

## Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

April 4, 1989

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics a judge may serve in an advisory position with a state/federal public works project to promote economic development and airport development provided that there are no foreseeable conflicts with issues that could come before the court and no conflicts are allowed with the operation of the court or the duties of the judge in accordance with Canon 5. The position would involve special speaking engagements, representation of the International Airport Committee in their meetings, which have been held twice during the past year, meeting with consultants working with the project and assistance in other areas as time may allow. The position would include the payment of actual travel expenses by the executive department of the State. The judge states that the administration is concerned that the payment of such expenses may violate the separation of powers clause of the State Constitution.

At the outset we must note that the commission is not authorized to give advisory opinions concerning the application of the statutory or constitutional law of this State. Our opinion authority extends only to the application of the Alabama Canons of Judicial Ethics. We must, therefore, decline to address any questions concerning the separation of powers clause of the State Constitution.

As to your other inquiry, you are aware that a judge's extra-judicial activities are governed by Canon 5 of the Alabama Canons of Judicial Ethics. Canon 5G specifically discourages but does not prohibit extra-judicial appointments to positions "concerned with issues of fact or policy on matters other than the improvement of the law, the legal system or the administration of justice." Further, under Canon 5B, it is provided that a judge may serve as a non-legal advisor to certain types of organizations or institutions. Therefore, it would appear that under the facts as stated, the judge is discouraged but not prohibited by the Canons of Judicial Ethics from serving in the advisory position set out. The position must not, however, be one in which he gives legal advice or in any way acts as a lawyer. (Canon 5F) Further, should the position interfere with the performance of the judge's judicial duties by causing delays in the hearing of cases or making decisions or by causing the reassignment of cases, service in the position would violate the provisions of Canon 5C.

Sincerely,

JUDICIAL INQUIRY COMMISSION