

Judicial Inquiry Commission

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November 25, 1986

The Judicial Inquiry Commission has considered your request for an opinion concerning whether, under the Alabama Canons of Judicial Ethics a judge is disqualified from sitting in any proceeding in which his former law firm represents a party to the proceeding. Under the facts presented, the judge no longer has any financial ties to his old firm or any of its members except for an interest in attorney fees to be collected in two pieces of litigation remaining unresolved. In these two cases, if they are successfully resolved in favor of the judge's former clients, the judge will be owed for work performed by him while still an attorney. One piece of litigation has a trial setting in January and one may not be resolved for another three or four years. The judge's only remaining financial ties to the law firm are the two above-mentioned pieces of litigation.

It is the opinion of the Commission that the above described financial ties between the judge and his former law firm are insufficient to cause the judge's disqualification in all matters involving his former law firm or its members. This opinion is based upon our consideration of Canon 3C(l) of the Alabama Canons of Judicial Ethics and our former opinions.

Canon 3C(l) provides in pertinent part:

"(1) A judge should disqualify himself in any proceeding in which his disqualification is required by law or his impartiality might reasonably be questioned, including but not limited to instances where:

* * * *

- (b) He served as a lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer in the matter, or the judge or such lawyer has been a material witness concerning it.
- (c) He knows that he . . . has a financial interest in the subject matter in controversy . . . or any other interest that could be substantially affected by the outcome of the proceeding;"

In past opinions a disqualifying financial interest in a proceeding has been limited to one where the judge's financial dealing with a former law partner or other individual could be affected by the success of the litigation of the success of the lawyer's practice in general. Such is not the case here.

Here, it appears that the judge's financial interests will be affected not by the financial success of his former law partners or general litigation in which they are involved but by the outcome of two specific pieces of litigation. Such being the case, the judge's financial interests do not cause his general disqualification in all cases involving his former law partners or firm. However, based on the provisions of Canon 3C, the disqualification may still exist in some matters, and disqualification should be determined on a case-by-case basis.

Sincerely,

JUDICIAL INQUIRY COMMISSION