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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
NEW JERSEY RACING COMMISSION

**DIRECTIVE No. 1 –2005: PROFESSIONAL STANDARDS
INVESTIGATIONS OPERATING PROCEDURE**

A. INTRODUCTION

This Directive establishes an operating procedure for the New Jersey Racing Commission (“Racing Commission”) by which it will conduct investigations into complaints, against its staff members, pertaining to rule, law, and Department of Law and Public Safety (“DL&PS”) code of ethics violations. The purpose of such an investigation is to determine whether disciplinary charges should be brought based upon the complaint. DL&PS SOP 4-96, which applies to the Racing Commission, establishes administrative guidelines to process disciplinary matters once a determination has been made to bring charges. DL&PS SOP 4-96 will govern any procedure not specifically addressed in this Directive.

This Directive is not intended to replace or supercede any existing or to be established law, or any procedure, SOP or policy of the DL&PS, applicable to the Racing Commission. This Directive shall be read in a manner to achieve consistency with any law, procedure, SOP or policy of the DL&PS to the extent possible. Where any conflict exists, such conflict shall be resolved in favor of the law, or any such procedure, SOP or policy of the DL&PS.

This Directive does not apply to complaints involving allegations of state policy prohibiting discrimination, harassment or hostile environments in the workplace or to the DL&PS Procedures for Internal Complaints Alleging Discrimination, Harassment or



Hostile Environments in the Workplace. All complaints in such regard shall be handled in accordance with said policy of the DL&PS.

B. STANDARD OF BEHAVIOR

All Racing Commission staff members are expected to conduct themselves in accordance with the laws, rules and ethical guidelines applicable to their respective employment positions. Allegations of conduct in violation of law, or in violation of the DLP&S Code of Ethics, Racing Commission directives or Racing Commission regulations (including but not limited to N.J.A.C. 13:70-1.31 and 13:71-1.26), may be investigated consistent with the procedures established by this Directive.

C. FILING OF COMPLAINTS

The Racing Commission Deputy Director shall receive complaints by a Racing Commission staff member, or non-staff member, that a Racing Commission staff member has violated the aforementioned "Standards of Behavior". However, where the complaint involves allegations concerning the conduct of the Deputy Director, the complaint shall be received by the Racing Commission Executive Director.

In the event the Deputy Director is unavailable to receive a complaint, or where the Executive Director is unavailable to receive a complaint relating to the conduct of the Deputy Director, the complaint may be received by any Racing Commission supervisor. In the event a Racing Commission supervisor is unavailable, any Racing Commission employee may receive such a complaint. At no time shall a complainant be told to return at a later time to make the complaint.

Complaints may be in writing or verbal, and shall be accepted where anonymous. Where a complaint is verbal, the Racing Commission staff member that receives the complaint shall prepare a memorandum explaining the nature of the complaint, the date and time the complaint was received, the circumstances surrounding the receipt of the complaint, and the identity of the complainant if known. Any written complaint received by a supervisor or employee, or memorandum prepared by such supervisor or employee as a result of the receipt of a verbal complaint, shall promptly be referred to the Racing Commission Deputy Director or, where the complaint involves allegations concerning the conduct of the Deputy Director, to the Executive Director.

D. COMPLAINTS RELATING TO VIOLATION OF THE DL&PS CODE OF ETHICS

Where the complaint involves allegations concerning a violation of the DL&PS Code of Ethics, the Deputy Director shall be consulted with the DL&PS Ethics Officer to insure that all DL&PS and Executive Commission on Ethical Standards (ECES) requirements are satisfied. As part of such consultation, a determination shall be made as to:

- a) Whether the receipt of the complaint is required to be reported to the ECES. See N.J.A.C. 19:61-3.4.
- b) Where the complaint involves allegations concerning a violation of the DL&PS Code of Ethics, and it is determined that the Racing Commission should appropriately investigate the matter, the DL&PS Ethics Officer shall be consulted as necessary during the course of the investigation and once the investigation is completed. Pursuant to N.J.S.A. 52:13D-23(d), once the investigation is completed, the investigative report shall be referred to the ECES prior to initiating any disciplinary action.

E. COMPLAINTS ALLEGING CRIMINAL CONDUCT

Any complaint received by the Racing Commission that alleges criminal conduct shall be referred to the Division of Criminal Justice pursuant to DL&PS policy. Where the Division of Criminal Justice determines to assume jurisdiction over the complaint, the Racing Commission staff shall cooperate in said DCJ investigation and, to the extent requested by DCJ, shall defer any action on the complaint pending completion of the DCJ investigation. Where DCJ determines not to assume jurisdiction over the complaint, the Racing Commission shall investigate the complaint consistent with this Directive and as warranted. Where DCJ assumes jurisdiction over the complaint, but refers the matter back to the Racing Commission for any reason including a decision not to initiate a criminal action, the Racing Commission shall review the matter and investigate it consistent with this Directive to the extent warranted.

F. INVESTIGATION OF COMPLAINTS

All complaints containing sufficient factual determinations to warrant an investigation, including those which allege a violation of the DL&PS Code of Ethics or which allege criminal conduct and are determined as appropriate for handling by the Racing Commission, shall be investigated to their logical conclusion.

If an investigation is warranted, the Deputy Director shall document the complaint and assign it a professional standards file number (designated by the suffix "PS"). In such case, the Deputy Director shall notify the person against whom the complaint has been made ("principal") in writing that the complaint exists and that an investigation is about to commence, unless it would be inappropriate to do so.

The Deputy Director, in consultation with the Executive Director, shall determine the specific allegations in the complaint and whether those allegations if sustained are of sufficient gravity to warrant a penalty of an official written reprimand or greater under SOP 4-96. If so, the provisions of this Directive shall be applied to the investigation. If determined that such discipline would not be warranted, the Deputy Director subject to final approval of the Executive Director shall address and dispose of the complaint.

Any complaint which alleges improper conduct on the part of the Executive Director, Deputy Director or Assistant Director shall be reported to the Office of Attorney General's ('OAG') liaison to the Racing Commission. Any complaint that results in the application of this Directive shall also be reported to the OAG's liaison to the Racing Commission. In either case, the OAG may determine to handle any investigation into the complaint directly or through a non-racing Commission designee, in which case this Directive need not be followed.

Once it is determined that the provisions of this Directive apply, the Deputy Director shall assign a Racing Commission staff person or person with appropriate training or experience to handle the investigation. Where the Deputy Director elects to investigate the matter personally, the approval of the Executive Director shall first be obtained. Any assigned Racing Commission staff shall report directly to Deputy Director in all matters pertaining to the investigation.

The person or persons assigned to the investigation (hereinafter "investigator") will be responsible for conducting the investigation, completing all necessary paperwork and reports, and following through with record-keeping procedures. The investigator shall have the authority to interview any employee of the Racing Commission, any person subject to the regulatory jurisdiction of the Racing Commission, and any person not subject to the jurisdiction of the racing Commission who agrees to submit to an interview. At the investigation's conclusion, a "Report of Investigation and Findings" shall be provided to the Deputy Director.

a) Format of "Report of Investigation and Findings"

The report shall contain (where applicable):

1. A statement of allegations which are the subject of the complaint, and which form the basis for the investigation;
2. A statement of the relevant facts as described by the principal;
3. A description of the pertinent facts and issues concerning the allegation to which the principal agrees;
4. A description of the pertinent facts and issues concerning the allegation to which the principal disagrees;

5. Evidence which supports or refutes any facts, allegations made, or issues presented;
6. Reference to any pertinent attachments and a synopsis of the attachments;
7. Summarized statements and interviews of witnesses arranged sequentially in terms of time and significance;
8. A list of the evidence obtained, its relevance, and its relationship to statements and interviews; and
9. Background information on persons named in the report as necessary and pertinent to the investigation, including as to issues of credibility.

The report shall also contain a conclusion of fact for each charge as either "exonerated", "sustained", "not sustained", or "unfounded".

1. EXONERATED

The alleged incident did occur, but the actions of the staff member were justified, legal and proper.

2. SUSTAINED

The investigation disclosed sufficient evidence to prove the allegation, and the actions of the staff member violated a "Standard of Behavior" of the Racing Commission as described in this directive.

3. NOT SUSTAINED

The investigation failed to disclose sufficient evidence to prove or disprove the allegation.

4. UNFOUNDED

The alleged incident did not occur.

G. DISCIPLINARY RECOMMENDATIONS

If the investigation determines that the allegation or allegations are sustained, the Deputy Director shall recommend disciplinary sanctions that will be presented to the Executive Director for review and final authorization. The Executive Director, to the extent warranted based upon his assessment of the nature and seriousness of the sustained allegations, may consult with or refer the matter to the Racing Commission. Once the

disciplinary sanction is finalized, and subject to compliance with any reporting requirements pursuant to Paragraph D to this Directive, the Executive Director shall cause to be prepared for his signature, and shall provide to the principal, a Preliminary Notice of Disciplinary Action as outlined in DL&PS SOP 4-96. Copies of this notice shall be provided to other parties in compliance with DL&PS SOP 4-96, Section XIII. If the principal does not request a hearing, a Final Notice of Disciplinary Action shall be served upon the principal and any other parties in compliance with DL&PS SOP 4-96, Section XIII.

H. DUTY TO COOPERATE

Every Racing Commission staff member, including a principal against whom a complaint is pending, has a duty to cooperate in any investigation conducted pursuant to this Directive, unless such cooperation is withheld based upon the valid assertion of a constitutional right. A failure to cooperate in any such investigation, except where such cooperation is withheld based upon the valid assertion of a valid constitutional right, may result in discipline including but not limited to termination.

I. DISCIPLINARY HEARING

If requested in a timely manner by the principal, a disciplinary hearing shall be conducted in accordance with the procedures set forth in DL&PS 4-96.

J. RECORD-KEEPING

All records of professional standards actions shall be filed in a secure manner to maintain their confidentiality. A log, entitled "Professional Standard Cases", shall be utilized as the Racing Commission's case filing index system to track all complaints. The Deputy Director will maintain this log, along with the actual case files, in a secure manner. The Deputy Director shall note the following in the log: the file number; the date opened; the principal's name and employment position, a brief description of the complaint, and the final disposition of the complaint. All documentation relating to a complaint shall be provided to the Deputy Director for placement into the appropriate professional standards investigative file. Access to the log and the professional standards investigative file shall be controlled by the Deputy Director. In the event that the Deputy Director is the principal, the Executive Director shall maintain the active file of the Deputy Director. The executive Director shall have access to the case filing index system and case files, except with regard to matters involving allegations against the executive Director as a principal.

K. DELEGATION OF AUTHORITY

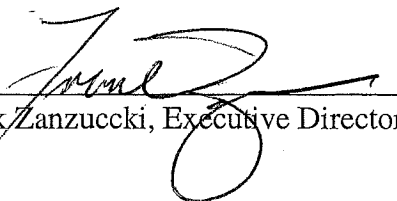
To the extent consistent with the proper administration and implementation of this Directive, the responsibilities of the Deputy Director as set forth herein may be delegated. In the event any such designee should be or become a principal, the Deputy Director shall secure the active file of the principal.

L. PROMULGATION OF FORMS

The Deputy Director may promulgate forms for utilization in the complaint and investigative process set forth in this directive.

This Professional Standards Investigations Operating Procedure shall become effective March 1, 2005.

New Jersey Racing Commission

By: 
Frank Lanzuccki, Executive Director

Dated: 2-16-05

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