



# STATE OF ALABAMA ETHICS COMMISSION



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MAILING ADDRESS  
P.O. BOX 4840  
MONTGOMERY, AL  
36103-4840

STREET ADDRESS  
RSA UNION  
100 NORTH UNION STREET  
SUITE 104  
MONTGOMERY, AL 36104

## EXECUTIVE DIRECTOR

Thomas B. Albritton

TELEPHONE (334) 242-2997

FAX (334) 242-0248

WEB SITE: [www.ethics.alabama.gov](http://www.ethics.alabama.gov)

April 3, 2024

## ADVISORY OPINION NO. 2024-02

Daniel King  
Vice-President  
Facilities Management  
Auburn University

1677 Quail Ridge Drive  
Gardendale, AL 35071

Revolving Door / Former Public Employee /  
Employment / Contracting / Representation

A former public employee may not solicit or accept employment with a business where they personally participated in the direct regulation, audit, or investigation of that business until two years after such participation concluded or two years after they leave their public position.

A former public employee may not represent any client or private employer before their former public employer until two years after they leave their public position.

A former public employee who participated in the negotiation or approval of contracts may not solicit, negotiate, or enter into a contract with their former public employer until two years after they leave their public position.

A former public employee may perform services on a contract basis for clients who had contracts with the former public employee's public employer provided they

did not use their public position to obtain the opportunity to provide such services and did not solicit or receive the opportunity for the purpose of corruptly influencing their official action while a public employee.

Dear Mr. King:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

### **FACTS**

Daniel King is the Vice-President for Facilities Management at Auburn University. Mr. King plans to retire on May 1, 2024. He is responsible for directing and managing the University's design and construction program and providing maintenance, utilities, custodial, and landscaping services to campus clients. Mr. King is the chief contracting officer within Facilities Management with authority to approve contracts. Upon retirement, Mr. King intends to create a consulting firm that would advise architectural, engineering, construction, or construction management, firms regarding how to improve their project proposals and business development presentations to prospective clients.

### **QUESTION PRESENTED**

1. Upon retirement, may Mr. King accept employment with a company that had contracts with Auburn University while he was Vice-President for Facilities Management?
2. May a consulting firm created by Mr. King upon his retirement engage in business with Auburn University?
3. May a consulting firm created by Mr. King upon his retirement perform services for clients who had contracts with Auburn University while he was Vice-President for Facilities Management?

### **ANALYSIS**

The "Revolving Door" provisions of the Ethics Act prohibit former public employees from soliciting or accepting employment with a business where they personally participated in the direct regulation, audit, or investigation of that business.<sup>1</sup> Therefore, Mr. King may not solicit or accept employment with any company that had contracts with Auburn University where he participated

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<sup>1</sup> Ala. Code § 36-25-13(f).

in the review/approval of that contract until two years after he leaves his public position or after he last participated in reviewing/approving a contract for that business.<sup>2</sup>

The “Revolving Door” also prohibits former public employees from representing any client or private employer before their former public employer for two years, and it prohibits certain former public employees, including those who participate in the negotiation or approval of contracts, grants, or awards, from soliciting, negotiating, or entering into contracts with their former public employer for two years.<sup>3</sup> Therefore, Mr. King may not represent clients before Auburn University or enter into a contract with Auburn University until two years after he leaves his public position. This restriction does not prohibit other employees of Mr. King’s firm from representing clients of Mr. King’s consulting firm.

There is nothing in the Ethics Act that would prohibit Mr. King from performing services on a contract basis for clients who had contracts with Auburn University while he was Vice-President for Facilities Management provided he does not and has not used his position with Auburn University to create the opportunity to provide such services and he has not solicited or received anything, including such opportunities, for the purpose of corruptly influencing his official action as a public employee.<sup>4</sup>

### **CONCLUSION**

A former public employee may not solicit or accept employment with a business where they personally participated in the direct regulation, audit, or investigation of that business until two years after such participation concluded or two years after they leave their public position.

A former public employee may not represent any client or private employer before their former public employer until two years after they leave their public position.

A former public employee who participated in the negotiation or approval of contracts may not solicit, negotiate, or enter into a contract with their former public employer until two years after they leave their public position.

A former public employee may perform services on a contract basis for clients who had contracts with the former public employee’s public employer provided they did not use their public position to obtain the opportunity to provide such services and did not solicit or receive the opportunity for the purpose of corruptly influencing their official action while a public employee.

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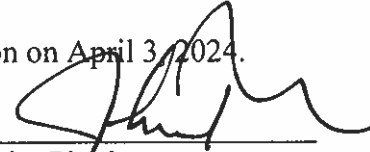
<sup>2</sup> See Advisory Opinion No. 2018-16

<sup>3</sup> Ala. Code §§ 36-25-13(c), (d).

<sup>4</sup> Ala. Code § 36-25-5(a); Ala. Code § 36-25-7.

**AUTHORITY**

By 4/0 vote of the Alabama Ethics Commission on April 3, 2024.



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John Plunk  
Chair  
Alabama Ethics Commission