriate deductions. You asked whether you could continue to own the space together and whether you could accept monthly rent. After reviewing the language set forth in Canon 4, it is the opinion of the Commission that you should sell your interest in that building by January 2013, in order to comply with the language set forth in Canon 4.

In the next question you state that you and _____ continue to have a checking and trust account which will continue to stay in place until all fees (contingency fees) that you are entitled to for past work are paid to you. You asked whether this is an acceptable way to handle fees that will come in over the next two or three years. Again, it is the opinion of the Commission that you are entitled to fees you earned for work done until you were appointed judge and left the law firm. After the fees are collected you should end the account which you describe.

You state that you and _____ have life insurance with the other named as beneficiary so upon the death of one of you there will be a source of funds to purchase the other's interest. You will continue to have fees that will come into _____ for approximately two to three years because of the nature of the cases (contingency fees) and you will continue to own office space together as referred to in your first question. You asked whether you could retain life insurance on each other. Again, based upon the language contained in Canon 4D and following, it is the opinion of the Commission that you should sever all interests in the insurance policy not later than January 2013.

You state that you serve on the _____ Foundation. You have attached to your correspondence documents indicating the nature and function of the Foundation and its work. You asked if you could continue to serve on the Board if you do not participate in the fundraising component of the Foundation. This issue which you have raised is controlled by Canon 4C(2) of the Code of Judicial Conduct. That section of Canon 4 would permit you to serve on the _____ Foundation so long as you do not participate in public fundraising activities. The Commission would further caution you that if any recipients of grants made by that Foundation were to appear before you the question of your recusal would be relevant and disclosure of your membership should be made.

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

Very truly yours,

A handwritten signature in black ink, appearing to read 'Ronald E. Wilson', with a stylized flourish at the end.

Ronald E. Wilson, Chairperson
Judicial Investigation Commission