

## **PORAC Legal Defense Fund Trustee Code of Conduct**

### **I. Purpose**

This policy, establishes the standards of conduct required of PORAC Legal Defense Fund (“LDF” or “Trust”) Trustees. It is incumbent upon the Trustees to conduct the affairs of LDF with a commitment to the highest standards of integrity.

### **II. Compliance with Laws and Regulations**

A variety of laws and regulations apply to LDF and its Trustees, the violation of which may carry civil or criminal penalties for the Trust and the individual. LDF actively promotes compliance with all laws, rules and regulations that govern its business.

### **III. Definitions:**

#### **A. LDF Service Provider Defined:**

An LDF Service provider is any person or business entity that provides services in exchange for money or compensation for the benefit of an individual plan participant or for the Fund as a whole. This includes, but is not limited to, panel attorneys, accountants, trust counsel, third party administrators, investment consultants, etc.

#### **B. Conflict of Interest Defined:**

A "conflict of interest" occurs when a Trustee's personal or other interests, including immediate or long-term financial or employment interests, interfere with the interests of LDF.

#### **C. Gift or Gratuity Defined:**

A gift or gratuity includes any item or service, regardless of value, including, but not limited to, meals, beverages, monetary payments, gifts, entertainment, participation in sporting events, social invitations, travel, hospitality, employment or other benefits or promises of future benefits, received from any current or previous LDF Service Provider, employee or relative of any LDF Service Provider, or anyone reasonably suspected by the Trustee to be acting on behalf of, or in concert with, such person or entity.

#### **D. Confidential Information:**

The following items are determined to be confidential: any specific information regarding an LDF participant’s legal matter, rates paid to LDF Service Providers, rate-setting methodology or actual individual rates, marketing, member recruitment and retention strategies, advice from Trust

Counsel, information discussed during a “closed” or “executive session” of an LDF Trustee meeting, or any other matters communicated to the Trustee by staff or other Trustees, with the express understanding of it being confidential.

**IV. Standards of Conduct:**

**A. LDF Participants’ Interests are Paramount.**

Advancing the interests of LDF participants are the paramount duty of a Trustee. Trustees have an obligation to put the interests of LDF participants first in performing their functions as an LDF Trustee. A Trustee shall not use the position, authority, title, influence, or prestige of the position as an LDF Trustee to secure any special privileges or exemptions not otherwise available to the general membership for the benefit of the Trustee, the Trustee’s family member(s), the Trustee’s member association, or any LDF Service Provider.

**B. Receipt of a Gift or Gratuity is a Conflict of Interest.**

A Trustee shall not receive or accept any gift or gratuity from an LDF Service Provider. The only exception to this Policy shall be with advanced expressed approval by the full LDF Board of Trustees who must, in their sole and absolute discretion, consider and balance the following factors: 1) the actual impropriety or appearance of impropriety by the subject transaction; 2) the amount or value of the subject transaction; and 3) the benefit to be received by LDF participants by the approval of the subject transaction. This rule of precluding the receipt of a gift or gratuity applies to any trustee, regardless of the reason, or any other position held for which the gift may have been offered or provided. For example, a member association president, who also holds the position as a trustee, is precluded from receiving any gift or gratuity offered to them as association president. As another example, a longtime friend of a Trustee, who is also an LDF service provider, is precluded by this rule from providing the trustee a birthday gift.

**C. Disclosures by Candidates for Trustee position.**

Any LDF participant who accepts a nomination for the position of LDF Trustee shall fully and completely disclose the receipt, or offer, of any and all Gift(s) or Gratuity(ies) received, or promised to be given, within the 12 months prior to the acceptance of such nomination and continuing through the date of the election. Said disclosure shall be in the form of a written “Candidate Statement” (the form for which is attached hereto as Exhibit "A") and shall be produced to the election committee of LDF (with a copy provided to PORAC). The production of the "Candidate Statement" shall occur no later than 30 calendar days prior to the date for the distribution of ballots, and the Candidate Statement shall accompany each ballot. If a Gift or Gratuity is received by the Candidate less than 30 days prior to distribution of a ballot, and through the date any of the following occurs: (i)

the Candidate is elected or (2) another Candidate for that position is elected or (3) the Candidate withdraws from the nomination, said Gift or Gratuity must be disclosed through filing an Amended Candidate Statement which shall be published in the PORAC News. If the Candidate is elected, then Section IV(B) shall apply.

**D. Annual Compliance Statement.**

Each year, at the first Trustee meeting of the calendar year, each Trustee shall execute a form declaring under penalty of perjury that said Trustee has not received in the prior calendar year any Gift or Gratuity other than those specifically authorized by the Board of Trustees in compliance with this policy.

**E. Business Opportunities.**

All Trustees are required to disclose promptly to the Board and/or Trust Counsel any outside employment, consulting, or other activities of a business nature in which the Trustee is or intends to become engaged and which could cause a conflict of interest with their role as Trustee. No Trustee shall discuss, consider, or accept current or future employment with an LDF Service Provider, while serving as an LDF Trustee.

**F. Disclosure of Conflict of Interest, Refrain from Influence, and Recusal.**

When a Trustee becomes aware of a conflict of interest, the Trustee shall fully disclose, in writing, the circumstances of the conflict to the LDF Chairman who shall distribute such information to the entire Board of Trustees.

After full disclosure and discussion with the Board of Trustees, the conflicted Trustee shall decide whether to participate in any decision-making process which may be affected by such conflict of interest.

If any LDF Service Provider offers, attempts to offer, or provides a Trustee with a Gift or Gratuity, the Trustee shall refuse to receive the Gift or Gratuity and shall immediately notify Trust Counsel and the Chairman of LDF.

If any Trustee believes that another Trustee has directly or indirectly solicited, accepted, or received any Gift or gratuity, he or she should immediately notify Trust Counsel.

**V. Confidential or Protected Communications.**

Except as otherwise required by law or authorized by the Board, no Trustee shall disclose Confidential Information acquired by him or her in the course of his or her official duties as an LDF Trustee, or use such information to further his or her personal interest. All Trustees are required to maintain the confidentiality of information entrusted to them during their service as LDF Trustee. Specifically prohibited are any disclosures of confidential or

protected information by a Trustee directly or indirectly to an LDF Service Provider who is an LDF panel attorney.

If a Trustee receives a request from someone outside LDF for Confidential Information, all such requests shall be submitted to the LDF Board of Trustees for decision as to whether such information should be released.

If any Trustee believes that an unauthorized disclosure of material Confidential Information by another Trustee may have occurred, he or she shall immediately notify Trust Counsel.

## **VI. Dishonesty and Fraud.**

LDF has been held in high regard since its inception. Like all organizations, however, its reputation faces risks from the perception of dishonesty and fraud. To prevent against harm to its reputation, LDF remains committed to the deterrence, detection and correction of such misconduct, and to creating and maintaining a culture in which such actions are not tolerated or encouraged.

Broadly, dishonesty and fraud can involve many forms, such as theft or other misappropriation of assets, embezzlement, fraud and other unlawful acts, bribery, and kickbacks.

Examples of bribery or kickbacks that would not be tolerated by LDF include:

1. Giving something of fair value to a Trustee in return for a favorable exercise of that Trustee's discretion; and
2. A payment secretly made to a Trustee by a current or prospective LDF Service Provider seeking LDF business, with the purpose of influencing the Trustee to award business to the Service Provider or to secure more favorable terms from LDF.

Trustees shall not engage in dishonest or fraudulent practices and shall declare under penalty of perjury in January of each year that they have not engaged in such activities in the prior calendar year.

## **VII. Communications Between Individual Trustees and LDF Service Providers.**

Except as authorized by the Board and except for communications with the Legal Administrator's Office and Trust Counsel, an individual Trustee shall not independently communicate, directly or indirectly, with any LDF Service Provider regarding LDF business, where it reasonably appears to the Trustee that the LDF Service Provider is attempting to influence or persuade the Trustee regarding a decision to be made by the LDF Board of Trustees. Nothing in this rule shall prevent a Trustee from communicating with a Service Provider on subject matters relating only to that Trustee's member association, if such association is the client of the Service Provider (except that such communications shall not include any information which the Trustee learned in the course of carrying out his or her duties as Trustee, as outlined

in Section IV, above). Should any Service Provider attempt, directly or indirectly, to communicate independently with a Trustee regarding LDF business in violation of this rule, that Trustee shall immediately report the details of that attempt – including date, time, substance, and issue – to Trust Counsel and the Board of Trustees

A Trustee may receive directly from an LDF Service Provider a complaint about the Legal Administrator or Trust counsel. In such a circumstance, the complaint shall be made in writing, provided to the Trustee, and that Trustee shall distribute copies of the written complaint to the entire LDF Board of Trustees.

All other communications from an LDF Service Provider regarding LDF business shall be brought directly to the Legal Administrator's and/or Trust Counsel's attention, and the Legal Administrator shall place the matter on the Agenda for the next Trustee meeting, or shall distribute the matter to the entire Board electronically, if time is of the essence.

#### **VIII. Objectivity.**

In carrying out their role, including making coverage decisions, determining appropriate amounts of compensation for work performed by LDF Service Providers, and determining new or modifying existing benefit plans or provisions, LDF Trustees should ensure that their decisions are made solely on the merits of the decision at issue.

#### **IX. Sanctions.**

If the LDF Board of Trustees determines that the conduct of a Trustee has violated the Trustee's professional or fiduciary responsibilities, LDF policy, other governing law, or this Policy, the Trustee is subject to disciplinary action. Such action may include reprimands, warnings, or recommendation for removal from the Board of Trustees. The Board shall determine the appropriate disciplinary action for each violation of this Code of Conduct.

#### **X. Distribution of Trustee Code of Conduct Policy.**

LDF shall distribute a copy of this Trustee Code of Conduct Policy to every LDF Trustee. Each Trustee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his or her office and may not take or hold office unless he or she has signed this Policy. The Trustees shall review this policy in January of each year.

#### **Trustee Declaration.**

I have read and understood the provisions of the Trustee Code of Conduct Policy.

I have received and read the orientation material for new Trustees and understand my duties and responsibilities as a Trustee.

I undertake to familiarize myself with LDF's policies, objectives, plans and financial position.

I shall declare all conflicts of interest as and when they arise. If at any time these conflicts hamper my ability to perform my role as Trustee, I shall resign from the Board.

I shall keep all the proceedings at Trustee meetings confidential and shall not discuss any of the issues with anyone outside the Trust without clearance from the majority of other Trustees and Trust Counsel.

Signed \_\_\_\_\_

