



JUDICIAL INVESTIGATION COMMISSION

Room E-400, State Capitol

Charleston 25305

September 7, 1989

Re: JIC Advisory Opinion 1989-03

Dear

Your inquiry to the Judicial Investigation Commission concerning the propriety of a circuit judge renting property to attorneys who practice in his court has been referred to the Commission. This inquiry was discussed at the Commission's last meeting.

The issue which you have raised in your correspondence would be controlled by Canon 5-C of the Judicial Code of Ethics which states in pertinent part:

C. Financial Activities.

- (1) A judge should refrain from financial and business dealings that tend to reflect adversely on his impartiality, interfere with the proper performance of his judicial duties, exploit his judicial position, or involve him in frequent transactions with lawyers or persons likely to come before the court on which he serves.
- (2) Subject to the requirements of subsection (1), a judge may hold and manage investments, including real estate, and engage in other remunerative activity, not in contravention of or prohibited by subsection (1), but shall not allow his name to so appear in connection with such business except as may be required by law.


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Based upon the language contained in Canon 5-C the Judicial Investigation Commission feels that it would not be proper for a circuit judge to rent property to attorneys who practice in his court.

Such a landlord-tenant relationship would involve the judge in frequent transactions with lawyers likely to come before his court and could tend to reflect adversely on his impartiality and interfere with the proper performance of his judicial duties. See also the ABA Committee on Ethics and Professional Responsibility, Informal Opinion 1070; see e.g. the ABA Committee on Ethics and Professional Responsibility, Formal Opinion 322.

The Commission hopes that this Advisory Opinion fully addresses the questions which you have raised in your correspondence to the Commission. If there is any additional question concerning these matters, please do not hesitate to contact the Commission.

Very truly yours,


Thomas B. Canterbury
Chairman

TBC/bl

Enclosure

cc: The Honorable Charles E. McCarty
Judge, 5th Judicial Circuit