

ADVISORY OPINION NO. 90-13
ISSUED BY THE
WEST VIRGINIA ETHICS COMMISSION
ON MARCH 1, 1990

GOVERNMENTAL BODY SEEKING OPINION

An Attorney for an elected County Clerk

OPINION SOUGHT

Whether it would be a violation of the Ethics Act for a County Clerk to be employed, through a Power of Attorney, to act on behalf of a bail bondsman for criminal subjects in that County?

OTHER FACTS RELIED UPON BY THE COMMISSION

The elected public official is a County Clerk. The County Clerk wants to be employed, through a Power of Attorney, to act on behalf of a bail bondsman in that County. His duties pursuant to the Power of Attorney would provide that he be given the authority to enter into bonds through his employer's bonding company on behalf of persons charged with a criminal offense.

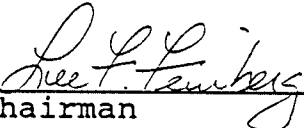
The public official would limit his bond work to criminal matters. The County Clerk would be paid a percentage (the exact amount is unknown at this time) for providing this service to the bondsman. He would be acting on behalf of the bondsman, but would not be a bondsman himself. The individuals seeking his services would be persons appearing before other county officials, whose offices would be in close proximity to the County Clerk's office.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-5(b)(1) states in pertinent part that... a public official...may not intentionally use his...office or the prestige of his...office for his...own private gain or that of another person.

ADVISORY OPINION

It is the Commission's opinion from the facts described that it is implicit that the County Clerk would be using or giving the appearance of using his office for private gain in violation of Subsection 5(b)(1) of the Act.



Chairman