

Judicial Inquiry Commission

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February 4, 1986

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics certain factors disqualify a judge from sitting in certain cases. Specifically, you ask whether a judge is disqualified from sitting in a proceeding in which a national corporation, i.e., American Express, Exxon, etc. is a party and the judge owns between 200 and 300 shares of stock in the corporation. You further ask whether a judge is disqualified from sitting in a proceeding involving a bank at which the judge has a checking account. Both questions involve judicial qualification and are primarily governed by Canon 3C of the Alabama Canons of Judicial Ethics. In pertinent part that Canon provides:

- “(1) A judge should disqualify himself in a proceeding in which his disqualification is required by law or his impartiality might reasonably be questioned, including but not limited to instances where:
 - (c) He knows that he ... has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding.”

Based on this Canon, the Commission has previously held that a judge's ownership of stock interest in a corporation disqualifies him from sitting in a proceeding involving the corporation. See Opinion 76-3. Further, a judge should be ever mindful of the provisions of Canon 5C(3) requiring that a judge manage his investments and other financial interests to minimize the number of cases in which he is disqualified.

It is further the opinion of the Commission that a judge is not disqualified from sitting in a proceeding involving a bank in which the judge owns a checking account. The Commission has previously held that the ownership of a checking account in a bank, under most circumstances, would not disqualify a judge from sitting in a proceeding involving the bank. Of course, if the judge's checking account would be substantially affected by the outcome of the proceeding or if his checking account was the subject of the proceeding, then the judge would be disqualified.

The Commission further notes that a disqualification under the provisions of Canon 3C(c)(1) may be remitted by following the procedure outlined in Canon 3D.