



JUDICIAL INVESTIGATION COMMISSION

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

February 23, 2012

Re: JIC Advisory Opinion 2012-07.

Dear Ms.

Your request for an advisory opinion to Counsel was reviewed by the Judicial Investigation Commission at its February 10, 2012 meeting. The factual scenario giving rise to your request is as follows: You currently serve as President of the _____ County Federation of Democratic Women (____). You are also Treasurer of the Board of Directors for A Child's Place CASA (Court Appointed Special Advocate), Ltd. in _____ County. You also serve as membership chairman of the _____ County Sportsmen's Club. You are scheduled to become President of the GFWC-WV (Greater Federation of Women's Clubs of West Virginia) Twentieth Century Club in _____. Lastly, you are a volunteer in the VITA (Volunteer Income Tax Assistance) program. You want to know if you have to resign your membership and/or your office in any of these organizations by virtue of you running for the judicial office of Magistrate of _____ County. You also want to know if you must resign immediately or if you can wait until after the election.

Canon 6A of the Code of Judicial Conduct provides that "[a]ll candidates for judicial office shall comply with the applicable provisions." Canon 5 governs the political activity of judicial officers and candidates. Canon 5E states that "Canon 5 generally applies to all incumbent judges and judicial candidates. A candidate whether or not an incumbent and whether or not successful, is subject to judicial discipline for his or her campaign conduct."

Canon 5A(1)(a) provides that "a judge or a candidate for election or appointment to judicial office shall not act as a leader or hold an office in a political organization." The term "political organization" denotes "a political party or other group, the principal purpose of which is to further the election or appointment of candidates to political office."

Canon 5A(1)(e) states that "a judge or a candidate for election or appointment to judicial office shall not solicit funds for a political organization or candidate."

Canon 5A(3)(a) states that "[a] candidate for judicial office shall maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary and shall act in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

Canon 4C(3) of the Code of Judicial Conduct governs a judicial officer's involvement in civic and charitable activities and provides in pertinent part:

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 foregoing, you must resign from _____ pursuant to Canon 5A(1)(a). The _____ clearly meets the definition of "political organization." The _____ is a branch of the West Virginia Federation of Democratic Women (hereinafter WVFDW). The stated purpose of this organization is to "unite all Women's Democratic Clubs and all Democratic Women into one group working together for the success of the Democratic Party." Therefore, you must immediately resign from _____ altogether.

You should also resign your position as treasurer of CASA and from the organization all together. By serving as treasurer, you are automatically involved in fundraising activities for the organization which is clearly prohibited by the Canons set forth above. CASA is a noble organization. However, CASA volunteers represent the best interests of abused and neglected children in courtrooms and other settings. As such, the volunteers may have to take a position in favor of one party and against another. Accordingly, you should also resign from CASA immediately.

With respect to your serving as membership chairman of the County Sportsmen's Club, you should also resign this office. Membership chairmen are involved in the recruitment and retention of members to the organization and by necessity the solicitation of funds. Thus, you should immediately resign as membership chairman. However, you do not have to resign from the organization unless it is political in nature or would call into question the integrity or independence of the judiciary.

The Commission is of the opinion that you can serve as home-life chairman and then President of the Twentieth Century Club and that you can remain a VITA volunteer.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald E. Wilson", with a long horizontal flourish extending to the right.

Ronald E. Wilson, Chairperson
Judicial Investigation Commission

REW/tat