

## Judicial Inquiry Commission

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October 28, 1988

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics a judge is disqualified from sitting in certain proceedings. The judge is a municipal judge, who is a shareholder in a certain social establishment, a country club. The country club is located in a dry county and was recently raided by the local police force and other law enforcement agencies. The "raid" resulted in charges against individuals under §28-4-20, Code of Alabama, 1975. While no charges were filed against the country club as a corporate entity, there exists the possibility of future legal action against that entity pursuant to §28-4-71, Code of Alabama, 1975. The charges now pending in municipal court against the individuals could be used as evidence if such future charges should be made against the country club. Your question is whether the municipal judge, a stockholder in the country club, is disqualified from sitting as judge in the proceedings against the individuals.

It is the opinion of the Commission that the judge is disqualified from sitting in the described proceedings. This opinion is based primarily on Canon 3C of the Alabama Canons of Judicial Ethics. That Canon provides in pertinent part:

- (1) A judge should disqualify himself in a proceeding in which his disqualification is required by law or his impartiality might reasonably be questioned, including but not limited to instances where:

\* \* \* \*

- (c) He knows that he ... has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding; ...

- (d) He . . .

\* \* \* \*

- (ii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

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These provisions taken together prohibit a judge from sitting in a proceeding which could substantially affect his own interest. In this instance, the judge has an interest in the country club which could be substantially affected by the outcome of the proceeding.

Very truly yours,

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