89-351

Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

January 31, 1989

The Judicial Inquiry Commission has considered your request for an opinion concerning whether your plans for the dissolution of a judge's law practice would violate the Alabama Canons of Judicial Ethics. Under the facts presented, the judge and his partner have reached an agreement whereby the judge will transfer all of his interest in the firm to his partner. There will be no future payment to the judge for past work performed on any files. However, there are four matters which remain of some concern to the judge. These are:

1. The judge continues to serve as trustee and plan administrator for his former firm's professional corporation pending IRS action on a present request to the IRS to terminate the present professional corporation plan and distribute the assets.

2. The judge is presently serving as a trustee of his firm's corporate profit sharing plan. He will resign this position at the end of the fiscal year when his share of the plan benefits will be paid over to him. The fiscal year ends April 30, 1989.

3. The judge owns the building in which his law firm has leased space. By the terms of the separation agreement, the land and the building are being conveyed to the judge's former law partner. The mortgage is being assumed by the purchaser.

4. The law firm and the judge's partner will execute and deliver to the judge a promissory note evidencing deferred compensation which will be paid to the judge in December 1990. This compensation is in no way connected to the outcome of any pending contingency fee files.

Further, the judge will recuse himself from any matter involving his former law firm or partner so long as any of the above continue to exist.

It is the opinion of the Commission that the above referenced matters handled a s described by the judge do not violate any provision of the Alabama Canons of Judicial Ethics, but represent a good faith effort by the judge to manage his financial interests so that they do not "tend to reflect adversely on his impartiality, interfere with the proper performance of his judicial duties, or exploit his judicial position." (Canon 5C(I) of the Alabama Canons of Judicial Ethics.) In addition, it appears that the judge has taken the actions necessary to "manage his ... financial interests to minimize the number of cases in which he is disqualified", as required under Canon 5 C(3).