

The State of South Carolina



Office of the Attorney General

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February 25, 1988

The Honorable John H. Waller, Jr.
Judge, Twelfth Judicial Circuit
P.O. Box 1059
Marion, South Carolina 29571

Dear Judge Waller:

You have requested the advice of this Office as to whether "non-elected officials" serving as special referees or special masters under court appointments can retain the fees paid for their service in those positions. By "non-elected officials", I assume that you are referring to private citizens other than appointed and elected public officials.

As you know, a previous opinion of this Office concluded that the safest legal course of action for probate judges and clerks of court appointed to serve as masters and special referees would be for them not to retain fees as personal compensation. Ops. Atty. Gen., (September 24, 1987); see also, Ops. Atty. Gen., (November 4, 1987). That conclusion was based upon the strong legislative intent expressed that those officials receive salaries in lieu of most fees and costs. 1/ I know of no such legislative intent expressed as to private citizens serving in positions of masters and special referees. Therefore, private citizens appointed to serve in those positions appear to have the right to retain fees for those services

1/ Because the September 24th opinion addressed only the retention of fees by clerks of court and probate judges, this letter to you does not address the right of other public officials to retain fees while serving as special referees and masters.

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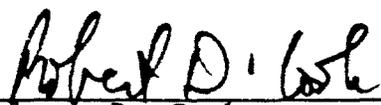
as personal compensation unless a fee collected by them is specifically restricted as to its disposition.

Yours very truly,


J. Emory Smith Jr.
Assistant Attorney General

JES:djs

REVIEWED AND APPROVED:



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