

Judicial Inquiry Commission

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The Judicial Inquiry Commission has reviewed your request for an opinion concerning to what extent a District Judge may participate in a corporation partly owned by him and in which he is a member of the board of directors. Your question cannot be answered by this Commission as to specific acts or activities in which a judge serving in the extra-judicial capacity which you describe may engage. However, for your benefit we draw your attention to Canon 5 of the Alabama Canons of Judicial Ethics, the pertinent canon in this instance.

Canon 5 provides that:

“A judge Should Regulate His Extra-Judicial Activities To Minimize the Risk of Conflict with His Judicial Duties.”

Under part D. of Canon 5 it is provided that a judge should not serve as a fiduciary,

“...if such service will interfere with the proper performance of his judicial duties. As a fiduciary a judge is subject to the following restrictions:

- (1) He should not serve if it is likely that as a fiduciary he will be engaged in proceedings that would ordinarily come before him.
- (2) While acting as a fiduciary a judge is subject to the same restrictions on financial activities that apply to him in his personal capacity.”

The restrictions on financial activities are set out in Part C of Canon 5. These include:

- (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.
- (2) Subject to the requirements of subsection (1), a judge may hold and manage investments, including real estate, and engage in other remunerative activity including the operation of a business.
- (3) A judge should manage his investments and other financial interests to minimize the number of cases in which he is disqualified.
- (4) Neither a judge nor a member of his family residing in his household should

accept a gift, bequest, favor, or loan from anyone if it reflects expectation of judicial favor.

(5) For the purposes of this section 'member of his family residing in his household' means any relative of a judge by blood or marriage, or a person treated by a judge as a member of his family, who resides in his household.

(6) Information acquired by a judge in his judicial capacity should not be used or disclosed by him in financial dealings or for any purpose not related to his judicial duties.

It is the opinion of this Commission that you should carefully study the above-cited provisions of Canon 5 in determining to what extent you may participate in the business enterprise in question so as to avoid conflict with the Canons.