

Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

June 19, 1978

The Judicial Inquiry Commission has considered your request that the opinion rendered by the Commission on April 4, 1978 regarding whether a District Judge who is a properly licensed real estate salesman may for remuneration engage in the sale of real estate for a licensed real estate broker. You specifically direct the attention of the Commission to Canon 5C(2) of the Alabama Canons of Judicial Ethics and to the opinion of the State Ethics Commission stating that such activity would not violate the State Ethics Law. You further ask us to rule in accordance with the ruling of the State Ethics Commission.

As we are certain you are aware the State Ethics Commission interprets only the State Ethics Law, that Commission has no authority nor does it assume any authority to interpret the Canons of Judicial Ethics. That authority lies with this Commission.

We are aware that Canon 5C(2) allows a judge to

“...hold and manage investments, including real estate, and to engage in other remunerative activity including the operation of a business.”

Canon 5C(2) is limited by Canon 5C(1) in three respects. A judge may not “engage in other remunerative activity” where such activity would tend to:

1. Reflect adversely on his impartiality.
2. Interfere with the proper performance of his judicial duties, or
3. Exploit his judicial position.

It is the opinion of this Commission that it would be impossible for a judge to sell real estate for a licensed broker without in many respects placing himself in violation of Canon 5C.