



JUDICIAL INVESTIGATION COMMISSION

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

September 4, 2024

Re: JIC Advisory Opinion 2024-17

Dear :

Your request for an advisory opinion was recently reviewed by the Commission. You want to know if your wife and you can start a hauling and transportation business involving coal, timber, parts and supplies from one business to another using trucks and trailers. You would serve as the delivery driver. Alternatively, you would like to know if you could be employed by a company as a driver. If permitted, you pledged the following:

Any job would be completely on my off-time from my job as Magistrate and would in no way interfere with my daily work schedule or my on-call duties. I understand that my job as Magistrate takes precedence over any other job, and it will always be my top priority. I also would work diligently to keep myself and my company from any situation that may be a possible conflict. If a conflict did arise, I would remove myself from that situation and it would be disclosed immediately.

To address your question the Commission has reviewed Rules 3.1 and 3.11 of the Code of Judicial Conduct which state:

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 the frequent disqualification of the judge;
- (C) Participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity and impartiality;

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;
- (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 relationships with lawyers or other persons likely to come before the court on which the judge serves; or
 - (4) Result in violations of other provisions of this Code.

Comment [1] to Rule 3.1 states:

To the extent that time permits and judicial independence and impartiality are not compromised judges are encouraged to engage in appropriate extrajudicial activities. Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system and the administration of justice, such as by speaking, writing teaching or participating in scholarly research projects. In addition, Judges are permitted and encouraged to

engage in educational, religious, charitable, fraternal or civic extrajudicial activities not conducted for profit, even when the activities do not involved Rule 3.7.

Comment [1] to Rule 3.11 notes:

Judges are generally permitted to engage in financial activities, including managing real estate and other investments for themselves and for members of their families. Participation in these activities, like participation in other extrajudicial activities is subject to the requirements of this Code. For example, it would be improper for a judge to spend so much time as business activities that it interferes with the performance of judicial duties. Similarly, it would be improper for a judge to use his or her official title or appear in judicial robes in business advertising, or to conduct his or her business or financial affairs in such a way that disqualification is frequently required.

Judges must obtain written approval from the Administrative Director before they can work another job. Assuming the Administrative Director approves, the Commission sees no reason why you cannot engage in the employment described above as long as you abide by your pledge.

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