

## Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET  
SUITE 201  
MONTGOMERY, ALABAMA 36104

June 2, 1981

The Judicial Inquiry Commission has considered your request for an opinion concerning the application of the Alabama Canons of Judicial Ethics to certain financial and business dealings between a newly-appointed circuit judge and his former law partners. You specifically ask for an opinion regarding two factual situations.

Under the first set of facts, you state that the newly-appointed circuit judge owns the building in which the judge and his former partners occupied office space. The former law partners wish to continue to occupy the building as their law offices. All parties wish to continue the previous arrangement by which the professional association pays the rent and pays all taxes, insurance, maintenance and upkeep on the property. You suggest that this arrangement would not require disqualification of the judge in cases in which his former law partners have an interest since the judge's interest in this rental arrangement would not be one that could be substantially affected by the outcome of any such proceeding, Canon 3C(l)(a), and the judge's impartiality might not reasonably be questioned, Canon 3C(l)(a), due to the small amount of the rent.

In the event that the suggested arrangement is held to be prohibited, you suggest alternate solutions in which either the judge or members of his immediate family would receive the rental income either directly or in trust.

The business arrangements in question are governed not only by Canon 3C but also by Canon 5C of the Alabama Canons of Judicial Ethics. Canon 5C(l) and (2) provide that:

- “(1) A Judge should refrain from financial and business dealings that tend to reflect adversely on his impartiality, interfere with the proper performance of his judicial duties, or exploit his judicial position.
- (2) Subject to the requirement of subsection (1), a judge may hold and manage investments, including real estate, ...”

It is the opinion of the Commission that the business arrangement in question, whereby either the judge or his immediate family receives financial benefit from the rental property, is prohibited under Canon 5C(l). Such a business or financial arrangement would certainly “tend to reflect adversely” on the judge's impartiality in any proceeding in which the judge's two former law partners might appear.

It is further the opinion of the Commission that in any event such a business arrangement involving either the judge or his children would cause disqualification of the judge in all proceedings in which the law firm is interested in that the judge's impartiality "might reasonably be questioned" under Canon 3C(1). Thus, under Canon 5C(1), such a business arrangement would tend to interfere with the proper performance of the judge's judicial duties. **81-115**

Your second set of facts involves a piece of property jointly owned by the judge and his former law partners. It does not appear from your request that the judge and his former partners receive any income from the property. Instead, the only business arrangement between the judge and the attorneys involves the shared monthly mortgage payments on the property and taxes and insurance payments. The property is presently listed with a real estate agent to be sold.

It is the opinion of the Commission that, under this set of circumstances, this business arrangement is not prohibited by the Canons of Judicial Ethics so long as no problems arise as to the payment of the mortgage indebtedness or the taxes or insurance.

**81-116**

Sincerely,

JUDICIAL INQUIRY COMMISSION