

## Judicial Inquiry Commission

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The Judicial Inquiry Commission has considered your request for an opinion concerning disqualification of a judge in proceedings involving an attorney who rents office space in a building owned by the judge's spouse or by the judge and the judge's spouse. All financial transactions regarding the rental are handled by the judge's spouse.

These business arrangements are governed not only by Canon 3C regarding disqualification, but also by Canon 5C. 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 attorney might appear.

It is further the opinion of the Commission that in any event such a business arrangement involving either the judge or his spouse 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(l). Thus, under Canon 5C(l), such a business arrangement would tend to interfere with the proper performance of the judge's judicial duties.

You further request an opinion of the Commission concerning whether the judge in question may appoint the attorney or his partner in criminal cases for preliminary hearings, juvenile cases, misdemeanors, etc. Since the Commission believes that the answer to this question may depend upon the manner in which such appointments are routinely made by the judge, this question presents insufficient facts for the Commission to render an opinion at this time. Therefore, if you still wish for the Commission to render an opinion on this matter, please advise the Commission of the specific manner in which the judge makes the appointments in question.