

ADVISORY OPINION NO. 90-97

ISSUED BY THE

WEST VIRGINIA ETHICS COMMISSION

ON JUNE 6, 1990

GOVERNMENTAL BODY SEEKING OPINION

A County Attorney on behalf of a County Commissioner

OPINION SOUGHT

Whether it is a violation of the Act for a County Commissioner to perform real estate appraisals for banks which do not conduct business with the County Commission?

OTHER FACTS RELIED UPON BY THE COMMISSION

A County Commissioner operates a real estate business and is a certified real estate appraiser. The County Commission presently conducts business with only one bank in the County. The County Commissioner has been asked by the other banks in the County to conduct real estate appraisals for them.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code Section 6B-2-5(b)(1) states that a public official...may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain...

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

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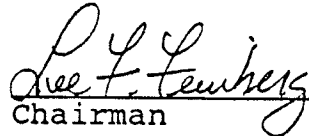
The Commission finds that the County Commissioner has direct authority and control over the letting of public contracts between the County Commission and Banks.

The County Commissioner has more than a limited interest in a business which could have an interest in the profits or benefits of a public contract. For the purpose of this section "limited interest" is defined as an interest not exceeding ten percent of the outstanding shares of a corporation or an interest of \$30,000 in the public contract.

However, since the County Commissioner's real estate business only contracts with banks which do not conduct business with the County Commission there would be no conflict of interest.

Therefore, the Commission finds that it would not be a violation of subsection 6B-2-5(d)(1) of the Act for a County Commissioner to contract to perform real estate appraisals with banks which do not conduct business with the County Commission.

Although there is no evidence before the Commission to suggest such a violation the County Commissioner should be mindful of Subsection 6B-2-5(b)(1) of the Act which prohibits a public official from using his office or prestige for private gain (i.e. using his position as County Commissioner to gain business for his real estate company).


Chairman