

Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

April 29, 1985

The Judicial Inquiry Commission has considered your request for an opinion concerning whether a judge may ethically act on matters for an attorney/real estate broker, who regularly practices law before the judge, if the judge's wife is a sales agent or associate broker working for the lawyer/real estate broker on a commission basis. We understand from your question that the judge's wife works for a real estate broker, who is also an attorney. The wife is not employed in the attorney's law office but is employed in his real estate office. Your specific question is whether the judge is disqualified from sitting in any proceeding in which the judge's wife's employer represents a party to the proceeding.

It is the opinion of the Commission that the mere fact that the judge's wife works as a real estate broker or sales person in an attorney's real estate business does not cause the judge to be disqualified in proceedings in which the attorney represents a party. This opinion is based upon our previous applications of Canon 3C of the Alabama Canons of Judicial Ethics.

The Commission has considered a number of similar fact situations. In Opinion 80-66, the Commission found that the mere fact that a judge's wife was employed as bookkeeper for an attorney did not cause the disqualification of the judge in proceedings in which the attorney represented a party. See also Opinion 84-217 (judge's sister-in-law works as a legal secretary); Opinion 84-134 (judge's child is legal secretary); and Opinion 81-125 (judge's relative is a paralegal employed by a law firm). In each of these Opinions the Commission found that the mere fact of the employment of the judge's relative did not cause the judge's disqualification in proceedings in which the firm represented a party. However, facts and circumstances could arise which would cause disqualification, i.e., the judge or his spouse has a direct financial interest which is dependent upon the attorney's success. The judge must himself assess all of the facts and circumstances. If he finds that facts arise which cause his impartiality to reasonably be questioned under Canon 3C, then the judge must disqualify himself.

Yours very truly,

JUDICIAL INQUIRY COMMISSION