



## **JUDICIAL INVESTIGATION COMMISSION**

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

January 14, 2014

Re: JIC Advisory Opinion 2014-01.

Dear

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission. The factual scenario giving rise to your request is as follows: A former teacher, mentor and close friend of yours passed away in December 2013 and listed you as the personal representative for his estate. You want to know if you can serve in that capacity.

Your friend is survived by one elderly cousin and two step-granddaughters, one of whom is a minor. You knew this gentleman for more than forty (40) years and considered him a father figure. You spoke with him three or four times a week, and the two families spent time together during major holidays. You also indicate that your friend was "instrumental in my personal and professional life and whatever modest accomplishments I have achieved in life I owe all to him."

You state that the administration of the estate should be straight forward and that you do not propose to personally attend to the day-to-day matters but intend to hire counsel to make sure that the estate is in compliance with all rules and statutes. You also do not envision any litigation or other matters that might come before a court or tribunal.

The Commission has reviewed Canon 4E of the Code of Judicial Conduct to address the question which you have raised. Canon 4E states in relevant part:

**Canon 4. A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations.**

E. Fiduciary activities. – (1) A judge shall not serve as executor, administrator, or other personal representative, trustee, guardian, attorney in fact, or other fiduciary, except for the estate, trust, or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of judicial duties.

(2) A judge shall not serve as a fiduciary if it is likely that the judge as a fiduciary will be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves or under its appellate jurisdiction.

The Code defines “member of the judge’s family” as “a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship.”

The Commission recognizes that in today’s society blood may make you related, but it doesn’t always make you family. In reality, we often create our own families consisting of people we are not related to, but with whom we share our joys, sorrows, love, respect, commitment and time. Therefore, the Commission agrees that it is not only proper, but in the best interest of your friend’s estate that you fulfill his request that the person he trusted and loved, serve as his personal representative.

We hope this opinion fully addresses the issue which you have raised. We also wish to express our condolences for the loss of your friend. 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