



**COMMISSIONERS**

John H. Watson, Chairman  
Lewis G. Odom, Jr., Esq., Vice-Chairman  
Russell Jackson Drake, Esq.  
J. Harold Sorrells  
Dr. Cordell Wynn

STATE OF ALABAMA  
**ETHICS COMMISSION**

**MAILING ADDRESS**

P.O. BOX 4840  
MONTGOMERY, AL  
36103-4840

**STREET ADDRESS**

RSA UNION  
100 NORTH UNION STREET  
SUITE 104  
MONTGOMERY, AL 36104



James L. Sumner, Jr.  
Director

TELEPHONE (334) 242-2997  
FAX (334) 242-0248  
WEB SITE [www.ethics.alalinc.net](http://www.ethics.alalinc.net)

May 3, 2000

**ADVISORY OPINION NO. 2000-22**

The Honorable Wallace Wyatt, Jr.  
Judge of Probate  
St. Clair County  
P.O. Box 220  
Ashville, Alabama 35953

Conflict Of Interests/Probate Judge Serving  
As Member Of Board Of Directors Of  
Credit Union And Receiving Benefits  
Available To Board Members.

The Probate Judge of St. Clair County, who  
is a member of the Board of Directors of  
Tenco Credit Union of Fairfield, Alabama,  
may accept the benefits attendant to his  
service as a member of the Board of  
Directors; provided, that all benefits are  
available to all members of the Board of  
Directors equally as a part of their  
compensation package; and, that the  
expenses in excess of \$250.00 made within a  
calendar day on behalf of the Probate Judge  
and members of his family in relation to his  
attendance at the annual meeting, be  
reported to the Alabama Ethics Commission  
by Tenco Credit Union.

Dear Judge Wyatt:

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.

### **QUESTION PRESENTED**

May the Probate Judge of St. Clair County, who serves on the Board of Directors of Tenco Credit Union of Fairfield, Alabama, accept the benefits attendant with the service on the Board of Directors?

### **FACTS AND ANALYSIS**

The facts as have been presented to this Commission are as follows:

Wallace Wyatt, Jr. is the Probate Judge of St. Clair County, Alabama. He is currently serving his second term and is running for re-election this year.

He has been asked and has accepted a position on the Board of Directors of Tenco Credit Union of Fairfield, Alabama. The term is for a period of three years. Tenco has a branch office in Pell City, St. Clair County, Alabama.

Judge Wyatt states that there is no pay or salary for the position; however, there are some benefits afforded to each member of the board. The board members are entitled to:

- 1) Free checking.
- 2) Expenses paid for annual three-day meeting in Gulf Shores, Alabama, where attendance is required.
- 3) Should the judge desire a loan, his interest rate would be one percent lower than the standard rate.

As Judge Wyatt has already accepted a position on the Board of Directors, that question will not be addressed by the Commission, as it is not prospective in nature. However, the question of receiving the benefits is prospective and will be addressed by this opinion.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(24), defines a public official as:

“(24) PUBLIC OFFICIAL. Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or

municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-16-2.”

Section 36-25-1(8) defines a conflict of interest as:

“(8) CONFLICT OF INTEREST. A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs.”

Section 36-25-1(31)(a) defines a thing of value as:

“(31) THING OF VALUE.

a. Any gift, benefit, favor, service, gratuity, tickets or passes to an entertainment, social or sporting event offered only to public officials, unsecured loan, other than those loans made in the ordinary course of business, reward, promise of future employment, or honoraria.”

Section 36-25-1(31)(b)(4) excludes from the definition of a thing of value:

“b. The term, thing of value, does not include any of the following, provided that no particular course of action is required as a condition to the receipt thereof:

4. Reasonable transportation, food and beverages where the provider is present, and lodging expenses in the continental United States and Alaska which are provided in conjunction with an educational or informational purpose, together with any hospitality associated therewith; provided, that such hospitality is less than 50 percent of the time spent at such event, and provided further that if the aggregate value of such transportation, lodging, food, beverages, and any hospitality provided to such public employee, public official, and his or her respective household is in excess of two hundred fifty dollars (\$250) within a calendar day the total amount expended shall be reported to the commission by the provider. The reporting shall include the name or names of the recipient or

recipients, the value of the entire expenditure, the date or dates of the expenditure, and the type of expenditure.”

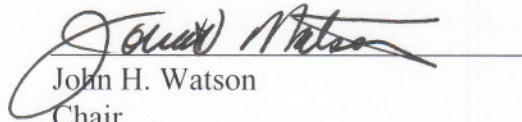
As the benefits offered to Judge Wyatt for his service on the Board of Directors are no different than those offered to other members of the Board of Directors, there is nothing contained in the Ethics Law to prohibit Judge Wyatt from accepting the benefits. However, as regards to the three-day meeting in Gulf Shores, Alabama, should the monies expended on behalf of Judge Wyatt and his family exceed \$250.00 within a calendar day while he is in attendance at the meeting, the itemized amount of expenditures must be filed with the Alabama Ethics Commission by Tenco Credit Union.

#### CONCLUSION

The Probate Judge of St. Clair County, who is a member of the Board of Directors of Tenco Credit Union of Fairfield, Alabama, may accept the benefits attendant to his service as a member of the Board of Directors; provided, that all benefits are available to all members of the Board of Directors equally as a part of their compensation package; and, that the expenses in excess of \$250.00 made within a calendar day on behalf of the Probate Judge and members of his family in relation to his attendance at the annual meeting, be reported to the Alabama Ethics Commission by Tenco Credit Union.

#### AUTHORITY

By 5-0 vote of the Alabama Ethics Commission on May 3, 2000.

  
John H. Watson  
Chair  
Alabama Ethics Commission