

LOUISIANA STATE RACING COMMISSION  
EXECUTIVE DEPARTMENT  
STATE OF LOUISIANA



PROCEDURAL REPORT  
ISSUED MAY 11, 2011

**LEGISLATIVE AUDITOR  
1600 NORTH THIRD STREET  
POST OFFICE BOX 94397  
BATON ROUGE, LOUISIANA 70804-9397**

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Our procedures at the Louisiana State Racing Commission (LSRC) for the period July 1, 2008, through June 30, 2010, disclosed the following:

- Three LSRC commissioners may not have fully complied with certain provisions of the Louisiana Code of Governmental Ethics.
- No significant control deficiencies or errors relating to cash, revenues, movable property, nonpayroll expenditures, or payroll expenditures were identified.

This report is a public report and has been distributed to state officials. We appreciate the LSRC's assistance in the successful completion of our work.

### **Background**

The LSRC was created by legislative act in 1940. The LSRC is composed of 13 members, one representing each Congressional district plus 2 at-large and 4 representing each of the parishes where live racing is held. All are appointed by the Governor, subject to State Senate confirmation.

The official domicile of the LSRC is in New Orleans, and its office is currently located at 320 North Carrollton Avenue, Suite 2-B.

The LSRC's legal mandate is the forceful and honest statewide control of horse racing for the public health, safety, and welfare by safeguarding the citizens of Louisiana against corrupt, incompetent, dishonest and unprincipled horse racing practices.

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LOUISIANA LEGISLATIVE AUDITOR  
DARYL G. PURPERA, CPA, CFE

April 7, 2011

**LOUISIANA STATE RACING COMMISSION**  
**EXECUTIVE DEPARTMENT**  
**STATE OF LOUISIANA**  
New Orleans, Louisiana

As required by Louisiana Revised Statute 24:513, we conducted certain procedures at the Louisiana State Racing Commission (LSRC) for the period from July 1, 2008, through June 30, 2010.

- Our auditors obtained and documented a basic understanding of the LSRC's operations and system of internal controls through inquiry, observation, and review of the LSRC's policies and procedures documentation, including a review of the related laws and regulations applicable to the LSRC.
- Our auditors performed analytical procedures consisting of a comparison of the most current and prior year financial activity using the LSRC's annual fiscal reports and/or system-generated reports and obtained explanations from LSRC's management for any significant variances.
- Based on the documentation of the LSRC's controls and our understanding of related laws and regulations, procedures were performed on selected controls and transactions relating to cash, revenues, movable property, payroll expenditures, and nonpayroll expenditures including contract and travel expenditures.
- Our auditors prepared a Budgetary Comparison Schedule for LSRC for the fiscal year ended June 30, 2010, using the Annual Fiscal Report of LSRC and additional data in the Integrated Statewide Information System (ISIS), the state's accounting system. This schedule is presented as additional information but has not been subjected to auditing procedures.

Based on the application of these procedures, we have reported a finding relating to noncompliance with Louisiana Code of Governmental Ethics. We found no significant control deficiencies, noncompliance, or errors relating to our analytical procedures or our other possible procedures that should be communicated to management.

The following significant finding is included in this report for management's consideration.

**Possible Noncompliance With Louisiana  
Code of Governmental Ethics**

During the two fiscal years ended June 30, 2010, three LSRC commissioners may not have fully complied with certain provisions of the Code of Governmental Ethics (Code). Despite two Louisiana Board of Ethics' (Board) advisory opinions issued in November 2008 prohibiting certain business relationships, the commissioners continued to serve on the LSRC while not resolving the potential conflicts with the Code. Commissioner Bryan Krantz resigned from the LSRC on December 2, 2010, while Commissioner Anthony Bourgeois and Commissioner Neal Cormier still serve on the LSRC.

In October 2008, the LSRC requested advisory opinions from the Board regarding possible business conflicts of interest involving three members of its Board of Commissioners. As a result, the Board issued two advisory opinions based on the information presented to the Board.

In the first of two Ethics Advisory Opinions (Ethics Board Docket #2008-917), dated November 14, 2008, the Board concluded that the company in which Commissioner Bourgeois held a 37.5% interest was prohibited from doing business with persons licensed by the LSRC while that commissioner serves on the LSRC. The Board cited Section 1111C(2)(d) of the Code that prohibits a public servant and any legal entity in which the public servant exercises control or owns an interest in excess of 25% from providing compensated services to a person that has or is seeking a business, contractual or financial relationship with his agency; or who is regulated by his agency. In addition, the Board cited Section 1102(8) of the Code that defines "controlling interest" as any ownership in any legal entity or beneficial interest in a trust, held by or on behalf of an individual or a member of his immediate family, either individually or collectively, which exceeds 25% of that legal entity.

In the second Ethics Advisory Opinion (Ethics Board Docket #2008-973), dated November 19, 2008, the Board addressed circumstances involving two other commissioners. For Commissioner Cormier, the Board concluded that the commissioner would be prohibited from leasing barn space to horse trainers who hold a license issued and regulated by the LSRC while the commissioner serves on the LSRC. For Commissioner Krantz, the Board concluded that the commissioner and his company would be prohibited from leasing commercial space to a company who holds a license issued and regulated by the LSRC while the commissioner serves on the Commission. The Board once again cited Section 1111C(2)(d) and Section 1102(8) of the Code along with Section 1102(20.1) that defines "service" as work, duties, or responsibilities, or the leasing, rental, or sale of movable or immovable property.

The LSRC should request the Board to provide an ethics opinion(s) on the current circumstances regarding the two remaining commissioners' business relationships. In addition, the LSRC should ensure future advisory opinions are properly addressed by



commission members. Management concurred with the finding and outlined a plan of corrective action (see Appendix A).

The recommendation in this report represents, in our judgment, that most likely to bring about beneficial improvements to the operations of LSRC. The nature of the recommendation, its implementation costs, and its potential impact on the operations of LSRC should be considered in reaching decisions on courses of action. This finding, which relates to LSRC's compliance with applicable laws and regulations, should be addressed immediately by management.

The Annual Fiscal Reports of LSRC were not audited or reviewed by us, and, accordingly, we do not express an opinion on those reports. The LSRC's accounts are an integral part of the State of Louisiana's financial statements, upon which the Louisiana Legislative Auditor expresses opinions.

This report is intended for the information and use of LSRC and its management, others within LSRC, and the Louisiana Legislature and is not intended to be, and should not be, used by anyone other than these specified parties. Under Louisiana Revised Statute 24:513, this report is distributed by the Legislative Auditor as a public document.

Respectfully submitted,



Daryl G. Purpera, CPA, CFE  
Legislative Auditor

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LSRC 2010

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\_\_\_\_\_ BUDGETARY COMPARISON SCHEDULE (UNAUDITED)

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**UNAUDITED**

**EXECUTIVE DEPARTMENT  
AGENCY 254 - LA STATE RACING COMMISSION**

**Budgetary Comparison Schedule  
For the Fiscal Year Ended June 30, 2010**

**APPROPRIATED REVENUES:**

	<u>TOTAL</u>	<u>REVISED BUDGET</u>	<u>VARIANCE FAVORABLE (UNFAVORABLE)</u>
General fund - self-generated	\$5,416,462	\$6,217,890	(\$801,428)
Statutory dedication:			
Video Draw Poker Device Purse Supplemental Fund	3,350,246	3,350,246	
Pari-mutual Live Racing Facility Gaming Control Fund	<u>1,917,341</u>	<u>1,917,341</u>	
Total Appropriated Revenues	<u><u>\$10,684,049</u></u>	<u><u>\$11,485,477</u></u>	<u><u>(\$801,428)</u></u>

**APPROPRIATED EXPENDITURES:**

	<u>TOTAL</u>
Salaries	\$2,709,700
Other compensation	43,952
Related benefits	725,744
Travel & training	98,768
Operating services	308,672
Supplies	65,488
Professional services	29,934
Other charges	6,534,922
Capital outlay	27,170
Interagency transfers	<u>233,021</u>
Total appropriated expenditures before adjustments	<u>10,777,371</u>
Total Appropriated Expenditures	10,777,371
Revised Budget	<u>11,485,477</u>
Variance Favorable (Unfavorable)	<u><u>\$708,106</u></u>

NOTE: This schedule was prepared using information from the Integrated Statewide Information System (ISIS), the state's accounting system.

Additional detail is available on request.

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Management's Corrective Action  
Plan and Response to the  
Finding and Recommendation





Bobby Jindal  
Governor

Jerry Meaux  
Chairman

Payton R. Covington  
First Vice Chairman

Bob F. Wright  
Second Vice Chairman



**Commissioners**  
Keith W. Babb  
Anthony Bourgeois  
Neal B. Cormier  
Kevin S. Delahoussaye  
Richard M. "Dick" Hollier, Jr.  
David E. Roberts  
William A. Robinson  
Kenneth "Kenu" Romero  
Ray A. Tromba  
Judy W. Wagner

Charles A. Gardiner III  
Executive Director

## LOUISIANA STATE RACING COMMISSION

**CORRECTED COPY**

March 28, 2011

**SENT CERTIFIED MAIL  
AND ORDINARY POST**

Mr. Daryl G. Purpera, CPA, CFE  
Louisiana Legislative Auditor  
P.O. Box 94397  
Baton Rouge, LA 70804-9397

Dear Mr. Purpera:

On March 1, 2010, Ms. Faye Martin, Senior Auditor, presented me with the enclosed reportable audit finding(s) for the Louisiana State Racing Commission. The following is the official response of our agency.

**The Louisiana State Racing Commission concurs with your reportable audit finding that three racing commissioners may not have fully complied with certain provisions of the Code of Governmental Ethics.**

It was reported by Ms. Martin in the above referenced draft that during the two years ending on June 30, 2010, three Racing Commissioners may not have fully complied with certain provisions of the Code of Governmental Ethics despite two Board of Ethics advisory opinions. And that the three named Commissioners continued to serve on the Racing Commission while not resolving the potential conflicts.

The three Commissioners cited in the draft report, Messrs. Krantz, Cormier, and Bourgeois were appointed to the Racing Commission by Gov. Bobby Jindal on August 1, 2008. Additionally and on that same date, Gov. Jindal appointed Mr. Jerry Meaux from Duson, Louisiana, to be Chairman, replacing former Chairman, Bob Wright. Mr. Wright was reappointed to the Racing Commission by Governor Jindal and was elected from the Commission's membership to be Second Vice Chairman and Chairman of the Commission's Legal Committee.

On or about August 6, 2008, Chairman Meaux and Mr. Wright met at the offices of the Racing Commission on Carrollton Avenue in New Orleans to facilitate a smooth transition from the outgoing Commission appointed by Gov. Blanco to the newly appointed group appointed by Gov. Jindal. At that meeting, discussions involving the newly appointed commissioners were held. Because the business dealings of the aforementioned Commissioners were hearsay in the industry, it was decided that Asst. Attorney General, Kim Chatelain, be requested to gather facts from the

# LOUISIANA STATE RACING COMMISSION

named individuals and send the Louisiana Board of Ethics a request for opinions to insure the new Commission would be free of ethical issues prior to taking any official regulatory action.

Upon receipt of the ethics opinions, Ms. Chatelain contacted the three commissioners in question to review the ethics laws and opinions of the Ethics Board in the belief that each commissioner would take the necessary steps to remedy any individual ethical conflicts.

On December 2, 2010, this office received a copy of a letter from Commissioner Bryan Krantz addressed to Gov. Jindal informing of his resignation from the Commission effective the same date. A copy of that letter is attached for your reference.

Upon receipt of the draft audit finding(s), a meeting of the Legal Committee of the Racing Commission was called by Committee Chairman, Bob Wright, to be held at his law office in Lafayette on Monday, on March 14, 2011. My memo of March 3, 2011, informing all Commissioners of your draft finding(s) and requesting explanatory documentation and the presence of Commissioners Bourgeois and Cormier at the meeting is attached for your reference.

On Friday, March 11, I received an e-mail from Commissioner Cormier informing me that he (Cormier) would not be available for the Legal Committee meeting on March 14<sup>th</sup>. That e-mail is attached for your reference.

On Monday, March 14, at approximately 9:30 a.m., I received a phone call from Mr. Bourgeois informing me that he would be traveling to Mississippi and would also be unable to be present at the Legal Committee meeting.

Despite the lack of attendance by Commissioners Bourgeois and Cormier and due to your deadline of March 22<sup>nd</sup> for a response, the meeting of the Legal Committee commenced at 2:00 p.m. on March 14<sup>th</sup> at the law offices of Committee Chairman, Bob Wright. Present were Legal Committee members, Jerry Meaux, Payton Covington, Judy Wagner, Richard Hollier, Dave Roberts and Bob Wright. The meeting was transcribed by a court reporter. A transcript of that meeting is attached for your reference.

## **Corrective Action Plan**

As noted in the attached transcript and due to the lack of attendance of Commissioners Bourgeois and Cormier, the Commission is without information or records that would indicate compliance, or the lack thereof, with ethics rules and laws.

Further, there are currently no legal provisions under the present circumstances that give member Commissioners authority to take action or force compliance with applicable laws against other commissioners. Rather, the ability to force racing commissioners to comply with applicable laws lays with the appointing authority, in this case, the governor's office, or, alternatively, the Louisiana Board of Ethics.

# LOUISIANA STATE RACING COMMISSION

Respectfully, I submit to you this response. Additionally and inasmuch as the Commission is desirous of insuring that it is run properly, legally and free of conflicts, this response, along with all of the aforementioned documents, are being forwarded to the Louisiana Board of Ethics and the Office of the Governor. Should you have any questions or comments, please contact me. Thank you. With kind regards, I am,

Sincerely,

A handwritten signature in blue ink, reading "Charles A. Gardiner III". The signature is fluid and cursive, with a stylized "C" and "G".

Charles A Gardiner III

CAG/sam

Enc

cc: Legislative Auditor (Faye Martin)  
Office of the Governor (Jonathan Ringo)  
La Board of Ethics (Kathleen Allen)  
All Commissioners