

Judicial Inquiry Commission

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January 26, 1996

The Judicial Inquiry Commission has considered your request for an advisory opinion whether a part-time municipal judge may, under the Canons of Judicial Ethics, form a professional corporation for the purpose of practicing law with the city attorney for the same municipality. You state that the judge's remuneration for his services as a judge would pass directly to him and not pass through the firm. You also state that the city attorney does not prosecute cases before the judge, and that all prosecution of city cases is and would be handled by an independent attorney who practices in another firm. Finally, you indicate that the attorney's income from services as the city attorney would not become part of the law firm's assets.

Under the Alabama Canons of Judicial Ethics, part-time judges are not precluded from compliance with Canon 5C. Of specific concern in this regard are subsections (1) and (3) of Canon 5C. Those subsections provide:

- (1) A judge should refrain from financial and business dealings that tend to reflect adversely on his impartiality, interfere with the proper performance of his judicial duties, or exploit his judicial position.
- (3) A judge should manage his investments and other financial interests to minimize the number of cases in which he is disqualified.

Canon 3C(l) provides generally that a judge should disqualify himself in any proceeding in which his impartiality might reasonably be questioned, and Canon 3C(l)(b) specifically provides that a judge is disqualified in a proceeding in which a lawyer with whom he has practiced law served during such association as a lawyer in the matter in controversy.

It is the opinion of the Commission that a part-time municipal judge may form a professional corporation for the purpose of practicing law with an attorney who is the city attorney for the same municipality so long as the conditions stated above are observed and the judge also does not sit in any case in which the city attorney has participated either directly or indirectly.

Very truly yours,
JUDICIAL INQUIRY COMMISSION