

AMERICAN BANKRUPTCY INSTITUTE

CONFLICTS OF INTEREST POLICY

PURPOSE

The purpose of this conflicts of interest policy is to protect the interest of the American Bankruptcy Institute (“ABI”) when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an Officer or Director of the ABI, or a member of the ABI staff who is acting in an advisory capacity to the Board or a Board Committee (as defined in the ABI by-laws and hereinafter “Board Committee”). This policy is intended to supplement but not to replace any applicable state laws governing conflicts of interest applicable to nonprofit and charitable corporations.

DEFINITIONS

Interested Person. Any Director, Officer, member of a Board Committee, Executive Director, Deputy Executive Director, advisor to the Board or a Board Committee, or staff member participating in a Board Committee’s decision-making who has a direct or indirect *financial interest*, as defined below, is an interested person.

Financial Interest. Except as set forth in the “Excluded Interests” provisions below, a person has a financial interest if the person has, directly or indirectly, through business, or activities of other members of their respective employers or firms:

- an ownership or investment interest in any entity with which the ABI has a transaction or arrangement, or
- a compensation arrangement with any entity or individual with which the ABI has a transaction or arrangement, or
- a material actual or known potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the ABI is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature.

A financial interest is not necessarily a conflict of interest. A person who has a financial interest has a conflict of interest only if the appropriate Board or Board Committee determines that a conflict of interest exists.

Excluded Interests. As ABI is a member organization, supported in its activities by the financial support of its members and their respective employers, including law firms, consulting firms and other service providers to the insolvency community, it is not the intention of this policy to deem any involvement between ABI and a member or their

firm to be a conflict of interest. Many firms support ABI activities through sponsorship of events, contributions to the ABI Endowment Fund, or by the volunteer time spent by the members. Such activities are not by their nature a conflict of interest. Those activities include, but are not limited to:

corporate sponsorship of ABI;

sponsorship of or exhibiting at programs or meetings;

advertising in the *ABI Journal*;

contributions to the *ABI Endowment Fund*;

sponsorship of individual publications undertaken by ABI members;

uncompensated time volunteered to ABI, through special projects, Board activities or any other task force pursuant to the authority of the President or Chairman of the Board;

the services of Thomson West (or any affiliate) in providing publication services to ABI;

activities involving any agency of the U.S. Government; and

activities involving Universities and Law Schools.

PROCEDURES

Duty to Disclose

An interested person with a financial interest must disclose the existence of his or her financial interest and must be given the opportunity to disclose all material facts to ABI's Executive Director, President or Chairman of the Board, or such Board Committee to whom responsibility to address potential conflicts of interest is delegated, for considering the proposed transaction or arrangement.

Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, the interested person shall leave the Board or Board Committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board or Board Committee members shall decide if a conflict of interest exists.

Procedures for Addressing the Conflict of Interest

If a conflict of interest is determined to exist, the interested person may make a presentation at the Board or Board Committee meeting, but after such presentation, the interested person shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement that gave rise to the conflict of interest.

The Chair of the Board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

After exercising such due diligence as the Board or Board Committee deems appropriate under the circumstances, the Board or Board Committee shall determine whether the ABI can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest.

If a more advantageous transaction or arrangement that would not give rise to a conflict of interest is not reasonably attainable under circumstances, the Board or Board Committee shall determine by a majority vote of the disinterested Directors whether the transaction or arrangement is in the ABI's best interest and for its own benefit and whether the transaction is fair and reasonable to the ABI, and shall make its decision as to whether to enter into the transaction or arrangement in conformity with that determination.

Violations of the Conflicts of Interest Policy

If the Board or Board Committee has reasonable cause to believe that an interested person has failed to disclose a financial interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

If, after hearing the response of the member and making such further investigation as may be warranted in the circumstances, the Board or Board Committee determines that the member has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary or corrective action.

DISCLOSURE; RECORDS OF PROCEEDINGS

A Board Committees shall report any disclosures, deliberations or decisions under this policy to the Board, including the specific information set forth below. The Board can then take such action with respect to such information as it deems appropriate.

Unless the Board decides that information related to this policy should remain undisclosed due to extraordinary or unusual circumstances, the minutes of the Board shall contain —

- the names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine

whether a conflict of interest was present, and the Board’s decision as to whether a conflict of interest in fact existed; and

- the names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection therewith.

ANNUAL STATEMENTS

Each Interested Person shall annually sign a statement which affirms that such person —

- has received a copy of the conflicts of interest policy,
- has read and understands the policy,
- has agreed to comply with the policy, and
- understands that the ABI is a nonprofit and non-partisan education organization, tax exempt under Internal Revenue Service Section 501(c)(3) and that in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.