

ADVISORY OPINION NO. 90-91

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON JUNE 6, 1990

GOVERNMENTAL BODY SEEKING OPINION

Circuit Clerk of a County

OPINION SOUGHT

Whether it is a violation of the Act for a County Circuit Clerk to serve on an Allocations Committee for the United Way?

OTHER FACTS RELIED UPON BY THE COMMISSION

The requestor is the Circuit Clerk of a County. She has recently been asked to serve on the allocations committee for the United Way in the County. As a member of the Committee she would determine which agencies would receive a percentage of the money raised by the United Way campaign. The eligible agencies include the Union Mission, the Girl Scouts, Senior Services, the Salvation Army, Hope, Red Cross and other such nonprofit agencies. She served as a volunteer in last year's campaign.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-2-5(d)(1) states in pertinent part that...no elected public official...may be a party to or have an interest in the profits or benefits of a contract which such official or employee may have direct authority to enter into, or over which he or she may have control...

West Virginia Code Section 6B-2-5(d)(2) states in pertinent part that...an elected public official...shall not be considered as having an interest in a public contract when such a person has a limited interest as an owner, shareholder or creditor of the business which is the contractor on the public contract involved. A limited interest for the purposes of this subsection is:

(A) An interest:

(i) not exceeding ten percent of the partnership or the outstanding shares of a corporation; or

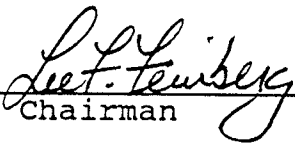
(ii) not exceeding thirty thousand dollars interest in the profits or benefits of the contract;

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The Commission would note that there is no public contract involved in the allocation of funds raised from the United Way campaign and distributed to non-profit agencies.

Therefore, it is the Commission's opinion that it would not be a violation of subsection 6B-2-5(d)(1) of the Act for a Circuit Clerk to become a member of an Allocations committee for United Way.

Based on the facts presented the Commission is not aware of any other provisions in the Ethics Act that would prohibit the Circuit Clerk from assisting the United Way by serving on the Allocations Committee.

  
Chairman