

## JUDICIAL INQUIRY COMMISSION

DATE ISSUED: JULY 27, 1999

ADVISORY OPINION 99-733

---

### SERVICE ON BOARD OF AID TO INMATE MOTHERS

#### ISSUE

May a judge serve on the board of Directors of Aid To Inmate Mothers (AIM, Inc.)?

**Answer:** Yes, so long as such service remains within the constraints of Canon 5B.

#### FACTS

The judge has been asked to sit on the board of Aid To Inmate Mothers (AIM, Inc.). AIM is an independent, non-profit corporation that originally was developed in cooperation with the Department of Corrections, officials and inmates at Tutwiler prison, Church Women United, and volunteers around the state. AIM offers a monthly visit with their children to incarcerated women through a volunteer network that provides transportation of the children to the prison. It also provides support services such as educational programs during and after the visits, a discussion forum with the mothers after each visit, and other programs.

The judge's responsibilities on the board would be strictly advisory in nature. She would not participate in the transportation of children to the prison nor in any fund-raising activities of the organization. The judge's involvement will not entail any direct contact with inmates or their families.

#### DISCUSSION

A judge's civic and charitable activities are governed by Canon 5B of the Alabama Canons of Judicial Ethics. It is the opinion of

the Commission that a judge may serve on the board of directors of Aid to Inmate Mothers so long as such service does not violate the restrictions placed on judges in Canon 5B.

Canon 5B provides that a judge "may participate in civic and charitable activities that do not reflect adversely upon his impartiality or interfere with the performance of his judicial duties," and that a judge may serve as a director or non-legal advisor of a civic or charitable institution "not conducted for the economic or political advantage of its members" subject to the following limitations:

(1) A judge should not serve if it is likely that the organization or institution will be engaged in proceedings that would ordinarily come before him or will be regularly engaged in adversary proceedings in any court.

(2) It is desirable that a judge not solicit funds for any educational, religious, charitable, fraternal, or civic organization or institution, or use or permit the use of the prestige of his office for that purpose, but he may be listed as an officer, director, or trustee of such an organization or institution.

(3) A judge should not give investment advice to such an organization or institution, but he may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

Given the stated purposes and activities of the organization, it does not appear to the Commission that service in an advisory capacity on AIM's board of directors would reflect adversely on the judge's impartiality. The Commission specifically notes that the judge's involvement will not entail any direct contact with inmates or their families; under some circumstances such involvement could draw the judge's impartiality into question.

Of course, the judge should consider the time commitment that will be required in order to assure that service on AIM's board does not interfere with her judicial duties. Under Canon 3, "[T]he judicial activities of a judge take precedence over his other activities."

Since the judge has stated that there will be no participation in fund raising, there is no potential conflict between service on the board of AIM and Canon 5B(2). There also does not appear to be a potential conflict with Canon 5B(1) under the facts presented. However, the judge should note that Canon 5B provides that a judge may not serve as a legal advisor to a civic or charitable organization, and, under Canon 5B(3), a judge may not provide investment advice to such an organization. Thus, the judge's activities as a member of the board of AIM may not include providing legal or investment advice.

## REFERENCES

Alabama Canons of Judicial Ethics, Canons 3 and 5B.

---

This opinion is advisory only and is based on the specific facts and questions submitted by the judge who requested the opinion pursuant to Rule 17 of the Rules of Procedure of the Judicial Inquiry Commission. For further information, you may contact the Judicial Inquiry Commission, 800 South McDonough Street, Suite 201, Montgomery, Alabama 36104; tel.: (334) 242-4089; fax: (334) 240-3327; e-mail: [jic@alalinc.net](mailto:jic@alalinc.net).