

Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

November 22, 1983

The Judicial Inquiry Commission has considered your request for an opinion concerning whether the joint ownership of property by a judge and his former law partners would require the judge to disqualify himself in cases where one of the other joint owners represents a party to the proceeding. Upon consideration of your request, the Alabama Canons of Judicial Ethics and the previous opinions of this Commission, it is the opinion of the Commission that the mere fact of joint ownership of property by a judge and his former law partners does not cause the judge to be disqualified from hearing cases in which the judge's former law partners represent a party to the proceeding under Canon 3C.

In the present instance, the Commission is presented with facts concerning joint ownership of property under two separate sets of circumstances. In the first instance, the judge participates as a limited partner owning an undivided interest in several apartment complexes. The complexes are managed totally by general partners. In the second instance, the judge owns an undivided interest in a tract of timber land, which is subject to a timber cutting contract that produces a small annual income. It is the opinion of the Commission that the facts as presented do not cause the judge to disqualify himself in proceedings in which his former law firm represents a party to the proceeding.

A judge's disqualification is governed primarily by Canon 3C and his financial activities by Canon 5C. Canon 5C admonishes that a judge should arrange his financial and business dealings in such a manner as to minimize the number of cases in which he is disqualified. These canons have been applied by the Commission to cause a judge's disqualification in a proceeding if one of the attorneys in the proceeding is engaged in financial dealings with the judge whereby he is financially indebted to the judge, (Opinion 82-128), or rents office space from the judge or his spouse (Opinions 82-130 and 81-115). In other opinions, the Commission has held that the mere joint ownership of property by a judge and attorney does not cause the disqualification of the judge in proceedings in which the attorney appears as counsel (Opinion 81-116). The Commission reaffirms these prior opinions.

Yours very truly,

JUDICIAL INQUIRY COMMISSION