

SOUTH DAKOTA RETAILERS ASSOCIATION ANTI-TRUST STATEMENT AND POLICY

All members, directors, committee members and staff with board delegated powers and officers of the South Dakota Retailers Association shall be bound by this Association policy which prohibits members, officers, directors, committee members and staff, whether formally or informally discussing with members or competitors or taking any action to eliminate, restrict or govern competition among members in that such would be a violation of anti-trust laws. Such discussions shall always be for purposes of discussing common problems in areas of interest but never in a manner that would eliminate, restrict or govern competition among members.

Among the subjects that shall not be discussed by officers, directors, committee members and staff, whether formal or informal, are conditions, terms and prices of service (or products), allocating or sharing of customers and refusing to deal with a particular supplier or class of supplier. Agreements among competitors relative to any of these subjects are per se violations of anti-trust laws and can lead to severe criminal and civil penalties.

The South Dakota Retailers Association Anti-Trust Statement and Policy was adopted at a legally called Board of Director's Meeting on the 7th day of January, 2008 and a legally called Meeting of Association Members on the 7th day of January, 2008.

Certified to by the Secretary of the South Dakota Retailers Association this 7th day of January, 2008.

Mike Cole
SDRA Secretary

CONFLICT OF INTEREST POLICY FOR DIRECTORS, OFFICERS, AND COMMITTEE MEMBERS AND STAFF WITH BOARD DELEGATED POWERS

The following constitutes the Conflict of Interest Policy of the South Dakota Retailers Association which is also referred to as “Organization” as it relates to the South Dakota Retailers Association, its board of directors which is referred to as its governing board, officers and committee members and staff with board delegated powers:

Article I Purpose

The purpose of the Conflict of Interest Policy is to protect this tax-exempt organization’s (Organization) interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer, director or a member of the staff of the Organization or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

Article II Definitions

1. Interested Person

Any director, principal officer, member of a committee with governing board delegated powers or staff member with governing board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

2. Financial Interest

A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

- a.** An ownership or investment interest in any entity with which the Organization has a transaction or arrangement,
- b.** A compensation arrangement with the Organization or with any entity or individual with which the Organization has a transaction or arrangement, or
- c.** A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Organization is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

Article III Procedures

1. Duty to Disclose

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and members of committees with governing board delegated powers considering the proposed transaction or arrangement.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

3. Procedures for Addressing the Conflict of Interest

a. An interested person may make a presentation at the governing board or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

b. The President of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

c. After exercising due diligence, the governing board or committee shall determine whether the Organization can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

d. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Organization's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

4. Violations of the Conflicts of Interest Policy

a. If the governing board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

b. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

Article IV Records of Proceedings

The minutes of the governing board and all committees with board delegated powers shall contain:

- a.** The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed.
- b.** The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

Article V Compensation

- a.** A voting member of the governing board who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.
- b.** A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.
- c.** No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

Article VI Annual Statements

Each director, principal officer, member of a committee with governing board delegated powers, or member of the staff with governing board delegated powers shall annually sign a statement which affirms such person:

- a.** Has received a copy of the anti-trust statement and policy and conflicts of interest policy,
- b.** Has read and understands the policy,
- c.** Has agreed to comply with the policy, and
- d.** Understands the Organization is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

Article VII Periodic Reviews

To ensure the Organization operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.
- b. Whether partnerships, joint ventures, and arrangements with management organizations conform to the Organization's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

Article VIII
Use of Outside Experts

When conducting the periodic reviews as provided for in Article VII, the Organization may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

This South Dakota Retailers Association Conflict of Interest Policy for Directors, Officers, Committee Members and Staff with Board Delegated Powers was adopted at a legally called Board of Directors Meeting on the _____ day of _____, 2008.

Certified to by the Secretary of the South Dakota Retailers Association this _____ day of _____, 2008.

SDRA Secretary

ACKNOWLEDGEMENT

Name: _____

Position: _____

I acknowledge that I have received, read and understand the SDRA Anti-Trust Statement and Policy and Conflict of Interest Policy. I understand that SDRA is a charitable organization and in order to maintain its federal tax exemption, it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

I have been informed and agree to bring to the attention of the proper level of authority any real or perceived conflicts of interest that may arise during the course of my tenure with the organization.

Such conflicts include, but are not limited to, personal affiliations, professional affiliations, business dealings, dealings with other boards, and so forth.

Additionally, I agree to abide by the direction and decision rendered by the Association.

Signature: _____

Date: _____