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October 7, 2026

ADVISORY OPINION NO. 2026-12

Jeff Patterson
Former Chief Judge
Alabama Tax Tribunal

Public Official / Revolving Door

For the purposes of the “Revolving Door” provisions of Ala. Code § 36-25-13(a), former judges of the Alabama Tax Tribunal are considered to be former members of the Alabama judiciary, and they are not prohibited from acting as an attorney and representing clients in a legal, non-lobbying capacity before the Tax Tribunal provided they are not representing a client in a matter in which the state is a party and in which they participated personally and substantially as a judge of the Alabama Tax Tribunal or which was within or under their official responsibility.

Dear Mr. Patterson:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request. This opinion applies only to the restrictions of the Ethics Act and applies prospectively only.

FACTS

Jeff Patterson served as the chief judge of the Alabama Tax Tribunal from May 1, 2017, until November 1, 2025. The position of chief judge is appointed by the Governor. After he retired from his public position, he returned to the private practice of law. He represents clients who wish

to exercise their right to appeal the tax assessments to the Alabama Tax Tribunal in accordance with Ala. Code § 40-2B-2 rather than appealing directly to circuit court. Mr. Patterson did not personally or substantially participate in his clients' matters while he served as chief judge of the Alabama Tax Tribunal, nor were these matters within or under his official responsibility.

The Alabama Tax Tribunal was created by the Legislature as an independent state agency within the executive branch of government.¹ The Alabama Tax Tribunal has statewide jurisdiction over many disputes between taxpayers and the Alabama Department of Revenue and between taxpayers and many counties and municipalities.² The chief judge serves as the executive of the Tax Tribunal and has sole charge of the administration of the Tax Tribunal and apportions among the judges all causes, matters, and proceedings coming before the Tax Tribunal.³ Tax Tribunal judges oversee discovery, including the subpoena of witnesses and evidence, conduct hearings, administer oaths to witnesses, make evidentiary rulings when objections are made by either party, and issue opinions and preliminary and final orders.⁴ The Tax Tribunal's final order has the same effect and is enforced in the same manner as a judgment of a circuit court.⁵ Tax Tribunal judges are subject to disciplinary proceedings before the Judicial Inquiry Commission to the same extent as circuit judges.⁶

QUESTION PRESENTED

Does the exception to Ala. Code § 36-25-13(a) for former members of the Alabama judiciary representing clients in a legal, non-lobbying capacity apply to a former judge of the Alabama Tax Tribunal?

ANALYSIS

The "Revolving Door" provisions of the Ethics Act found in Ala. Code § 36-25-13 prohibit public officials and public employees from engaging in certain private business activities for a period of two years after they leave their public position. Ala. Code § 36-25-13 states:

- (a) No public official shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, department, or legislative body, of which he or she is a former member for a period of two years after he or she leaves such membership. For the purposes

¹ Ala. Code § 40-2B-2(a)(1).

² Ala. Code § 40-2B-2(g).

³ Ala. Code § 40-2B-2(c)(6).

⁴ Ala. Code § 40-2B-2(j), (k).

⁵ Ala. Code § 40-2B-2(l)(6).

⁶ Ala. Code § 40-2B-2(d)(4).

of this subsection, such prohibition shall not include a former member of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity.

- (g) No former public official or public employee of the state may, within two years after termination of office or employment, act as attorney for any person other than himself or herself or the state, or aid, counsel, advise, consult or assist in representing any other person, in connection with any judicial proceeding or other matter in which the state is a party or has a direct and substantial interest and in which the former public official or public employee participated personally and substantially as a public official or employee or which was within or under the public official or public employee's official responsibility as an official or employee. This prohibition shall extend to all judicial proceedings or other matters in which the state is a party or has a direct and substantial interest, whether arising during or subsequent to the public official or public employee's term of office or employment.⁷

Article VI, Section 139 of the Alabama Constitution states:

(a) Except as otherwise provided by this Constitution, the judicial power of the state shall be vested exclusively in a unified judicial system which shall consist of a supreme court, a court of criminal appeals, a court of civil appeals, a trial court of general jurisdiction known as the circuit court, a trial court of limited jurisdiction known as the district court, a probate court and such municipal courts as may be provided by law.

(b) The legislature may create judicial officers with authority to issue warrants and may vest in administrative agencies established by law such judicial powers as may be reasonably necessary as an incident to the accomplishment of the purposes for which the agencies are created.⁸

While the Alabama Tax Tribunal is an executive branch agency, Section 139(b) of the Alabama Constitution permits the Legislature to vest administrative agencies, such as the Alabama Tax Tribunal, with judicial powers reasonably necessary to accomplish the purpose for which they are created. Additionally, regarding the role of the Judicial Inquiry Commission, Section 156(b) of the Alabama Constitution states: “The commission shall be convened permanently with authority to conduct investigations and receive or initiate complaints concerning any judge of a court of the judicial system of this state...”⁹

⁷ Ala. Code § 36-25-13(a),(g).

⁸ Ala. Const. art. VI, § 139.

⁹ Ala. Const. art. VI, § 156.

The Legislature has vested the Alabama Tax Tribunal with substantial judicial powers, and its judges perform judicial functions that are substantially similar to those performed by circuit court judges and are subject to the same Judicial Inquiry Commission charged with conducting investigations and receiving complaints concerning judges of the courts of the judicial system. Therefore, for the purposes of the “Revolving Door” provisions of Ala. Code § 36-25-13(a), the former judges of the Alabama Tax Tribunal are considered to be former members of the Alabama judiciary, and they are not prohibited from acting as an attorney and representing clients in a legal, non-lobbying capacity before the Tax Tribunal provided they are not representing a client in a matter in which the state is a party or has a direct and substantial interest and in which they participated personally and substantially as a public employee or public official or which was within or under their official responsibility.

Regarding matters which were within or under their official responsibility, the Commission has historically applied a narrow interpretation to what is considered to be within or under a public official’s official responsibility. “[T]he Commission has viewed ‘official responsibility,’ as specific issues for which the official was ultimately responsible in his or her official capacity, not just general categories that might have fallen within the overall subject matter of the official’s job.”¹⁰

Here, the State will be a party to these proceedings. However, Mr. Patterson did not personally and substantially participate in his clients’ matters while serving as a public employee or official of the Alabama Tax Tribunal, and the matters were not otherwise within or under his official responsibility. Therefore, the “Revolving Door” provisions of the Ethics Act do not prohibit Mr. Patterson from representing clients before the Alabama Tax Tribunal in a legal, non-lobbying capacity.

CONCLUSION

For the purposes of the “Revolving Door” provisions of Ala. Code § 36-25-13(a), former judges of the Alabama Tax Tribunal are considered to be former members of the Alabama judiciary, and they are not prohibited from acting as an attorney and representing clients in a legal, non-lobbying capacity before the Tax Tribunal provided they are not representing a client in a matter in which the state is a party or has a direct and substantial interest and in which they participated personally and substantially as a public employee or official of the Alabama Tax Tribunal or which was within or under their official responsibility.

¹⁰ Advisory Opinion No. 2017-07.

AUTHORITY

By 3/0 vote of the Alabama Ethics Commission on October 7, 2026.



J. David Dodd
Chair
Alabama Ethics Commission