

JUDICIAL INQUIRY COMMISSION

DATE ISSUED: JUNE 17, 2011

ADVISORY OPINION 11-906

CIRCUIT COURT'S ACCEPTANCE OF FUNDS FROM BAR FOUNDATION TO MAINTAIN JURY WEEKS

DISQUALIFICATION: BAR FOUNDATION'S PROVISION OF FUNDS TO CIRCUIT COURT

ISSUE

Do the Alabama Canons of Judicial Ethics permit a local Bar Foundation to provide funds to make up shortfalls in the circuit court's budget for funding jury trials in the county served by the Foundation? **Answer:** Yes, under the facts presented.

FACTS

Due to current shortfalls in state and local funding for courts, the circuit court is confronting reduction of jury trials by half because it does not have adequate funds to pay juror expenses. The Bar Foundation in that circuit may have funds to make up the shortfalls.

The Bar Foundation is exempt from income taxes under section 501(c)(3) of the Internal Revenue Code. It pursues philanthropic gifts and bequests from a variety of sources, including lawyers, law firms, and public-spirited individuals and businesses. The Foundation uses its resources to support "programs that improve the legal system, the administration of justice and otherwise promotes the betterment of [the] community consistent with the charter of the Foundation." The presiding circuit judge is a member of the Board of Directors of the Foundation, but will take no part in the Foundation's consideration of any proposal. Under the proposal contemplated, no judge, judicial employee, or juror would know whether funds were donated by any particular lawyer, by local lawyers, or even by lawyers at all.

DISCUSSION

In asking whether the proposal would violate the Alabama Canons of Judicial Ethics, the inquiring judge cites Advisory Opinion 03-826, in which the Commission concluded the canons permit contributions by a local Bar Foundation to fund certain court positions, e.g., court attendants and an assistant to the court administrator, to avoid elimination of those positions because of budget shortfalls. The Commission noted the facts regarding funding by the Bar Foundations differ from those facts the Commission considered in prior opinions where the Commission advised that the provision of funds by a local bar association to pay the salary of a judicial research assistant creates a connection between the judge and local attorneys that could cause the judge's impartiality to reasonably be questioned, Canon 3C(1). No such relationship or connection exists under the facts presented by the inquiring judge.

In addition, in Advisory Opinion 03-826, the Commission advised that Canons 2 and 2A are not implicated by acceptance of funds from the Foundation. The proposal presented by the inquiring judge, if implemented, does not create any appearance of impropriety or erode confidence in the integrity and impartiality of the judiciary. Thus, under the facts presented, the Canons of Judicial Ethics do not prohibit funding juror costs by the local Bar Foundation.

REFERENCES

Advisory Opinion 03-826 .

Alabama Canons of Judicial Ethics, Canons 2, 2A, and 3C(1).

This opinion is advisory only and is based on the specific facts and questions submitted by the judge who requested the opinion pursuant to Rule 18 of the Rules of Procedure of the Judicial Inquiry Commission. For further information, you may contact the Judicial Inquiry Commission, P. O. Box 303400, Montgomery, Alabama 36130-3400; tel.: (334) 242-4089; fax: (334) 353-4043.