

## Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET  
SUITE 201  
MONTGOMERY, ALABAMA 36104

June 25, 1993

This is in response to your request for an advisory opinion from the Alabama Judicial Inquiry Commission. Your question is:

“Does the trial judge have the duty to disclose to parties in a bench trial of a civil case that he was a former partner in the practice of law with an attorney representing some parties in the case, when that partnership was terminated more than nine years prior to the trial of the case, and where the trial judge has no further interest in the former partnership or in any attorney’s fees earned during that partnership?”

It is the opinion of this Commission that a judge has no duty to disclose under these circumstances.

Certainly, if a judge is aware of a ground of disqualification, the judge has an ethical objection to make that ground known to the parties. See J. Shaman, S. Lubet, J. Alfini, Judicial Conduct and Ethics 146 (1990). However, the mere fact that the judge was previously a partner of an attorney for one of the parties in a pending case is not a basis for the judge’s disqualification. See Advisory Opinions 83-170, 83-198, 87-378, and 93-475.

“Some judges avoid the appearance of partiality by routinely disqualifying themselves from proceedings in which former associates from their law offices are involved, ‘whether or not the particular matter was pending before the judge left the firm.’ However, disqualification is not required where the judge merely had a prior professional relationship with an attorney presently appearing before the judge. Rather, the association between the judge and attorney must have occurred during the attorney’s involvement with a case now before the judge. A policy requiring a judge to disqualify simply because he or she had a prior professional relationship with an attorney would be particularly burdensome on the judiciary.”

Judicial Conduct and Ethics at 132.

This opinion has been reviewed by and adopted as the opinion of the Commission.