



**JUDICIAL INVESTIGATION COMMISSION**

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

October 24, 2016

Re: JIC Advisory Opinion 2016-27

Dear

Your request for an advisory opinion was reviewed by the Judicial Investigation Commission during its October 21, 2016 meeting. The facts giving rise to your request are as follows: On May 10, 2016, you were elected Judge of the Judicial Circuit. You will take office on January 1, 2017. Presently, you serve as one of four trustees for the Charitable Lead Trust. Your appointment resulted from a longstanding friendship with the family. Prior to her death, designated certain organizations to receive the benefit of her Charitable Trust. They are St. Mary's Grade School, Little People of America, the WVU College of Law (building renovation/expansion program), WVU School of Medicine Stroke Center (endowed faculty chair allowing for neurologic research, teaching and service), and the County Cultural Foundation.

You do not provide legal advice to the Trust. Instead, the Trust retains a multi-state law firm to provide counsel and a large accounting firm for all financial needs. The trustees ensure that the corpus is properly maintained and that the beneficiaries are using the funds in a manner consistent with wishes. The trustees meet at least once quarterly. The meetings are scheduled so as not to interfere with normal work schedules. Trustees are compensated a maximum of \$3,750.00 each quarter depending on the level of participation. Each trustee is insured as part of the Trust. Lastly, you do not believe that the Trust would be involved in any proceedings before the Court.

You want to know if you can continue to serve as trustee even after you take judicial office. To answer your question, the Commission has reviewed Rules 3.1, 3.7(A)(6) and 3.12 of the Code of Judicial Conduct which provide in pertinent part:

### **Rule 3.1      Extrajudicial Activities in General**

A judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not:

- A.    participate in activities that will interfere with the proper performance of the judge's judicial duties;
- B.    participate in activities that will lead to frequent disqualification of the judge;
- C.    participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality;
- D.    engage in conduct that would appear to a reasonable person to be coercive; or
- E.    make use of court premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.

### **Rule 3.7      Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities**

- A.    Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:
  - (6)    serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity:
    - (a)    will be engaged in proceedings that would ordinarily come before the judge; or
    - (b)    will frequently be engaged in adversary proceedings in the court of which the judge is a member, or in

any court subject to the appellate jurisdiction of the court of which the judge is a member.

### **Rule 3.12 Compensation for Extrajudicial Activities**

A judge may accept reasonable compensation for extrajudicial activities permitted by this Code or other law unless such acceptance would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.

Comment [1] to Rule 3.12 states that a judge may accept honoraria, stipends, fees, wages, salaries, royalties or other compensation for extrajudicial activities. The compensation must be reasonable and commensurate with the task performed. Judicial duties must take precedence over other activities. Comment [2] states that "[c]ompensation derived from extrajudicial activities may be subject to public reporting."

Based upon the foregoing, the Commission is of the opinion that you may continue to serve as trustee for the Charitable Lead Trust and that you may continue to receive the quarterly compensation for your service after you take judicial office. You should be mindful to disclose your relationship pursuant with the other attorneys involved in the trust who may appear before you in other matters pursuant to Rule 2.11(C).

We hope this opinion fully addresses the issue which you raised. If there is any further question regarding this matter do not hesitate to contact the Commission.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ronald E. Wilson", with a long, sweeping horizontal line extending to the right.

Ronald E. Wilson Chairperson  
Judicial Investigation Commission

REW: tat