

Judicial Inquiry Commission

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March 28, 1983

The Judicial Inquiry Commission has considered your request for an advisory opinion concerning whether a circuit judge may serve as an elected or appointed trustee in a number of bankrupt estates where the judge served as trustee for the estate prior to assuming the bench and where legal counsel was employed to handle all legal matters.

It is the opinion of the Commission that a judge should not serve as trustee for a number of bankruptcy estates even though legal counsel has been employed to handle all legal matters.

A judge's financial and fiduciary activities are governed primarily by Canon 5 of the Alabama Canons of Judicial Ethics. While this canon does not strictly prohibit extra-judicial financial and fiduciary activities, the canon does admonish a judge that such activities should be limited so that conflict with the judge's judicial duties are minimized. See Canon 5C(3) and 5D(2). Particularly, due to the trustee's relationship with creditors of the bankrupt estate, it would appear to be difficult if not impossible for the judge to serve as trustee and to minimize conflicts with his judicial duties.

Furthermore, it appears in this instance that the judge served as trustee as an incidence of his law practice prior to assuming the bench. Therefore, it appears that the continuation of service as trustee would violate Canon 5F under which a judge is prohibited from practicing law.

Very truly yours,

JUDICIAL INQUIRY COMMISSION