

## Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET  
SUITE 201  
MONTGOMERY, ALABAMA 36104

April 29, 1991

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 a proceeding in which one of the parties is represented by a law firm which employs the judge's wife as a secretary. The judge's wife is a part-time employee, who may share in a Christmas bonus which reflects the relative financial success of the law firm. The law firm is a small firm located in a largely rural county in the circuit in which the judge sits.

It is the opinion of the Commission that, under the Alabama Canons of Judicial Ethics, the judge is disqualified from sitting in any proceeding in which a party is represented by a member of the firm which employs the judge's wife. This opinion is based primarily on the provisions of Canon 3C of the Alabama Canons of Judicial Ethics.

Canon 3C provides in pertinent part as follows:

- (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 or his spouse, ... has a financial interest in the subject matter in controversy ... or any other interest that could be substantially affected by the outcome of the proceeding;

In the instant set of circumstances the close relationship of the judge as the spouse of a secretary in a law firm is sufficient to cause the judge to be disqualified in any proceeding in which a member of the firm represents a party. We are governed in this instance by the holding of our State Supreme Court in In re Sheffield, 365 So.2d 359 (Ala. 1980), that, under Canon 3C, disqualification is required where a person of ordinary prudence knowing all of the facts known to the judge has sufficient grounds to reasonably question the judge's impartiality. Here, the mere fact of the spousal relationship between the judge and the firm's secretary is sufficient to cause the judge's disqualification.

Sincerely,

JUDICIAL INQUIRY COMMISSION