



JUDICIAL INVESTIGATION COMMISSION

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

June 29, 2017

Re: JIC Advisory Opinion 2017-15

Dear

Your request for an advisory opinion was recently reviewed by the Judicial Investigation Commission. The facts giving rise to your inquiry are as follows. You have been asked to participate in a fundraiser for the local United Way. The fundraiser involves a dance contest similar to the television show Dancing With the Stars. Your partner and you would be among several contestants vying for the title of best dancer or best dancing couple. You do not plan on selling any tickets for the fundraiser and you would not be involved with any of the advertising for the event. Following the contest, people will have 24 hours to vote for their favorite dance team online. Casting a vote will cost \$5.00 which will also go to the YWCA. You want to know if you may participate in the event as a dancer.

To address your question, the Commission has reviewed Rules 1.2 and 3.7(A)(2) of the Code of Judicial Conduct which provides in pertinent part:

Rule 1.2 – Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

Rule 3.7 – Participation in . . . Charitable . . . 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: . . .

- (2) soliciting contributions for such an organization or entity, **but only from members of the judge's family, or from judges over whom the judge does not exercise supervisory or appellate authority:**

(emphasis added)

Comment [1] to Rule 1.2 states that “[public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.” Comment 2 notes that “[a] judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by the Code.” Comment 3 to Rule 3.7 gives some parameters of the level of involvement by a judge at a charitable event:

Mere attendance at an event, whether or not the event serves a fund-raising purpose does not constitute a violation. . . It is also generally permissible for a judge to serve as an usher or a food server or preparer, or to perform similar functions, at fund-raising events sponsored by educational, religious, charitable, fraternal or civic organizations. Such activities are not solicitation and do not present an element of coercion or abuse the prestige of judicial office.

Based upon the foregoing, it is the decision of the Commission that you cannot participate in the fundraiser as a dancer since some of the funds raised will come from people paying \$5.00 to vote for their favorite dancers. 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 blue ink, appearing to read 'Ronald E. Wilson', with a stylized flourish at the end.

Ronald E. Wilson Chairperson
Judicial Investigation Commission