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July 22, 2024

BY EMAIL

Louisiana Board of Ethics
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To the Board of Ethics:

I write to request an ethics opinion on the question of whether the ownership of horses by the Executive Director of the Louisiana State Racing Commission violates the Code of Governmental Ethics.

A. *Background*

The Louisiana Racing Commission (“the Commission”) is a state agency responsible for regulating horseracing and pari-mutuel wagering in Louisiana. *See* La. R.S. 4:144. This regulation is accomplished through the issuance of licenses to racetracks, off-track wagering parlors, horse trainers, owners, training centers, vendors, and others. *See* La. R.S. 4:147. The Commission may grant, refuse, suspend, or withdraw licenses to horse owners or fine a licensee for a violation. *See* La. R.S. 4:150, 155.

Mr. Stephen Landry was appointed as Executive Director of the Louisiana Racing Commission in February of 2024, taking office in March, 2024. The Executive Director constitutes an administrative and advisory position for the commissioners, and Mr. Landry is not a voting member of the commission. Prior to his appointment, he was, and still is, a 1/3 owner in two race horses, and a 50% owner on a third race horse. Prior to Mr. Landry’s March start date, he was assured by the Chairman of the Commission, Ed Koehl, that he could, *inter alia*, perform the duties of this position while also owning racing horses.

A writer for the Paulick Report online has raised concerns about Mr. Landry’s ownership of horses.

1. *The Law Does Not Explicitly Prohibit Mr. Landry's Ownership of Horses.*

The law does not explicitly prohibit Mr. Landry's ownership of horses. *See* La. R.S. 4:144-145. As Executive Director, he was selected by the commission and serves at the pleasure thereof. La. R.S. 4:145 A. The law is silent as to whether the Executive Director may own horses.

Legislation was just passed this year providing for ownership of racehorses by members of the Louisiana State Racing Commission. *See* House Bill 840. The bill was signed by the Governor on June 11, 2024, and goes into effect on August 1, 2024. The new law significantly changes the old law and provides that "any member of the commission may be an owner of racehorses that participate in any race meeting licensed by the commission."

Prior law, or current law until August 1, 2024, mandated that three members of the commission "shall be owners of racehorses which participate in any race meeting licensed by the commission." *See* La. R.S. 4:144 B(2)(b). Otherwise, members of the commission were prohibited from owning, directly or indirectly, "racehorses which participate in any race meeting licensed by the commission."¹

In addition, commission members are not prohibited from owning a "horse that sired or bred a racehorse that participates in a race meeting licensed by the commission, or from participating in a breeder or stallion award." *See* La. R.S. 4:144 B(4). These are the only statutes which explicitly address the ownership of racehorses in connection with the Louisiana Racing Commission.

While Mr. Landry is not a commissioner, the express lawfulness of horse ownership for voting members of the commission suggests the lawfulness of his horse ownership in a non-voting, administrative position such as Mr. Landry's.

¹ The full text of the version of La. R.S. 4:144 B(2) which is effective until August 1, 2024, states:

(2)(a) No member shall be an official, member of any board of directors, or person financially interested in any race track or race meeting licensed by the commission. Except as provided in Subparagraph (b) of this Paragraph, no member may directly or indirectly own racehorses which participate in any race meeting licensed by the commission.

(b) Three members shall be owners of racehorses which participate in any race meeting licensed by the commission.

2. *Is Horse Ownership by the Executive Director of the Louisiana Racing Commission Prohibited Under La. R.S. 42:1111 C(1)?*

The Louisiana Code of Governmental Ethics prohibits public servants from receiving things of economic value for services under certain conditions. The question raised is whether ownership of horses constitutes a “service” as contemplated in the Code. La. R.S. 42:1111 C provides the following:

C. Payments for nonpublic service. (1) No public servant shall receive any thing of economic value for any service, the subject matter of which:

(a) Is devoted substantially to the responsibilities, programs, or operations of the agency of the public servant and in which the public servant has participated; or

(b) Draws substantially upon official data or ideas which have not become part of the body of public information.

This statute prohibits receiving “any thing of economic value” for services related to responsibilities of the public servant’s agency. 1111C(1). The question is whether the ownership and performance of a race horse in a race meeting is a “service,” which horse ownership does not squarely fit the definition. “Service” means the performance of work, duties, or responsibilities, or the leasing, rental, or sale of movable or immovable property. La. R.S. 42:1102(20.1). Owning a race horse, in itself, does not fit neatly into either of these categories. Ownership is not a performance of work, duties, or responsibilities. The owner is not doing any work or performing duties simply by virtue of owning the horse. In addition, while a horse is considered movable property, simply owning it does not constitute leasing, rental, or sale of that property. The racing of movable property—the horse—is not a “lease,” “rental,” or “sale” of movable property.

Thus, it appears that, by virtue of horse ownership, one is not in receipt of any thing of economic value for any “service” related to the subject matter of the Racing Commission.

3. *Does Mr. Landry’s horse ownership in excess of 25% prohibit him from owning horses under La. R.S. 42:1111C(2)?*

La. R.S. 42:1111 C(2) prohibits a public servant with over 25% interest in an entity, from receiving any thing of economic value for services rendered.

(2) No public servant and no legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, shall receive any thing of economic value for or in consideration of

services rendered, or to be rendered, to or for any person during his public service unless such services are:

- (a) Bona fide and actually performed by the public servant or by the entity;
- (b) Not within the course of his official duties;
- (c) Not prohibited by R.S. 42:1112 or by applicable laws or regulations governing nonpublic employment for such public servant; and
- (d) Neither performed for nor compensated by any person from whom such public servant would be prohibited by R.S. 42:1115(A)(1) or (B) from receiving a gift.

Again, if Mr. Landry's ownership does not constitute services, as described above, his horse ownership should not pose a conflict.

II. QUESTIONS PRESENTED

1. *Does Mr. Landry's horse ownership violate La. R.S. 42:1111?*
2. *If Mr. Landry's horse ownership constitutes a violation of La. R.S. 42:1111, could he cure the violation by reducing his horse ownership interest below 25%?*

III. CONCLUSION

I request that the Board consider this matter and issue an opinion as to whether horse ownership by the Executive Director violates the Code of Governmental Ethics, under the circumstances described above.

Sincerely,



Dane S. Ciolino

File Recieved by Website Upload
July 23, 2024 12:19 pm

Department: Ethics

Document Type: Advisory Opinion Request

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Original File Name: 2024-07-22 Ciolino Letter to Board of Ethics (1).pdf

Page Count: 4

Final File Name: 2024_ETHICS_0723_638573339751159922.pdf