



JUDICIAL INVESTIGATION COMMISSION

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

July 30, 2024

Re: JIC Advisory Opinion 2024-14

Dear Judge :

Your request for an advisory opinion was recently reviewed by the Commission. The facts giving rise to your request are as follows:

You are a member of and serve on the Board of Trustees for Golf and Country Club, which is a non-profit 501(C)(7) organization. It is not a charitable organization. Instead, it is a private club designed strictly for recreational activities and has about 500 members. You also indicated that there is a possibility that you could soon become the president of the Board. The income sources that the Club operates from are member dues and assessments as well as revenue from the sale of food/beverages and golf outings. Membership is by invitation only and potential members have to be sponsored by a current member. According to you, the Board of Trustees selects the members, but it's just a formality:

Anyone can apply for membership at by filling out an application and submitting to the membership director. All applications are then submitted to the Board of Trustees for approval. Generally the Board just reviews to assure that said applicant has applied for the correct membership category (i.e. out-of-town, non-resident, seasonal, young professional, etc.). It takes 5 Board members to approve each application for acceptance, but I know of no applicant who has correctly applied to be denied acceptance. There are no criteria for acceptance.

You want to know if you can be a member of the club, serve on the Board of Trustees and take the position of President if you are selected for the post.

The Commission is of the opinion that Rule 3.7 of the Code of Judicial Conduct does not apply to this situation since the entity is a social/recreational organization. Therefore, to address the question, the Commission has reviewed Rule 3.11 which states:

Rule 3.11 – Financial, Business, or Remunerative Activities

- (A) A judge may hold and manage investments of the judge and members of the judge's family.
- (B) A judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that a judge may manage or participate in"
 - (1) A business closely held by the judge or members of the judge's family; or
 - (2) A business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.
- (C) A judge shall not engage in financial activities permitted under paragraphs (A) and (B) if they will:
 - (1) Interfere with the proper performance of judicial duties
 - (2) Lead to frequent disqualification of the judge
 - (3) Involve the judge in frequent transactions or continuing business relationship with lawyers or other persons likely to come before the court on which the judge serves; or
 - (4) Result in violation of other provisions of this Code.

Based upon the foregoing, the Commission finds that you may continue your membership in the organization. However, you may not serve on the Board of Directors or as an officer. Accordingly, you should immediately resign your Board position.

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

Sincerely,



Alan D. Moats, Chairperson
Judicial Investigation Commission