



Department of Transformation and Shared Services
Governor Sarah Huckabee Sanders
Secretary Leslie Fiskens

March 6, 2024

H. Alan Mantooh, Ph.D.
Bastazo, Inc.
6430 W. Wheeler Road
Fayetteville, AR 72704

RE: Advisory Opinion No. 2024-03

Dear Dr. Mantooh:

This letter is in response to a written request for an advisory opinion and a waiver pursuant to Arkansas Code Annotated §19-11-715(b) and (c), which was sent to me in a letter on February 6, 2024, regarding your proposed Technology Development Program investment by the State of Arkansas into Bastazo, Inc. After reviewing the information you have provided, I am granting the waiver request.

This opinion is based upon the following information that you have presented to me and upon which I am relying. It should be noted that if one or more of these information items are later shown to be incorrect, that could result in a revised opinion.

1. Bastazo, Inc. is an Arkansas-based software development company;
2. You are a part owner of Bastazo, Inc. with a 13.64% ownership stake;
3. The scope of your role is as one of the founders and member of the Board of the Directors;
4. Bastazo, Inc. is working in conjunction with Salvador Technologies, based in Israel, on a software called XCS that will protect organizations from ransomware attacks (eXtracted Configuration Security for ICS vulnerability management, monitoring, and rapid recovery);
5. Bastazo, Inc., received a grant from Israel-U.S. Binational Industrial Research and Development (BIRD) foundation in 2023 to develop a new technology previously described as XCS;
6. Using Bastazo, Inc.'s own funding and the awarded BIRD grant, Bastazo, Inc. hired new employees to work on the project, and there currently are no state resources involved in the development of XCS;
7. XCS is still under the research and development phase and the commercialization phase has not started. Therefore, there is no product to be sold;
8. You do not receive compensation from Bastazo, Inc. other than owning equity in the company and you do not have any direct reports;
9. Your current role for the state is Department Head and Professor at the University of Arkansas for which you perform administrative duties, research, teach courses, advise students, and perform various other services for the university;

10. XCS was developed independently from the university and without the use of state resources; and
11. On May 9, 2020, you disclosed your ownership of Bastazo, Inc. to the university in accordance with University Policy 404.0. You disclosed your ownership again on August 20, 2021, October 18, 2022, and December 2, 2023.

I. Relevant Law

Arkansas Code Annotated § 19-11-701(8) defines “employee,” as “an individual drawing a salary from a state agency, whether elected or not, and any non-salaried individual performing personal services for any state agency.” “State agency” is defined in Arkansas Code Annotated § 19-11-701(16) as meaning “any office, department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment or official of the executive, judicial, or legislative branch of this state.”

Arkansas Code Annotated § 19-11-701(2) defines “business” to mean “any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other legal entity.” The term “financial interest” is defined in Ark. Code Ann. §19-11-701(9) as meaning:

- (A) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than one thousand dollars (\$1,000) per year, or its equivalent;
- (B) Ownership of more than a five percent (5%) interest in any business; or
- (C) Holding a position in a business such as an officer, director, trustee, partner, employee, or the like, or holding any position of management;

The ethical strictures set forth in Arkansas Code Annotated § 19-11-705(a)(1)(A) prohibit state employees from participating directly or indirectly in any particular matter pertaining to any state agency contracts in which an employee or an employee's immediate family member has a financial interest. See Arkansas Code Annotated § 19-11-705. Arkansas Code Annotated § 19-11-705(a)(2) defines “direct or indirect participation” as including, but not being limited to, “involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.”

In addition, Executive Order 98-04 Section II addresses approval of contracts and grants and provides in pertinent part as follows:

Agencies shall be prohibited from entering into or renewing any contract ... with any current or former: ... board or commission member ... or with any entity in which any such person holds (1) any position of control, or (ii) any ownership interest of 10% or greater. The prohibition provided in the previous sentence shall not apply to: (i) contracts ... that are the result of competitive sealed bidding or a request for proposal, which requires public notice and public opening of bids or proposals; provided, however, agencies shall be required to disclose any such contract ... entered into with any of the persons described in the previous paragraph, notice of which is given to the Governor and the Legislative Council; ...

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II. Analysis

Based on the above representations, your employment by the University of Arkansas classifies you as a state employee. Additionally, as a part owner of Bastazo, Inc., with a 13.64% ownership stake, and as a member of the Board of Directors, you have a financial interest in a state-agency contract.

Your role at Bastazo, Inc. and its award of a Technology Development and Royalty Agreement by the Arkansas Economic Development Commission's Division of Science and Technology was done independently of your employment at the University of Arkansas. You have affirmed that: a) XCS was not developed using state resources; b) state resources, including time, would not be used for future work of Bastazo, Inc.; c) you do not receive compensation from Bastazo, Inc. other than owning equity in the company; d) you do not have any direct reports; and e) you have disclosed your partial ownership of Bastazo, Inc. to the university on multiple occasions.

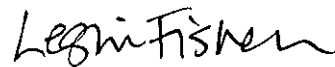
Given the forgoing, I am persuaded that the circumstances demonstrate that a conflict is insubstantial or remote so as not to taint the current or future procurement processes.

III. Decision

Thank you for seeking my counsel and approaching the issue with transparency. I am persuaded that under the representations as stated above, any ethical conflict that might exist is insubstantial or remote on the basis of your affirmation that, in both your role at Bastazo, Inc. and your role with the university, you will not use state resources for the benefit of Bastazo, Inc., and all activity related to Bastazo, Inc., will be created and performed independently of your role with the university. Therefore, I grant permission to proceed to such extent and upon such terms and conditions as specified in this letter.

This decision grants a waiver in the interests of the state and in accordance with Arkansas Code Annotated § 19-11-715(c); compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Arkansas Code Annotated § 19-11-701 *et seq.*

Sincerely,



Leslie Fisker
Secretary

