

Judicial Inquiry Commission

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June 24, 1991

In your letter dated June 5, 1991, you request an opinion from the Alabama Judicial Inquiry Commission on whether you can continue to serve on the Board of the Florence Lauderdale County Port Authority after your appointment as a Circuit Judge. You were appointed to the Port Authority by the Lauderdale County Commission.

Port authorities are authorized by Ala. Code 1975, § 11-94-1 et seq. as “nonprofit public corporations to develop waterfront property for recreational, transportational, agricultural, industrial and commercial purposes by refinancing, acquiring, enlarging, improving, replacing, owning, operating, selling, leasing and disposing of a project or projects or any part thereof.” §11-94-2(a).

Canon 5G of the Alabama Canons of Judicial Ethics discourages but does not prohibit a judge’s service on a board “that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice.”

However, Canon 2A provides that a judge “should respect and comply with the law”. The last sentence of §11-94-7(a) provides: “No director [of a port authority] shall be an officer or employee of the state or of an authorizing subdivision.” It is the opinion of the Commission that, for purposes of the Canons of Judicial Ethics, a circuit judge is an officer of the State of Alabama. See Ala. Const. Art. I, §42 (Legislative, Executive and Judicial departments established) and Amend. 328 (The Judicial Article).

Furthermore, §6.08(b) of Amendment 328 provides, in pertinent part: “(N)o judge, . . . shall . . . hold any other office of public trust. . . .” In the opinion of the Commission, a member of the board of directors of a port authority is an officer of public trust. See §11-94-7(b) providing that any director may be impeached and removed from office in the manner and on the same grounds provided for in §175 of the Alabama Constitution.

Therefore, it is the opinion of the Judicial Inquiry Commission that Canon 2A of the Canons of Judicial Ethics prohibits a circuit judge from serving as a member of the board of directors of a port authority.

Respectfully,

JUDICIAL INQUIRY COMMISSION