



JUDICIAL INVESTIGATION COMMISSION

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

February 23, 2012

[REDACTED]
Magistrate [REDACTED]
[REDACTED]
[REDACTED]

Re: JIC Advisory Opinion 2012-12.

Dear Magistrate [REDACTED]

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 are a candidate for re-election to the position of Magistrate of [REDACTED] County. Some local non-political civic and charitable organizations are sponsoring events such as Longaberger basket bingo to raise money. You want to know if a candidate for a judicial office can donate money to the organization. You have also asked whether a candidate can donate any items toward a prize and be recognized as such running for office. You want to know if a candidate can display campaign material in a basket donated by the candidate as a prize? You also want to know if a candidate can participate during the event by selling raffle tickets, selling food, collecting money for a 50-50 drawing, or calling numbers. Lastly, you want to know whether a candidate can purchase a ticket and play, participate in a 50-50 drawing or bid on a silent auction item.

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.

Canon 5 regulates the political activity of judicial officers and candidates for judicial office. 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 5C(2) states:

A candidate shall not personally solicit or accept campaign contributions or personally solicit publicly stated support. A candidate may, however, establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums, and other means not prohibited by law. Such committees may solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. Such committees are not prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

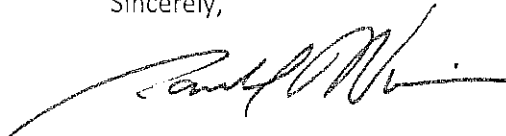
The Commission has previously issued several advisory opinions on some of the issues raised in your letter. In Advisory Opinion 3/10/2008, the Commission held that a Magistrate who was running for re-election was “prohibit[ed] from serving meals at dinners or selling raffle tickets which attempt to raise funds.” The Magistrate also could not be the master of ceremonies, a speaker or the guest of honor at a funding raising event. However, the Commission stated that the Magistrate could attend the event. In Advisory Opinion 1/12/2000, the Commission stated that a Judge could purchase a ticket for and attend an Elimination Dinner but could not solicit any funds for the organization holding the event or himself/herself. The term “Elimination Dinner” referred to “the selling and/or purchasing of one of

several numbered tickets by a nonprofit group which are then drawn during the dinner in lottery fashion with the last ticket being drawn eligible to receive a large cash prize." In Advisory Opinion 08/26/1996, the Commission found that a judicial officer who was running for re-election could participate in and be identified as a magistrate at a "celebrity goat milking" as long as the event was not used for purposes of soliciting funds. Before reaching this conclusion, the judicial officer advised that the he/she "would not be using the event for campaign purposes."

In applying the foregoing to the questions at hand, the Commission is of the opinion that your campaign committee can donate money to the civic or charitable organization. If you do not have a campaign committee then you may donate money as an individual but not as a candidate. Your campaign committee can donate a basket to the civic or charitable organization to be used as a door prize and it may display campaign material. However, the basket may not be raffled off because to do so constitutes the solicitation of funds. If you do not have a campaign committee then you may donate the basket as an individual but not as a candidate for judicial office. You cannot sell raffle tickets or food, collect money for a 50-50 drawing, or call numbers. However, you may purchase a ticket and play, participate in a 50-50 drawing or bid on a silent auction item.

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