

Judicial Inquiry Commission

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October 29, 1993

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

You are a part-time municipal judge for the City of Prichard and are presently the presiding municipal judge. Your question is as follows:

“I have been asked to serve as general counsel for an Alabama corporation which will acquire and option parcels of real estate for the purpose of development of gaming casinos in municipalities of Mobile county, including Prichard. The corporation will further present a ‘Request For Proposal’ to governing bodies within Mobile County, including the governing body of Prichard. The Request would be in the nature of an application by the corporation for a license to operate casinos within Mobile County, including Prichard, and I would directly participate in the formulation of the Request and, presumably, presentation of the Request to the governing bodies. I would also interface with attorneys in other areas of the State of Alabama who are expected to specialize in regulatory controls expected to be promulgated by a presumed State Gaming Commission.

“My role would be advisory to the corporation. I would not undertake representation of the corporation in litigation in any court.”

Under the Compliance section of the Alabama Canons of Judicial Ethics, “[a] part-time judge . . . [i]s not required to comply with Canon 5D, E, F, and G, and Canon 6C.” However, a municipal judge is required to comply with the other provisions of the Canons.

Ala. Code 1975, § 12-14-30(a) provides that “[t]he governing body of the municipality shall, by vote of a majority of its members, appoint judges of the municipal court.” Subsection (c) provides that “[i]n the event that a municipality has more than one judge, the mayor shall designate a presiding judge,”

Canon 1 provides that a judge should uphold the integrity and independence of the judiciary. Canon 2 provides that a judge should avoid even the appearance of impropriety in all of his activities and “should not lend the prestige of his office to advance the private interests of others.” Canon 2c.

93-508
Page 2

Because of the relationship you will have as general counsel of the corporation to the city council, it is the opinion of this Commission that you are prohibited from serving as general counsel while serving as part-time municipal judge. Under the circumstances, it is impossible to avoid the appearance of impropriety in connection with your representation of the gaming casino development corporation before the council of the city in which you serve as presiding part-time municipal judge.

This advisory opinion has been considered by and is the opinion of the Judicial Inquiry Commission.