

JUDICIAL INVESTIGATION COMMISSION

WV Judicial Tower - Suite 700 A
4700 MacCorkle Ave., SE
Charleston, West Virginia 25304
(304) 558-0169

February 13, 2023

Re: JIC Advisory Opinion 2023-06

Dear _____ :

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission. The facts giving rise to your request are as follows: You successfully ran for office in 2020. You had a campaign committee to help you in your endeavor. The committee included lawyers and non-lawyers. At some point after the election, your campaign was closed following the payment of all expenses and any remainder was contributed to charity. Your April 7, 2021, campaign finance report was entitled a final report and showed the campaign finance account closed with a zero balance. Your committee also disbanded. According to you the committee has had no meetings or calls since June 2020.

On or about September 20, 2021, a television advertising vendor apparently discovered that your campaign had been overcharged for advertising and issued a refund to your campaign. The Secretary of State's office advised your treasurer to re-open the campaign to account for the refund and to file quarterly reports as long as the funding remained. Beginning third quarter 2021 to date, the treasurer has filed quarterly reports on the refunded amount.

Given these circumstances, it is your understanding that the committee could not legally be permitted to solicit or accept further contribution. In other words, the committee can no longer raise campaign funds even though the

campaign has been re-opened. Thus, the only reason the committee is now open is to account for 2021 refund.

In JIC Advisory Opinion 1995-34, the JIC stated that a judge running for office had a duty to disclose that attorneys appearing in his/her courtroom were serving on his/her campaign committee and to follow Trial Court Rule 17 if a Motion to Disqualify was filed. In JIC Advisory Opinion 2022-07, the JIC said a judge/judicial candidate must disclose the nature of the relationship when the lawyer becomes a member of the campaign committee and should continue to do so for one year after the judicial candidate takes office or for one year after the dissolution of the campaign committee, whichever is longer.

You are concerned because your 2020 campaign treasurer, who is not an attorney, serves as a lobbyist for certain interests that may have cases before the Court from time to time. Additionally, some lawyers who were on your 2020 campaign committee argue before the Court from time to time. You want to know if the reopening of the 2020 campaign under the circumstances set forth requires you to disclose your former relationship with these individuals.

Based upon the foregoing, the JIC is of the opinion that you do not need to disclose the nature of the relationship nor do you need to disqualify yourself from presiding over any cases involving any 2020 campaign committee members. The re-opening of the campaign committee is based on a narrow technicality and because of that the JIC does not believe that disclosure or disqualification are necessary. We hope that this opinion fully addresses the issue which you have raised. Please do not hesitate to contact the Commission should you have any questions, comments or concerns or desire additional advice.

Sincerely,



Alan D. Moats, Chairperson
Judicial Investigation Commission