

Board of Ethics

DECISION 102-23

The former Deputy Commissioner of Operations at the Westchester County Jail (the "former Deputy Commissioner") requests a waiver of the post-employment restriction imposed by Code of Ethics Section 883.207(b). The Board of Ethics has deemed this request to also seek a waiver of the post-employment restriction imposed by Code of Ethics Section 883.207(c).

GOVERNING AUTHORITY

The Laws of Westchester County, Chapter 883 (the "Code of Ethics"), Section 883.207 (Future Employment), provides at subsection (b) that:

No County officer or employee, for a one-year period after serving as a County officer or employee, shall appear before or communicate in any form with the County office, board, department or comparable organizational unit for which he or she served in connection with any case, proceeding, application or other proposed or pending matter, except (i) on behalf of the Federal Government, the State or a political subdivision or instrumentality thereof, or (ii) pursuant to a waiver granted or deemed to be granted in accordance with the procedures set forth at Section 883.402(g).

The Laws of Westchester County, Chapter 883 (the "Code of Ethics"), Section 883.207 (Future Employment), provides at subsection (c) that:

No County officer or employee, at any time after serving as a County officer or employee, shall represent or render services to a private person or organization in connection with any particular matter in which he or she personally and substantially participated while serving as a County officer or employee, except (i) on behalf of the Federal Government, the State or a political subdivision or instrumentality thereof, or (ii) pursuant to a waiver granted or deemed to be granted in accordance with the procedures set forth at Section 883.402(g).

Code of Ethics Section 883.402(g) (Waivers) provides, in pertinent part, that:
Upon written application by a current or former County officer, employee or independent contractor, and upon written approval by his or her department or agency head, the Board of Ethics may grant the applicant, or his or her private employer or business, a waiver of any of the provisions of Sections... 883.207 (Future employment) ... of this Code of Ethics, where the Board of Ethics finds that waiving such provision would not be in conflict with the purposes and interest of the County, provided, however, that no such waiver shall permit any conduct or interest otherwise prohibited by Article 18 of the General Municipal Law.

DISCUSSION

The Deputy Commissioner separated from employment with the County of Westchester on October 27, 2023. In a Request for Post-Employment Waiver dated December 1, 2023, the former Deputy Commissioner stated that:

As Deputy Commissioner of Operations at the Westchester County Jail, I was tasked with conducting security evaluations and providing technical support to Woodfield staff on security and operations. For the last year, I was also part of a working group for the design of the new SSD facility and provided the same level of guidance regarding security-related design and the use of detention-grade material. As a consultant to the County, I would be providing the same services and working in the best interest of the County to ensure that each step of the project is aligned with accepted rules, regulations, and best practices for a specialized secure detention facility.

The Deputy Commission would provide the proposed consulting services through his wholly owned limited liability company. His request was approved in writing by the Commissioner of Corrections, and a copy of the request was provided to the Clerk of the Board of Legislators.

CONCLUSION

Based on the facts presented, the Board of Ethics finds that granting a waiver of the post-employment restriction imposed by Code of Ethics Sections 883.207(b) and Section 883.207(c) for the purpose of permitting the former Deputy Commissioner to engage in the particular post-employment activities specified in his request would not be in conflict with the purposes and interest of the County. The Board of Ethics further finds that the proposed post-employment activities are not prohibited by Article 18 of the General Municipal Law.

The Board of Ethics hereby grants a waiver of the post-employment restrictions imposed by Code of Ethics Section 883.207(b) and Section 883.207(c) for the purpose of permitting the former Deputy Commissioner to engage in the particular post-employment activities specified in his request, subject to the following conditions: (i) for a period of one-year following his separation from County employment, the former Commissioner must refrain from communicating with the Department of Corrections on behalf of a private sector employer in connection with any other matter, unless a further waiver is granted by the Board of Ethics; and (ii) at all times in the future, the former Deputy Commissioner must refrain from rendering services to a private sector employer in connection with any other particular matter in which he personally and substantially participated while employed by the County, unless a further waiver is granted by the Board of Ethics.

The foregoing constitutes the opinion of the Board of Ethics.

Dated: White Plains, New York

December 18, 2023

/s/ Kitley S. Covill

Kitley S. Covill, Chair

encl. Request for waiver by Board of Ethics dated December 1, 2023

Approval by Commissioner of Corrections, Joseph Spano dated December 1, 2023

cc: Clerk of the Board of Legislators

REQUEST FOR POST-EMPLOYMENT WAIVER

NOTE: THIS FORM IS PROVIDED FOR YOUR ASSISTANCE. IT IS NOT REQUIRED. YOU MAY SUBMIT YOUR REQUEST FOR A POST-EMPLOYMENT WAIVER USING THIS FORM VIA EMAIL OR BY LETTER TO THE BOARD OF ETHICS AT THE FOLLOWING: _____; Board of Ethics c/o Westchester County Attorney, 148 Martine Avenue, 6th Floor, White Plains, NY 10601.

FOR OFFICIAL USE:

Waiver Request No. _____ Date Received _____

1. Your contact information (required):

Name Leandro Diaz

Address 58 Columbia Avenue Hartsdale NY 10530

Phone number 914-755-5261

Email address Ldiaz@jailhooktions.org

Department Department of Correction

2. The type of waiver that you are requesting (check one or more):

- a. 90-day bar to seeking or accepting a job with an employer that had an official matter before you or your board or commission within the past 90 days
- b. One year bar to communicating with your former County office, board, or department about an official matter
- c. Permanent bar to providing services to a private person or organization in any matter that you handled on behalf of the County

3. Date of separation from County service: 10/27/2023

4. County department at the time of separation: Corrections

5. Title at time of separation:

Deputy Commissioner

6. I have completed with the following requirements:

a. I have asked my department head to approve the waiver that I am requesting

b. I have submitted a written request to the Clerk of the Board of Legislators

7. The waiver that I am requesting would not conflict with the interests of the County because (include relevant details of your official duties and the duties of your proposed future employer(s)):

As Deputy Commissioner of Operations at the Winchester County Jail I was tasked with conducting security evaluations and providing technical support to Woodfield staff on security and operations. For the last year, I was also part of a working group for the design of the new SSD facility and provided the same level of guidance regarding security-related design and the use of detention-grade material. As a consultant to the county, I would be providing the same services and working in the best interest of the county to ensure that each step of the project is aligned with accepted rules, regulations, and best practices for a specialized secure detention facility.

PLEASE ATTACH ADDITIONAL PAGES IF NECESSARY!

Your signature

Date: 12/1/2023

Departmental Approval:

Signature of Department Head

Date: