



**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 5, 2014

Re: JIC Advisory Opinion 2014-15

Dear

Your request for an advisory opinion was reviewed by the Judicial Investigation Commission at its August 1, 2014 meeting. The factual scenario giving rise to your request is as follows:

You are contemplating opening a pizzeria in \_\_\_\_\_ County along with two partners – a \_\_\_\_\_ County Deputy Sheriff and a bail bondsman who works for a bonding company of out \_\_\_\_\_ County. Each of you would own a one-third interest in the restaurant. You envision that you would help cook, deliver food and manage the inventory. You would also help with hiring and training employees and cleaning. You indicated that the day to day duties of managing employees would be done by your partners and that an accountant would handle all the finances.

You are looking for ways to finance the endeavor. You are contemplating obtaining loans from a bank and/or the \_\_\_\_\_ County Economic Development Authority, which is partly funded through the \_\_\_\_\_ County Commission. However, the latter loan application would be made directly to the EDA, and the agency's board of directors would make the decision on granting or denying the loan.

To address your question, the Commission has reviewed Canons 4A(1) and (3), 4B(1)(b) and 4D(3) of the Code of Judicial Conduct. Canon 4A states that "[a] judge shall conduct all of the judge's extra-judicial activities so that they do not: (1) cast reasonable doubt on the judge's capacity to act impartially as a judge; . . . or (3) interfere with the proper performance of judicial duties."

Canon 4(B)(1)(b) states that "[a] judge shall not engage in financial and business dealings that 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." Meanwhile, Canon 4D(3) provides:

A judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that a judge may, subject to the requirements of this Code, manage and participate in: (a) a business closely held by the judge or members of the judge's family, or (b) a business entity primarily engaged in investment or the financial resources of the judge or members of the judge's family.

Based upon the information which you have given to the Commission it would appear that you would be a general partner in the pizzeria and the exceptions set forth in Canon 4D(3)(a) and (b) are not present in your situation. Additionally, the venture would put you in a continuing business relationship with a deputy sheriff who comes before the court on which you serve and a person who posts bonds for people who are involved in the County Court system. The same result occurs if you obtain financing from the EDA since the County Commission is a partial funding source. Lastly, the nature of your planned involvement in the day to day activities in the restaurant may interfere with your judicial duties.

For these reasons it is the opinion of the Commission that you could not continue to serve as a Magistrate of County and own a pizzeria. Please be advised that our decision is consistent with JIC Advisory Opinion 10/23/1996 (magistrate cannot work as a private investigator during his/her off duty hours); JIC Advisory Opinion 12/13/1996 (magistrate cannot concurrently work as a real estate agent); and JIC Advisory Opinion 3/10/2003 (magistrate cannot concurrently be employed at a local supermarket).

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