

Judicial Inquiry Commission

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January 10, 1986

The Judicial Inquiry Commission has considered your request for an opinion concerning whether, under the Alabama Canons of Judicial Ethics, a certain disposition and settlement of a judge's interest in his old law firm and joint interest with his old law partners is appropriate. Under the facts presented, the judge and a former law partner jointly own the land and building in which the law firm is housed. Prior to assuming the bench in November of 1985, the judge agreed to dispose of his interest in the land and building by sale to three members of the firm. The payments for the purchase of the judge's interest will be made in two installments. One installment is to be paid in 1985 and one in 1986.

A further agreement was reached concerning the judge's share or law partnership profits earned but not paid prior to the judge's assuming the bench. Under this agreement, the judge will share in the partnership profits for work completed prior to his assuming the bench. The judge estimates that it will take approximately one year in order to complete all of these financial settlements with his former law partners. He will disqualify himself from all cases in which any member of his former law firm is involved so long as he expects to receive any monetary settlements from these arrangements.

It is the opinion of the Commission that the described financial settlements do not run afoul of the Alabama Canons of Judicial Ethics. However, should the financial settlements not be completed within the estimated time or reasonably thereafter, the judge should be mindful of the provisions of Canon 5C in conjunction with Canon 3C of the Alabama Canons of Judicial Ethics. Canon 3C governs disqualification and Canon 5C concerns financial activities. More particularly Canon 5C(1) and Canon 5C(3) provide as follows:

5C(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.

5C(3) A judge should manage his investments and other financial interests to minimize the number of cases in which he is disqualified.

Under these Canons a new judge should manage his financial settlement with his old law firm in order to minimize the number of cases in which the judge is disqualified. So long as the partnership or its members are indebted to the judge, considerations of disqualification remain.

86-248
Page 2

Therefore, should the financial settlements not be completed within a reasonable period of time, i.e., approximately one year, Canon 5 must again be considered.

Sincerely,

JUDICIAL INQUIRY COMMISSION