

National Conference of Bankruptcy Judges Conflict of Interest Policy

(Approved August 14, 2024)

Article I – Purpose

The purpose of this conflict of interest policy is to protect the interests of the National Association of Bankruptcy Judges (the “NCBJ”) when it is contemplating entering into a financial transaction or arrangement where (i) the **Financial Interest** (as defined below) of an officer, director, committee member, NCBJ executive director or his or her staff could diverge from the interests of the NCBJ; or (ii) the impartiality of the decisions of the NCBJ 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 organizations and charitable organizations. This policy is not intended to be exhaustive, and any NCBJ officer, director, committee member, executive director, or staff member contemplating a financial transaction or arrangement who has reasons to believe that the interests of the NCBJ could be adversely impacted because of the personal interest of that person should bring the matter to the attention of the NCBJ President or chair of the applicable committee (who in turn shall promptly inform the NCBJ President).

Article II – Definitions

1. Interested Person

Any NCBJ officer, NCBJ committee member, the NCBJ executive director or his or her staff member who has a direct or indirect **Financial Interest**, as defined below, in a financial transaction or arrangement, is an “**Interested Person**” with respect to such transaction or arrangement.

2. Family Member

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. Financial Interest

A person has a **Financial Interest** in a financial transaction or arrangement if the person has, directly or indirectly including through a **Family Member**:

- 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 NCBJ 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 but excludes reimbursement for expenses occurred as a result of performing duties for the NCBJ.

A **Financial Interest** is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a **Financial Interest** may have a conflict of interest only if the NCBJ Executive Committee (“Executive Committee”) or the Board of Governors (the “Board”), after full disclosure, decides that a conflict of interest exists.

Article III – Procedures

1. Duty to Disclose

In connection with any known conflict of interest, an **Interested Person** must disclose the existence of his or her **Financial Interest** and be given the opportunity to disclose all material facts. This disclosure shall be made as soon as possible, and whenever feasible shall be made prior to any discussion or action on the proposed transaction or arrangement, to the NCBJ President or, if relevant, to the chair of the committee having authority to request the proposed transaction or arrangement. If such disclosure is made to the chair of a committee, such chair shall promptly report such disclosure to the NCBJ President. If the NCBJ President has the actual or possible conflict of interest, he or she must disclose that conflict to the NCBJ President-Elect.

2. Determining Whether a Conflict of Interest Exists

An **Interested Person** shall disclose his or her **Financial Interest** and all material facts at a meeting of the Board or Executive Committee, whichever is applicable. After disclosure, such **Interested Person** shall leave the meeting while the determination of whether such **Financial Interest** constitutes a conflict of interest is discussed and voted upon. In making such determination, the entity with the power to approve the transaction (whether it be the Executive Committee or the Board) may conclude that any **Financial Interest** of the **Interested Person** is so *de minimis* as not to constitute a conflict of interest. The applicable deciding body, excluding any such **Interested Person(s)** 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. In accordance with paragraph III.2 above, with the consent of the President, an **Interested Person** may make a presentation to the applicable deciding body 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. The President may, if deemed appropriate due to the importance to the NCBJ of the transaction or arrangement, appoint a disinterested governor or committee to investigate and report on the alternatives to the proposed transaction or arrangement.

- i. The deciding body (whether the Executive Committee or the Board) shall determine, by majority vote of the disinterested members, whether the NCBJ can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not have a conflict of interest.
- ii. If the deciding body determines that the NCBJ 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, it shall determine, by a majority vote of members present, whether the transaction or arrangement is in the NCBJ's best interests and its terms are fair and reasonable. In conformity with the above determination, the deciding body 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 deciding body has reasonable cause to believe that a director, officer, committee member, executive director or staff member, 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 deciding body determines the person had failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and/or corrective action if within its authority under the NCBJ bylaws.

Article IV – Records of Proceedings

The minutes of the body with authority to act pursuant to this policy 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

An officer or governor who receives, or whose **Family Member** receives, compensation from the NCBJ for services shall abstain from voting on matters pertaining to that officer's, governor's or **Family Member's** compensation.

2. No Prohibition on Providing Information on Compensation

A member of the Board or any committee whose authority includes compensation and who receives compensation, directly or indirectly, from the NCBJ is not prohibited from providing information to the Board or any committee regarding compensation.

Article VI – Required Signed Statement

Upon taking office, each officer and governor shall sign a statement that 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; and
- d. Understands the NCBJ is tax-exempt and in order to maintain its federal tax exemption must engage primarily in activities that accomplish one or more of its tax-exempt purposes.

Article VII – Periodic Reviews

To ensure that the NCBJ operates in a manner consistent with its charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, the Board or a committee 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 the (ii) the result of arm’s length bargaining;
- b. Whether any partnerships, joint ventures, and significant arrangements with other organizations entered into by the NCBJ conform to the NCBJ’s written policies, are properly recorded, reflect reasonable investment or payments for goods or services, further charitable purposes and do not result in inurement, impermissible private benefit, or in 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 NCBJ 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.

Article IX– The Code of Conduct Controls

For those subject to the Code of Conduct for United States Judges (the “Code”), nothing herein shall be deemed to expand or otherwise modify the duties and obligations under the Code. In the event of a conflict between this document and the Code, the Code shall control.

CERTIFICATION OF ADOPTION

The foregoing Conflict of Interest Policy was adopted by the Board of Governors of the NCBJ on August 14, 2024.