



JUDICIAL INVESTIGATION COMMISSION

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

August 30, 2013

Re: JIC Advisory Opinion 2013-11.

Dear Judge

Your request for an advisory opinion was reviewed by the Judicial Investigation Commission. You were recently appointed to the bench and you want to know if it is permissible for you to retain a 25% membership interest in a local real estate company. The other two partners are non-lawyers. The company owns one asset, a home which was constructed within the City. The home was built several years ago and has yet to be sold. There is a mortgage and your partners and you are personal guarantors. The company has rented the home for the past couple of years because you have been unable to sell it, and the monthly mortgage payments are made from the rental fees. The Company has no employees and you do not plan any new building ventures. Indeed, the goal is to eventually sell the house, pay off the debt and dissolve the company. You stated that your partners are not persons likely to ever come before you and that you have made arrangements with the other judge to handle any court proceedings involving them.

Secondly, you have a one-half ownership interest in your former office building. The other one-half interest is owned by one of the other three members of your firm. You want to know if you can either enter into a lease agreement with your former partners or sell your ownership interest to them and owner-finance the purchase price over a 10 to 15 year period at a reasonable rate. Your former law partners also happen to be your first cousins, and you

consider them to be more like siblings. The firm was started by your grandfather, who was also the original owner of the office building. Moreover, your daughter is presently in law school and plans to join the firm upon graduation. You have already decided to permanently disqualify yourself from handling any of the firm's cases because of your close relationship with your cousins.

To address the questions which you have raised, the Commission has reviewed Canons 4D(2) and 4D(4) of the Code of Judicial Conduct which provide:

(2) A judge may, subject to the requirements of this Code, hold and manage investments of the judge and members of the judge's family, including real estate, and engage in other remunerative activity.

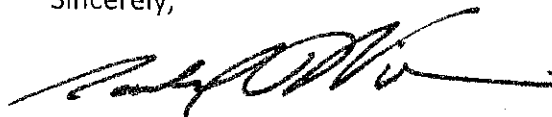
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(4) A judge shall manage the judge's investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge shall divest himself or herself of investments and other financial interests that might require frequent disqualification.

Based upon the foregoing, the Commission is of the opinion that you may continue with your 25% membership interest in the real estate company until you have sold the property in question. However, if the company decides at any time to expand then you should immediately divest yourself of your share of the business. The Commission also believes that you may either lease or sell and owner-finance your share of your former office building to your first cousins since you are permanently disqualified from presiding over any of the firm's cases by virtue of your close familial relationship with the members of the firm.

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', written in a cursive style.

Ronald E. Wilson, Chairperson
Judicial Investigation Commission

REW/tat