

## Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

November 23, 1987

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics a judge is permitted to sign a bond as surety for a Notary Public under §36-20-31, Code of Alabama 1975. The bond required under that provision is a faithful performance bond payable to the State of Alabama. The Notary Public in this instance is the Deputy Circuit Clerk in the circuit where the Judge presides.

It is the opinion of the Commission that the Circuit Judge should not sign the surety bond in question. This opinion is based on Canon 5D of the Alabama Canons of Judicial Ethics.

Canon 5D governs a judge's fiduciary activities. That Canon provides that a judge should not serve as a fiduciary if it is likely that he will be engaged in proceedings which would ordinarily come before him or if such service would violate any of the restrictions governing financial activities as set out in Canon 5C.

Canon 5C provides that a judge should refrain from financial activities that tend to reflect adversely on his impartiality or interfere with the proper performance of his judicial duties and that a judge should manage his interests to minimize the number of cases in which he is disqualified.

Applying these principles to the judge's serving as surety for the Deputy Circuit Clerk, the Canons of Judicial Ethics do not permit the judge to serve in that capacity since in the ordinary course of events any challenge to the faithful performance of this notary's duties would ordinarily come before this judge's court.

Sincerely,

JUDICIAL INQUIRY COMMISSION