

Judicial Inquiry Commission

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August 3, 1987

The Judicial Inquiry Commission has considered your request for an opinion concerning whether a retired active circuit judge may serve on a county Board of Human Resources in light of the prohibitions contained in Section 38-2-7, Code of Alabama, 1975. That Section provides in pertinent part as follows :

“... No person holding an elective public office, no person who is a candidate for election to a public office, no person who is an employee of the county department of pensions and security, and no person who is related by blood or by marriage to any such officer or employee shall be a member of such county board of welfare ...”

We note that under the Compliance provisions of the Alabama Canons of Judicial Ethics a retired judge serving in a part time active status is exempt from compliance with Canon 5G.

It is the opinion of the Commission that while a part time active retired judge is exempt from compliance with the provisions of Canon 5G, the judge must still comply with Canon 2, more specifically Canon 2A. That Canon requires that:

“A judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”

Thus, under this Canon, a retired part time active judge is prohibited from holding public office if such prohibition is required by law.

The authority of this Commission to issue opinions is limited to the application and interpretation of the Alabama Canons of Judicial Ethics. Questions concerning the application of the cited statute or perhaps the office of profit provisions of the Constitution of Alabama, 1901, are more properly addressed to other appropriate entities, i.e., the Attorney General of Alabama.

Sincerely,

JUDICIAL INQUIRY COMMISSION