

PRE-COMPLAINT DISPOSITION AGREEMENT

This Agreement, made this 25 day of September, 2009, by and between Barry L. Miller, Department of General Services, and William J. Colquhoun, Esq., Staff Counsel to the State Ethics Commission (hereinafter "Staff Counsel").

The State Ethics Commission ("the Commission") is the executive agency of the State of Maryland established by Chapter 513, Acts 1979 for the purpose of enforcing the Maryland Public Ethics Law (State of Government Article, Title 15, Annotated Code of Maryland, (hereinafter "the Ethics Law")) including the provisions of Subtitle 5, Conflicts of Interest.

AGREED STATEMENT OF FACTS

1. On May 27, 2004, Barry L. Miller entered into a Pre-Complaint Disposition Agreement acknowledging inter alia his participation in a Second Phase Review Panel which violated Section 15-501(a)(2)(ii)(2) of the Ethics Law. Pursuant to Department of General Services ("DGS") procurement regulations, the DGS Secretary appointed Mr. Miller to participate in a DGS Second Phase Review Panel on September 8, 2000 to evaluate four different architecture and engineering team presentations and proposals regarding the selection of a team to design a forensic crime lab for the Maryland State Police. Although Mr. Miller rated other teams higher than his spouse's employer, Mr. Miller violated the Ethics Law when one of the teams evaluated by Mr. Miller included a company which employed his spouse.

2. Barry L. Miller was at all times relevant to this matter employed by the DGS, an executive agency of the State of Maryland, and an employee subject to the financial disclosure and conflict of interest provisions of the Ethics Law.

3. Mr. Miller is employed as a Project Manager/Leader at DGS and his duties involve evaluating architecture and engineering proposals for the State, supervising other employees involved in similar tasks, and overseeing State contracts, including approving payment of invoices and contract change orders.

4. From January 3, 2005 until April 30, 2007, Mr. Miller's spouse was an employee of the architecture firm of J.A. Ammon & Associates, Inc., its various successors and joint ventures, an entity that does business with DGS. While employed with J.A. Ammon, Mr. Miller's spouse worked primarily on nursing home projects and not on any DGS or State of Maryland business. Since March, 2008, Mr. Miller's spouse has been employed with an architectural firm located in Atlanta, Georgia.

5. In June 2004, a joint venture was established between J.A. Ammon & Associates, Inc. and DJMH+N d/b/a DMJM Design. The joint venture entitled Ammon/DMJM Design was formed for the purpose of performing an architectural and engineering contract with DGS for the construction of a courthouse in Rockville. After learning that a joint venture involving his spouse's employer at the time (CS & D, Inc.)

submitted a bid, Mr. Miller specifically informed his superiors at DGS that he could not serve on any selection committee concerning the courthouse project. Mr. Miller did not serve on the DGS Qualifications Committee that ultimately selected the Ammon/DMJM Design to perform the contract. However, with the approval of his superiors at DGS, he was involved in negotiating the cost of the contract. Mr. Miller represents that his negotiations were intended to reduce significantly the final cost of the contract eventually awarded by the State to the Ammon/DMJM joint venture.

6. In November 2003, the Office of Legislative Audits ("OLA") issued a Special Report that addressed a complaint received through the DGS fraud hotline that alleged that a DGS employee improperly participated in the procurement of two contracts. In response to the recommendation of the OLA, DGS referred the matter to the State Ethics Commission for its investigation that led to the May 27, 2004 disposition agreement described above.

7. In February 2008, OLA issued a Special Review Audit Report intended to follow up its November 2003 Special Report. The OLA conducted its follow up review of DGS primarily between September through November 2007. The February 2008 follow up report criticized DGS' conflict of interest procedures and Mr. Miller's participation in matters involving his wife's employer. The OLA recommended that DGS establish adequate procedures to ensure that conflicts of interest do not occur and further recommended that DGS refer the matter to the State Ethics Commission for its review. The State Ethics Commission staff subsequently conducted an inquiry and reviewed numerous documents. During the inquiry of this matter, the Legislative Auditor and his staff cooperated and provided assistance to Commission staff.

8. Section 15-501 of the Ethics Law prohibits a State employee or official from participating in a matter if the employee or official, or a qualifying relative of the employee or official, has an interest in the matter and the employee or official knows of the interest. Section 15-102 of the Ethics Law defines "qualifying relative" as a spouse, parent, child, brother or sister.

9. Beginning on April 4, 2005 through June 28, 2007, Mr. Miller participated in the approval of various invoices and change orders relating in part to his wife's employer in violation of the participation provisions of Section 15-501 of the Ethics Law. Certain of these change orders were the result of requests from various state and local officials who decided certain aspects of the project needed to be altered.

10. Mr. Miller is voluntarily entering into this agreement to admit certain violations of the Ethics Law, to accept certain sanctions, and to resolve the matter now pending against him without the issuance of a complaint and a hearing before the Commission.

11. Mr. Miller has been represented by Brian M. Quinn, Esq., in the inquiry into this matter and the execution of this agreement.

NOW THEREFORE, in consideration of the agreed facts contained herein, and effective on the date of the Commission's acceptance of the terms of this Agreement, Barry L. Miller and William J. Colquhoun, Staff Counsel, agree as follows:

A. That Mr. Miller stipulates that his participation in matters concerning his wife's former employer J.A. Ammon & Associates, Inc., its various successors and joint ventures, violated Section 15-501(a)(2)(ii)(2) of the Ethics Law.

B. That Mr. Miller understands that violations of the conflict of interest provisions of the Ethics Law may result in civil fines pursuant to Section 15-902 of the Ethics Law. Mr. Miller further agrees to pay in lieu of potential fines, the sum of \$5,000 for the above admitted violation of the law, and that said sum will be paid by certified check or money order payable to the State of Maryland in care of the State Ethics Commission on or before October 12, 2009.

C. That the Commission will issue a reprimand to Mr. Miller effective the date of the Commission's acceptance of the Agreement.

D. That the Commission will transmit a copy of the Agreement to the Governor and the Secretary of the Department of General Services.

E. That Mr. Miller will not participate in any DGS matter in which a qualifying relative or a qualifying relative's employer has an interest. The Commission through its published opinions has defined "participate" as "participating as a State officer or employee in any proceeding, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise" and "matter" as "any proceeding, application, submission, request for ruling or other determination, contract, claim, case or other such particular matter" (Opinion No. 80-17). Section 15-102(t) of the Ethics Law defines an "interest" as "a legal or equitable economic interest that is owned or held wholly or partly, jointly or severally, or directly or indirectly, whether or not the economic interest is subject to an encumbrance or condition."

F. That Mr. Miller waives any formal proceedings and hearing in this matter if the Commission accepts the Agreement, and agrees that acceptance of this Agreement by the Commission constitutes a final action and finding of violation by the Commission.

G. Mr. Miller further agrees that the Agreement and materials related to this matter are not subject to the confidentiality provisions of the Ethics Law and will be public information unless otherwise protected.

H. That upon execution of this Agreement by Mr. Miller, Staff Counsel will recommend that the Commission suspends any further proceedings against Mr. Miller. Should Mr. Miller fail to comply with the terms of the Agreement, and after written notice to Mr. Miller, the Commission reserves the right to open an

investigation and issue a Complaint for violation of Sections 15-501 of the Ethics Law.

I. That in the event that the Commission declines to accept the Agreement, both Mr. Miller and Staff Counsel are relieved of their respective obligations hereunder, and neither this Agreement, nor any admission it may contain, shall be admissible in any subsequent proceeding by the Commission.

J. That Mr. Miller and Staff Counsel are entering into this agreement for the sole purpose of resolving the matters involved in the Commission's Preliminary Inquiry matter and for no other purpose.

IN WITNESS WHEREOF, Barry L. Miller and William J. Colquhoun, Staff Counsel, State Ethics Commission, have hereunto set their hands.

SIGNATURE APPEARS ON ORIGINAL AGREEMENT

William J. Colquhoun, Staff Counsel
State Ethics Commission
45 Calvert Street, 3rd Floor
Annapolis, Maryland 21401

SIGNATURE APPEARS ON ORIGINAL AGREEMENT

Barry L. Miller

SIGNATURE APPEARS ON ORIGINAL AGREEMENT

Brian M. Quinn, Esq.
DLA Piper US LLP
225 Smith Avenue
Baltimore, Maryland 21209
Counsel to Barry L. Miller

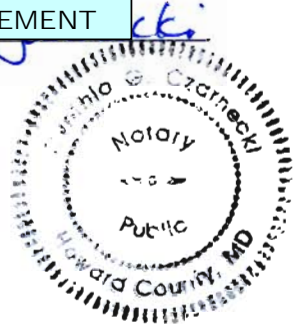
State of Maryland
County of: BALTIMORE, to wit:

Before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared BARRY L. MILLER who made oath on this 23rd day of September, 2009 in due form of law that the matters and facts hereinabove set forth are true to the best of his knowledge, information and belief, and are his voluntary act and that he executed this document for the purpose set forth herein.

SIGNATURE APPEARS ON ORIGINAL AGREEMENT

Notary Public

My Commission Expires: August 1, 2010



State of Maryland,
County of: ANNE ARUNDEL, to wit:

Before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared WILLIAM J. COLQUHOUN, Staff Counsel to the State Ethics Commission, who made oath on this 25th day of SEPTEMBER, 2009 in due form of law that he executed this agreement for the purposes set forth herein.

SIGNATURE APPEARS ON ORIGINAL AGREEMENT

Notary Public

DONALD M. STREET
Notary Public-Maryland
Anne Arundel County
My Commission Expires
November 09, 2010

My Commission Expires:

Accepted by the Commission

SIGNATURE APPEARS ON
ORIGINAL AGREEMENT

Robert F. Scholz, Chair
for the Commission

Date: September 24, 2009