



JUDICIAL INVESTIGATION COMMISSION

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

March 13, 2024

Re: JIC Advisory Opinion 2024-08

Dear :

The Commission has considered your recent request for an advisory opinion. You are running for judicial office in the May 2024 election. You have served continually since January 1, 2021. Prior to taking the bench, you were an auctioneer. You want to know if you can have your auctioneer license reinstated and serve as part-time auctioneer performing bid calls for other auction companies. You would also like to perform at non-profit charity auctions on behalf of such entities as United Way, Relay for Life, 4-H or FFA. You further stated:

[M]y commitment to my responsibilities within the Judicial Branch . . . will remain unwavering. I am fully aware of the importance of maintaining the highest standards and professionalism and integrity in my job. My intention is to pursue this endeavor outside of the office hours, when I am not on call and ensure that it will not conflict with or compromise my [judicial] duties.

To address your question, the Commission has reviewed Rules 3.1(A)(B) and (C) and 3.7(A)(2) of the Code of Judicial Conduct which state:

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; . . .

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: . . .
 - (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; . . .

Based upon the foregoing, the Commission is of the opinion that you may work part-time as a paid auctioneer. The work must be strictly done on your own time, must not interfere in any way with your judicial duties, and is contingent upon written approval by the Administrative Director of the Supreme Court of Appeals of West Virginia. You should be mindful of potential disqualification/disclosure issues. If you find yourself being conflicted off too many court cases because of your auctioneering endeavors then you must consider refraining from such work. Importantly, the Commission is of the opinion that you must not involve yourself in charity auctions as it would be violative of Rule 3.7(A)(2).

Thank you for your inquiry. Please do not hesitate to contact the Commission should you have any further questions, comments or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alan D. Moats". The signature is fluid and cursive, with the first name "Alan" and last name "Moats" clearly distinguishable.

Alan D. Moats, Chairperson
Judicial Investigation Commission

ADM/tat