

Judicial Inquiry Commission

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February 23, 1996

The Judicial Inquiry Commission has considered your request for an advisory opinion concerning whether a judge is disqualified to sit in a felony case in which one of the victims of the check forgeries alleged is a closely held corporation of which the judge is a minority shareholder.

Canon 3C(1) provides that a judge should disqualify himself in a proceeding where his impartiality might reasonably be questioned, including where he “knows that he, individually or as a fiduciary, ... has a financial interest in the subject matter in controversy or in a party to the proceeding.” Under Canon 3C(3)(c), “‘financial interest’ means ownership of a legal or equitable interest, however small.” The Commission has previously held that a judge is disqualified to sit in a case where the judge owns stock in a corporation that is a party to the suit, but that such disqualification is subject to remittal under Canon 3D. Advisory Opinions 76-3 and 86-249.

Although the corporation at issue in this case is not a party to the criminal proceeding, it is the opinion of the Commission that a judge is disqualified from sitting in a criminal trial where a closely held corporation of which he is a shareholder is one of the alleged victims. See Advisory Opinion 88-340. This disqualification is, however, subject to remittal under Canon 3D.

Sincerely,

JUDICIAL INQUIRY COMMISSION