



**RACING NSW BOARD
CODE OF CONDUCT
JANUARY 2012**

TABLE OF CONTENTS

(1) Purpose of this Code	3
(2) Role of the Board	3
(3) Duties of the Board	3
(4) Scheduling of meetings and transaction of business	4
(5) Confidentiality of Information	4
(6) Conflicts of Interest	5
(7) Pecuniary Interests	5
(8) Due Diligence	6
(9) Gifts and Hospitality	7
(10) Wagering	7
(11) Improper or Undue Influence	7
(12) Maintenance and Promotion of Public Confidence	8
(13) Dissent	8
(14) Enforcement of the Code	8
(15) Summary	9

1. PURPOSE OF THIS CODE

This code aims to provide guidance to Board Members, to help them carry out their duties and responsibilities effectively. Board Members are bound to act according to this code.

2. ROLE OF THE BOARD

The role of the Board of Racing NSW is to provide stewardship to the organisation. It undertakes this role by meeting regularly to consider alternatives and decide how best it can achieve its functions which are set out in the Thoroughbred Racing Act 1996.

It is common to say that the Board's role is to establish policy and set objectives and to "review and monitor" the achievement of objectives. Management has the responsibility to carry out the policies approved by the Board.

Subject to a Board Member being provided delegated authority by the Board, the Board Acts as "one" and no individual Member is permitted to act singularly in the day to day operation or management of the organization.

3. DUTIES OF THE BOARD

Board Members are subject to a range of duties owed to Racing NSW. These are derived from the Thoroughbred Racing Act 1996, Common Law and other sources. At the most fundamental level these duties are-

- The fiduciary duty of loyalty which is usually expressed as a duty to act in good faith and in the interests of the body as a whole, and -
- The duty to use due care and diligence in fulfilling the functions of office and exercising the powers attached to that office.

The fiduciary duty of loyalty is owed to Racing NSW itself as a whole. The Board Member's duty of loyalty to Racing NSW as a whole is "fiduciary" that is to say it imposes the highest standard of fidelity, because the Board Member occupies a position of trust vis-a-vis Racing NSW. The nature of the duty is similar to that of the trustee towards the beneficiaries of a trust. The principal manifestations of this duty of a member are; -

- To act bona fide in the best interests of Racing NSW as a whole.
- To exercise the powers conferred by the Act for the proper purposes of Racing NSW and not for any extraneous purpose, and
- Seeking to avoid being placed in a position where the member's duty to Racing NSW as a whole conflicts or may conflict with personal interest, and if such a possibility arises disclosing the matter and handling it in the interests of Racing NSW as a whole.

- Section 11 of the Thoroughbred Racing Act 1996 specifically identifies “that it is the duty of each appointed member of the Board to act in the public interest and in the interest of the horse racing industry as a whole”.
- Loyalty to Racing NSW requires a Board Member to support policy decided by Racing NSW, even if the Board Member did not (and perhaps still does not) personally support the policy.

4. SCHEDULING OF MEETINGS AND TRANSACTION OF BUSINESS

All business of the Board of Racing NSW is to be transacted at a formal meeting of the Board.

Unless unanimously agreed to by the Board, Board Members are to be given at least 5 working days’ notice of a formal meeting of the Board.

Notwithstanding the above, the Board may, if it thinks fit, transact any of its business by the circulation of papers, by the Chief Executive, among all of the Board Member, and a resolution in writing approved in writing by a majority of the Board Members is taken to be a decision of Racing NSW.

Email may be used by the Chief Executive to circulate papers among Board Members and a resolution approved by email is taken to have been approved in writing.

The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if a member who speaks on a matter at the meeting can be heard by the other members

5. CONFIDENTIALITY OF INFORMATION

Board Members have an obligation to maintain the confidentiality of information provided to them which is the property of Racing NSW and information both written and verbal that is not known to other parties should not be released by an individual Board Member except with the permission of a Meeting. Confidential information available to Board Members must be used only in ways which are consistent with the obligations of Board Members to act impartially with integrity and in the public interest. There are specific exceptions (required by law) to this principle such as requirements under the Government Information (Public Access) or when called upon to give evidence in Court.

Media comment is restricted to the Chairman and Chief Executive, or Officer delegated by the Chief Executive.

6. CONFLICTS OF INTEREST

The Thoroughbred Racing Act 1996 and the Common Law set high standards for removing conflicts of interest. Conflicts of interest are assessed in terms of the likelihood that Board Members possessing a particular interest could be influenced or might appear to be influenced, in the performance of their duties on any matter. At all times, a Board Member must be able to act in the interests of Racing NSW as a whole. The interests of associates, affiliates, other racing interest and personal interests of the Board Member or the Board Member's family must not be allowed to prevail over those of Racing NSW. As stated above the pursuit of self-interest or representation of a factional interest above the interests of Racing NSW is a breach of a Board Member's fiduciary duties.

Where a conflict or perceived conflict does arise, the Board Member must comply with section 21 of the Thoroughbred Racing Act which requires disclosure and precludes the Board Member from participating in the debate and/or voting on the matter. The Board Member should also consider whether to arrange that the relevant Board Papers are not sent, or in an extreme case whether to resign from Racing NSW. The Chairman or Chief Executive is available to discuss potential conflicts of Interest with Board Members. In any event, full disclosure of conflicts or potential conflicts must be made as soon as possible after the Board Member becomes aware of the conflict or potential conflict.

7. PECUNIARY INTERESTS

Section 21 of the Thoroughbred Racing Act 1996 requires

- (1) if:
 - (a) a member of the Board or of a committee of the Board has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board or the committee, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must , as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board or the committee

- (2) A disclosure by a member at a meeting of the Board or a committee of the Board that the member:
 - (a) is a member, or is in the employment , of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,

is sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subsection (1).

- (3) Particulars of any disclosure made under this section must be recorded by the Board or the committee in a book kept for the purposes and that book must be open at all reasonable hours to inspection by any person on payment of the reasonable fee determined by the Board.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not:
 - (a) be present during any deliberations of the Board or the committee with respect to the matter, or
 - (b) take part in any decision of the Board or the committee with respect to the matter

8. DUE DILIGENCE

- A Board Member should attend all Board meetings but where attendance at meetings is not possible appropriate steps should be taken to obtain leave of absence.
- A Board Member must acquire knowledge of the statutory and regulatory requirements affecting Board Members in the discharge of their duties to Racing NSW and be aware of the physical, political and social environment in which it operates.
- In order to be fully effective, a Board Member should insist upon access to all relevant information to be considered by the Board. This information should be made available in sufficient time to allow proper consideration of all relevant issues. In the extreme circumstances where information is not provided, the Board Member should take an appropriate protest about the failure on the part of Racing NSW to provide the information and if necessary abstain from voting on the particular matter on the basis that there has not been the time necessary to consider the matter properly. Any abstention, and the reasons for it, should be included in the minutes. It may also be appropriate to vote against the motion or move for deferment until proper information is available.
- A Board Member should endeavour to ensure that systems are established within Racing NSW to provide the Board, on a regular and timely basis, with necessary information to enable the Board Members to make a reasoned judgment and so discharge their duties of care and diligence. An internal audit of systems supporting the Board should be conducted regularly.

9. GIFTS AND HOSPITALITY

In their dealings with other individuals and entities in the industry, Board Members must always act to foster Racing NSW's reputation for independence, impartiality, and scrupulous adherence to ethical standards.

Board Members must not solicit or accept gifts, rewards or benefits in connection with the performance of their duties, or which might compromise or be seen to compromise their independence and objectivity, or which might give rise to a real or apparent conflict of interest.

Board Members may accept minor hospitality offered in the course of their duties if-

- The total value is nominal.
- The offer is in accord with normal social practice.
- The level of hospitality is not more than the Board would provide in similar circumstances.

Board Members must never accept, under any circumstances, an offer of –

- Money
- Service or favoured treatment, even if of no measurable value, relating to thoroughbred racing.

If a Board Member receives an offer of an unacceptable benefit, the Board Member must report it to the Chairman or Chief Executive.

As a private individual, a Board Member may accept a benefit if it is offered equally to and accepted by, the public or the industry.

10. WAGERING

Board Members of Racing NSW are to only place bets in their own name in the following manner:

- Cash bets with totalizators (either on-course or off-course);
- Cash bets with on-course bookmakers; or
- Betting accounts registered with Racing NSW.

11. IMPROPER OR UNDUE INFLUENCE

Board Members must take care not to use their position on the Board to influence any other members or staff at Racing NSW in the performance of their duties or functions for the purpose of obtaining any advantage for themselves or any other person, whether the advantage is direct or indirect. Board Members must ensure contact with staff is:

- (a) through the Chief Executive;
- (b) is otherwise in accordance with the specific resolution of the Board

12. MAINTENANCE AND PROMOTION OF PUBLIC CONFIDENCE

Board Members must not engage in conduct likely to bring discredit upon Racing NSW or otherwise diminish the confidence in Racing NSW of the public or of participants in the racing Industry.

Board Members must report to the Chairman, any actions by others which may adversely affect, either directly or indirectly, the public confidence in the integrity of Racing NSW.

13. DISSENT

Board Members should recognise that their responsibilities to their colleagues and Racing NSW as a whole require that where disagreement occurs every effort be made to resolve the issue and avoid dissension.

Nevertheless there may be times when a Board Member feels so strongly about a matter of principle that the Board Member is unable to acquiesce in a decision of the Board.

In such cases the Board Member should consider taking some or all of the following steps:

- Making the extent of the dissent and its possible consequences clear to the Board as a means of seeking to influence the decision
- Asking for additional legal, accounting or other professional advice.
- Asking that the decision be postponed to the next meeting to allow time for further consideration and informed discussion.
- Recording of dissent in the Minutes.
- Tabling a statement of dissent and asking that it be minuted.
- Writing to the Chairman, or all Board Members of Racing NSW and/or asking that the letter be filed with the Minutes.

Board Members, do not have the right to usurp decisions of Racing NSW to pursue a private agenda when they do not agree with the majority decision.

14. ENFORCEMENT OF THE CODE

In addition to legal obligations applying to Board Members generally, breaches of this code may result in Racing NSW recommending to the Minister that the Board member be removed from office in accordance with Section 15 (2) of the Thoroughbred Racing Act 1996.

15. SUMMARY

To meet the requirements of Racing NSW, Board Members must:

- At all times act honestly
- At all times exercise due care in the performance of their duties
- Be diligent, attend Board Meetings and make themselves knowledgeable about the Rules and legal requirements, the operations of Racing NSW and the industry and general social environment in which it operates.
- Ensure that systems are established within Racing NSW to provide sufficient and accurate data on a regular and timely basis, to enable Board Members to discharge their duties of care and diligence.
- Act at all times in the interest of Racing NSW as a whole rather than any sectional interest.
- Avoid conflicts of interest.
- Be independent in their judgments and actions.
- Not release information outside the Board Room.
- Report to the Chairman or Chief Executive any actions by others which could adversely affect either directly or indirectly the honest and impartial exercise of their duties as a Board Member.

4. Interests by my spouse, de facto or relatives, partners or employees;

5. Interests by companies or other bodies of which I, my nominee, partner or employee are members:

(attach an additional sheet if further space is required)

I agree to advise any changes to these circumstances as soon as soon as possible after the relevant facts have come to my knowledge.

Signed: _____ Date: _____