



**JUDICIAL INVESTIGATION COMMISSION**

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

April 3, 2014

Re: JIC Advisory Opinion 2014-08.

Dear

Your recent request for an advisory opinion to Counsel was reviewed by the Judicial Investigation Commission. The factual scenario giving rise to your request is as follows: Your grandmother passed away on March 31, 2013. Your two sisters and you are the only heirs to her estate, which consists of a mobile home. You all agree that the home should be sold. One of your sisters has filed to become the Administratrix of the estate, and everyone concurs that she should serve in that capacity. Pursuant to W. Va. Code § 44-1-6, your sister is required to post a bond but cannot use her own land as surety. You want to know if you can post the bond for your sister and sign your name to the Bond Book.

To address the question which you have raised, the Commission has reviewed Canons 4D(1) and Canon 4E of the Code of Judicial Conduct provide:

**Canon 4.**

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

D. Financial activities.

(1) A judge shall not engage in financial and business dealings that:

- (a) may reasonably be perceived to exploit the judge's judicial position, or
- (b) involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves.

...

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 one under its appellate jurisdiction.

(3) The same restrictions on financial activities that apply to a judge personally also apply to the judge while acting in a fiduciary capacity.

The Code defines "member of the judge's family" in part as "any relative of a judge by blood or marriage."

Despite certain limitations, Canon 4D permits judges to engage in financial activities while Canon 4E allows judicial officers to have some personal involvement in estate matters pertaining to family members. The Commission is of the opinion that when these provisions are read *in pari materia* and applied to your factual scenario, you may post bond for your sister and append your name to the Bond Book since the matter involves your grandmother's estate, you will be posting the bond on behalf of your sister, and all parties agree as to the resolution of the matter. Additionally, it is highly unlikely that such action on your part will interfere with the proper performance of your judicial duties; will be perceived to exploit your judicial position; will involve you in frequent transactions; or will create an appearance of impropriety.

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 blue ink, appearing to read "Ronald E. Wilson", is written over a horizontal line.

Ronald E. Wilson, Chairperson  
Judicial Investigation Commission

REW/tat