

## Judicial Inquiry Commission

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July 12, 1985

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Canons of Judicial Ethics a Circuit Judge, permanently assigned to the criminal division of the circuit court, may serve as a member of the Alabama State Fair Authority. In your letter you state that the Alabama State Fair Authority is a nonprofit governmental agency, which has as its purpose providing recreational entertainment, educational and civic opportunities for the people of the City of Birmingham, as well as the State. You further correctly point out that a judge's extra-judicial activities are governed by Canon 5 of the Alabama Canons of Judicial Ethics and Amendment 328 of the Constitution of Alabama.

Considering these provisions, along with the provisions of Canon 2, it is the opinion of the Commission that a judge should not serve as a member of the Alabama State Fair Authority.

Canon 5B provides that a judge may participate in civic and charitable activities under certain circumstances. However, Canon 5G further provides that:

"It is desirable that a judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice or unless required by law."

Canon 2 requires that a judge respect and comply with the law and §6.08 of Amendment 328, Constitution of Alabama, 1901, which provides in pertinent part:

"(b) No judge, except a judge of a probate court, shall seek or accept any non-judicial elective office, or hold any other position of public trust, except service in the military forces of the state or federal government.

"(c) The Supreme Court shall adopt rules of conduct and canons of ethics, not inconsistent with the provisions of this Constitution, for the judges of all courts of this state."

In order to read the foregoing provisions consistently with each other, Canon 5 cannot be read to permit that which the Constitution prohibits. The Constitution clearly prohibits a judge from holding any other position of public trust. Therefore, if a member of the Alabama State Fair Authority holds a "position of public trust," then such activity would not be permitted under Canon 5. Further, under Canon 2A, a circuit judge, who held such a position, would be in violation of the Alabama Canons of Judicial Ethics.

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While we do not construe the provisions of the Alabama Constitution, it is the opinion of the Commission that under Canon 5G a judge should not continue as a member of the Alabama State Fair Authority.

Sincerely,

JUDICIAL INQUIRY COMMISSION