



Conflict of Interest Policy

Article I

Purpose

The purpose of this conflict of interest policy is to protect the interests of the American College of Bankruptcy (“the College”) (i) when it is contemplating entering into a financial transaction or arrangement where the financial interests of an officer, director or key employee of the College could diverge from the interests of the College, or (ii) the impartiality of the decisions of the College could otherwise reasonably be called into question. This policy is intended to supplement but not replace any applicable state and federal laws governing conflicts of interest applicable to nonprofit and charitable corporations. This policy is not intended to be exhaustive, and any officer, director or key employee of the College contemplating a financial transaction or arrangement who has reason to believe that the interest of the College could be adversely impacted because of the personal interest of that officer, director or key employee should bring the matter to the attention of the Chair of the Board of the College.

Article II

Definitions

1. Interested Person

Any director, officer or key employee of the College (i) who has a family relationship or a business relationship with any other director, officer or key employee of the College, or (ii) who has a direct or indirect Financial Interest in a financial transaction or arrangement with the College, is an interested person with respect to such transaction or arrangement.

2. Family Member

A family member is a person who is the interested person’s spouse, domestic partner, parent, grandparent, sibling, child, grandchild, or spouse of a sibling, child, or grandchild.

3. Business Relationship

A Business Relationship between two directors, officers or key employees of the College includes circumstances in which (a) those persons serve as control persons (e.g., a director, officer, trustee, partner or owner) of the same business entity, or (b) a business entity for which one person serves as a control person has engaged for compensation another person or that person’s firm in any capacity, other than as counsel and other than in the ordinary course of either party’s business on the same terms as are generally offered to the public.



4. Financial Interest

A person has a financial interest in a financial transaction or arrangement with the College if the person has, directly or indirectly, including through a Family Member or a Business Relationship:

- a. An ownership or investment interest in any entity that is a party to such transaction or arrangement,
- b. A compensation arrangement with respect to such transaction or arrangement either with the College or with any entity or individual that is a party to such transaction or arrangement, or
- c. A position (whether compensated or not) as an officer, director or control person of any entity that is a party to such transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

Article III Procedures

A Family Member Relationship or Business Relationship or a Financial Interest in a transaction or arrangement is not necessarily a conflict of interest but may require disclosure for tax reporting or other purposes. In accordance with the provisions herein, a person who has such a relationship or financial interest may have a conflict of interest only if the Board, after full disclosure, decides that a conflict of interest exists.

1. Duty to Disclose


In connection with any actual or possible conflict of interest, an interested person must disclose the existence of his or her financial interest or Family Member Relationship or Business Relationship, and be given the opportunity to disclose all material facts. This disclosure shall be made as soon as possible, and whenever feasible shall be disclosed prior to any discussion or action on the proposed transaction or arrangement, to the Chair of the Board.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest or family or business relationship and all material facts by the interested person(s), and after any discussion with the interested person(s), such interested persons) shall leave the Board meeting while the determination whether such Financial Interest constitutes a conflict of interest is discussed and voted upon. In making such determination, the Board may conclude that any Financial Interest of the interested persons) is so de minimis as not to constitute a conflict of interest. The Board, excluding any such interested persons) in such transaction or arrangement, shall decide by a majority vote of those present in person or by written proxy if a conflict of interest exists.

3. Procedures for Addressing a Matter where a Conflict of Interest Has Been Found to Exist

- a. Upon the consent of the Chair of the Board, an interested person may make a presentation at a Board meeting concerning the transaction or arrangement, but after the presentation, such individual shall leave the meeting and shall not participate during the discussion of, and the vote on, the transaction or arrangement involving the conflict of interest.
- b. After agreement by and between the President of the College and the Chair of the Board a disinterested director or committee may be appointed to investigate and report to the Board alterna-



tives to the proposed transaction or arrangement. In the event that either the President or the Chair are conflicted, the Immediate Past Chair of the Board shall serve in his/her place for purposes of this section.

1. The Board shall determine, by majority vote of the disinterested directors, whether the College can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
2. If the Board determines that the College cannot obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that will not give rise to a conflict of interest, the Board shall determine, by a majority vote of the disinterested directors, whether the transaction or arrangement is in the College's best interests and its terms are fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.

4. Violations of the Conflict of Interest Policy

- a. If the Board has reasonable cause to believe that a director, officer, or key employee of the College, as applicable, has failed to disclose an actual or possible conflict of interest, it shall inform the person of the basis for such belief and afford the person an opportunity to explain the alleged failure to disclose.
- b. If, after hearing the person's response and after making further investigation as warranted by the circumstances, the Board determines the person has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and/or corrective action, including but not limited to removal from his/her position as a director or officer.

Article IV

Records of Proceedings

The minutes of the Board shall reflect disclosures made pursuant to this policy and action taken, including any resulting recusals.

Article V

Compensation

1. No Voting on Own Compensation by Members

A director or officer who is an Interested Person who receives directly or indirectly, or whose Family Member receives directly or indirectly, compensation from the College for services shall abstain from voting on matters pertaining to that director's, officer's or Family Member's compensation.

2. No Prohibition on Providing Information on Compensation

A member of the Board who receives compensation, directly or indirectly, from the College is not prohibited from providing information to the Board regarding compensation.



Article VI

Annual Statements

Each director, officer and key employee of the College shall annually sign a statement which affirms such person:

- a. Has received a copy of this conflict of interest policy,
- b. Has read and understands the policy,
- c. Has agreed to comply with the policy,
- d. Has made disclosures of any relevant relationships pursuant to this policy, and
- e. Understands the College is tax-exempt and, in order to maintain its federal tax exemption, must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

Article VII

Periodic Reviews

To ensure the College operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, the Board shall conduct periodic reviews of the matters below, among others:

- a. Whether compensation arrangements and benefits are (i) reasonable, based on, among other things, available applicable survey information, and (ii) the result of arm's length bargaining.
- b. Whether any partnerships, joint ventures, and significant arrangements with other organizations entered into by the College conform to the College's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction (as each such term is defined in the Internal Revenue Code of 1986, as amended).

Article VIII

Use of Outside Advisors

When conducting the periodic reviews as provided for in Article VII, the College may, but need not, use outside advisors. If outside advisors are used, their use shall not relieve the Board or a committee of its responsibility for ensuring such periodic reviews are conducted.

Adopted: October 30, 2019