

KENTUCKY HORSE RACING COMMISSION

JANUARY 23, 2023

SPECIAL MEETING AGENDA

Location: Kentucky Horse Racing Commission
4063 Iron Works Parkway, Building B
Lexington, KY 40511
Via Zoom

Time: 10:00 am

I. Call to Order and Roll Call

II. New Business

1. Meeting Minutes from December 13, 2022

III. Executive Session

2. During the meeting on January 23, 2023 the Commission will go into closed session pursuant to KRS 61.810(1) (C) to discuss pending litigation. (CONFIDENTIAL)

IV. Other Business

3. STEVEN M. ASMUSSEN, ET AL v. KHRC, ADMINISTRATIVE ACTION NO. 19-TB-013-014

V. Adjournment

KENTUCKY HORSE RACING COMMISSION
MINUTES OF THE MEETING

Date: December 13, 2022 at 10:00 AM

Place: American Saddlebred Museum, 4083 Iron Works Parkway Lexington, Kentucky 40511

Members Present: Chairman Jonathan Rabinowitz; Vice-Chairman Frank Jones, Jr.; Commissioner Naveed Chowhan M.D.; Commissioner Tiffany Daniels, D.C.; Commissioner Michael F. Dudgeon; Commissioner Lesley Howard; Commissioner William L.S. Landes; Commissioner William H. May; Commissioner Charles O'Connor; Commissioner Catherine Parke; and Commissioner C. Frank Shoop

Ex-officio Members Present: Secretary Mike Berry, Tourism, Arts & Heritage Cabinet; Angelica Sanchez-Vega on behalf of Secretary, Jeff Noel, Cabinet for Economic Development and D.J. Wasson, on behalf of Secretary Ray Perry

KHRC Staff Participating/Present: Jamie Eads, Executive Director; Waqas Ahmed, Interim Deputy Executive Director; Jennifer Wolsing, General Counsel; Shan Dutta, Deputy General Counsel; Drew Conners, Director of Incentives and Development; Barbara Borden, Chief State Steward; Dr. Nick Smith, Chief State Veterinarian; Andy Conway, Assistant Director of Pari-Mutuel Wagering and Compliance, Joanna Ricci, Executive Administrative Secretary; Patricia Cooksey, Assistant Director of Incentives and Development; Beth Jacobson, Paralegal

<i>AGENDA ITEM</i>	<i>TRANSCRIPT PAGE NUMBER(S)</i>	<i>DISCUSSION / CONCLUSIONS / RECOMMENDATIONS</i>	<i>ACTION TAKEN</i>
I. Call to Order and Roll Call	4 – 5	Chairman Rabinowitz called the meeting of the Kentucky Horse Racing Commission (KHRC) to order and performed the roll call. A quorum was recognized.	No action taken.

AGENDA ITEM	TRANSCRIPT PAGE NUMBER(S)	DISCUSSION / CONCLUSIONS / RECOMMENDATIONS	ACTION TAKEN
<p>II. New Business</p> <p>Tab 1 Meeting Minutes from August 16, 2022 and September 20, 2022</p>	<p>5 – 48 5 – 6</p>	<p>Chairman Rabinowitz requested a motion from the Commission to address the request submitted by the KHRC staff to approve the proposed minutes of the KHRC meeting of October 31, 2022. Motion by Vice-Chairman Jones. Second by Commissioner O’Connor.</p> <p>Executive Director Eads, shared that Commissioner Landes noted a correction or clarification on page 11 of the minutes. When Executive Director Eads said “year-round,” she was referring to the vet team and the field staff operating at multiple tracks throughout the year.</p> <p>Chairman Rabinowitz inquired if there were any other additions or corrections.</p> <p>Approval was recommended by KHRC Staff.</p>	<p>Chairman Rabinowitz called for a vote to approve the proposed minutes of the October 31, 2022 meeting as presented. Motion carried with no objections or abstentions.</p>
<p>Tab 2 Approve the 2023 Commission Meeting Schedule</p>	<p>7-8</p>	<p>Chairman Rabinowitz requested a motion from the Commission to approve the 2023 meeting schedule as presented. Motion by Commissioner O’Connor and Second by Commissioner Shoop.</p> <p>Executive Administrative Secretary Ricci presented the schedule stating that the meetings are bimonthly on the third Tuesday of the month with exception of December, which is held on the second Tuesday.</p> <p>Approval was recommended by KHRC Staff.</p>	<p>Chairman Rabinowitz called for a vote to approve the 2023 meeting schedule. Motion carried with no objections or abstentions.</p>

AGENDA ITEM	TRANSCRIPT PAGE NUMBER(S)	DISCUSSION / CONCLUSIONS / RECOMMENDATIONS	ACTION TAKEN
<p>Tab 3 Transfer of funds to the Kentucky Racing Health & Welfare Fund</p>	<p>9 – 13</p>	<p>Chairman Rabinowitz requested a motion from the Commission to approve the transfer of funds to the Kentucky Racing Health & Welfare Fund. Motion by Vice-Chairman Jones. Second by Commissioner Howard.</p> <p>Director Connors presented the annual request from Mr. Richard Riedel, the Executive Director of the Kentucky Racing Health & Welfare Fund. The letter explains that they are a nonprofit in its 44th year of operation that has provided millions to the health care and retirement benefits to the backstretch workers. The majority of the funding comes from the uncashed pari-mutuel tickets at racing facilities. Pursuant to KRS 230.361, any ticket that has not been claimed within one year is presumed abandoned. This year, the amount totaled \$995,538.17. These tickets were sold between June 1, 2020 and June 30, 2021 and were still unclaimed a year or more later on July 1, 2022.</p> <p>Approval was recommended by KHRC Staff.</p> <p>Commissioner Landes asked Mr. Riedel how many members are on his staff. Mr. Reidel explained they have three full time and three part time.</p> <p>Vice-Chairman Jones commented that Mr. Riedel has done a tremendous job with all that they handle and that it takes a burden off of the racetracks to help the backside employees.</p>	<p>Chairman Rabinowitz called for a vote to approve the transfer of funds to the Kentucky Racing Health & Welfare Fund. Motion carried with no objections or abstentions.</p>

AGENDA ITEM	TRANSCRIPT PAGE NUMBER(S)	DISCUSSION / CONCLUSIONS / RECOMMENDATIONS	ACTION TAKEN
<p>Tab 4 Approve the release of uncashed ticket money for purse distributions at the Kentucky Proud Series</p>	<p>13 - 15</p>	<p>Chairman Rabinowitz requested a motion from the Commission to approve the release of uncashed ticket money for purse distributions at the Kentucky Proud Series. Motion by Commissioner Shoop. Second by Commissioner O'Connor.</p> <p>Director Connors presented that KRS 230.398 states that unclaimed pari-mutuel tickets collected by a licensee conducting harness racing events at county fairs is called the Kentucky Proud Series. The harness tracks reported \$51,894.90 this year.</p> <p>Approval was recommended by KHRC Staff.</p>	<p>Chairman Rabinowitz called for a vote to approve the release of uncashed ticket money for purse distributions at the Kentucky Proud Series. Motion carried with no objections or abstentions.</p>
<p>Tab 5 Approve Funds for backside improvement to Churchill Downs Racetrack, LLC</p>	<p>15 – 19</p>	<p>Chairman Rabinowitz requested a motion from the Commission to address the request for funds to backside improvements at Churchill Downs Racetrack LLC. Motion by Commissioner O'Connor. Second by Vice-Chairman Jones.</p> <p>Director Connors presented the backside improvement request from Churchill Downs Racetrack, LLC, which includes improvements to fire and safety, the backside and stabling areas. The Fire and Safety Improvements were uncovered during a recent inspection and total \$103,250.00. The funds are available and if approved, the work will begin immediately.</p> <p>Vice Chairman Jones inquired as to whether or not the horseman's group was required to approve this request. Executive Director Eads and Director Connors advised that they have not. Chairman Rabinowitz supported tabling the motion and revisiting it at the next meeting. Commissioner Landes reminded them that it is for safety and they should not do that. Mr. Mike Zeigler, representative of Churchill Downs Racetrack, LLC stated that he does not think that the horseman's group has to approve because it is the backside improvements. Executive Director Eads advised that in the past, she</p>	<p>Chairman Rabinowitz called for a vote to approve the request for Funds to backside improvements at Churchill Downs Racetrack, LLC. Motion carried with no objections or abstentions.</p>

AGENDA ITEM	TRANSCRIPT PAGE NUMBER(S)	DISCUSSION / CONCLUSIONS / RECOMMENDATIONS	ACTION TAKEN
		<p>has reached out to the horseman’s group. Mr. Ziegler inquired as to whether it is required by the statute. Executive Director Eads defaulted to General Counsel Wolsing, who advised that it is not required.</p> <p>Approval was recommended by KHRC Staff.</p>	
Tab 6 Approval of licenses to provide totalizer services for 2023	19 - 21	<p>Chairman Rabinowitz requested a motion from the Commission to approve the license to provide totalizer services for 2023. Motion by Commissioner Shoop. Second by Commissioner Parke.</p> <p>Assistant Director. Conway presented three applications to provide totalizer services for 2023. The applications were renewals filed by entities listed in agenda number 6.</p> <p>Approval was recommended by KHRC staff.</p>	<p>Chairman Rabinowitz called for a vote to approve the license to provide totalizer services for 2023. Motion carried with no objections or abstentions.</p>
Tab 7 Approval of renewal licenses to conduct advanced deposit account wagering for 2023	21 - 23	<p>Chairman Rabinowitz requested a motion from the Commission to approve renewal of licenses to conduct advanced deposit account wagering for 2023. Motion by Commissioner Daniels. Second by Commissioner Shoop.</p> <p>Assistant Director Conway presented the eight renewal license applications received to offer advance deposit account wagering for 2023; all applications were received prior to the deadline.</p> <p>Approval was recommended by KHRC staff.</p>	<p>Chairman Rabinowitz called for a vote to approve renew licenses to conduct advanced deposit account wagering for 202. Motion carried with no objections or abstentions.</p>

AGENDA ITEM	TRANSCRIPT PAGE NUMBER(S)	DISCUSSION / CONCLUSIONS / RECOMMENDATIONS	ACTION TAKEN
<p>Tab 8 Renewal of license for simulcast facility at Churchill Downs Racetrack, LLC for 2023</p>	<p>23 - 28</p>	<p>Chairman Rabinowitz requested a motion from the Commission to approve renewal of license for simulcast facility at Churchill Downs Racetrack, LLC for 2023. Motion by Commissioner Shoop. Second by Commissioner O'Connor.</p> <p>Interim Deputy Executive Director Ahmed presented the information submitted by Churchill Downs Racetrack, LLC for its license renewal for a simulcast facility. KHRC initially granted a license to Churchill Downs Racetrack, LLC t in October 2020 and the facility was launched in the fall of 2020. Keeneland endorsed this renewal and provided consent for Churchill Downs to operate as a simulcast facility.</p> <p>Commissioner Landes inquired about the status of the simulcast operations at the non-contiguous track facility in downtown Louisville. Mr. Ziegler responded that there will be simulcasting operations at the downtown facility.</p> <p>Approval was recommended by KHRC Staff.</p>	<p>Chairman Rabinowitz called for a vote to approve the renewal of license for simulcast facility Churchill Downs Racetrack, LLC for 2023. Motion carried with no objections or abstentions.</p>
<p>Tab 9 To ratify Executive Director Jamie Eads' approval of ECL Corbin, LLC's request to amend its race dates</p>	<p>28 - 30</p>	<p>Chairman Rabinowitz requested a motion from the Commission to ratify Executive Director Eads' approval of ECL Corbin, LLC's request to amend its race dates. Motion by Commissioner Shoop. Second by Commissioner Daniels and Commissioner Parke.</p> <p>Interim Deputy Executive Director Ahmed explained that ECL Corbin, LLC d/b/a Cumberland Run, contacted Executive Director Eads, on November 2, 2022 to request to combine two of their race dates. The request was due to limited participation anticipated on November 7th and 8th, which represents 8% of Cumberland Run's total awarded race dates for the year. The Kentucky Harness Horseman's Association supported this request as a horsemen peer.</p>	<p>Chairman Rabinowitz called for a vote to ratify Executive Director Jamie Eads' approval of ECL Corbin, LLC's request to amend its race dates. Motion. Motion carried with no objections or abstentions.</p>

AGENDA ITEM	TRANSCRIPT PAGE NUMBER(S)	DISCUSSION / CONCLUSIONS / RECOMMENDATIONS	ACTION TAKEN
		<p>Due to the immediate nature of the request, Executive Director Eads conditionally approved the request to combine the race dates awarded to Cumberland Run for 2022. This was done pursuant to KRS 230.215 and the decision was in the best interests of racing. Cumberland Run conducted the races on November 7, 2022.</p> <p>KHRC Staff recommended ratification of Executive Director Eads' approval of their request.</p>	
<p>Tab 10 Reports</p> <p>a. Report A pertains to the Thoroughbred Rulings</p> <p>b. Standardbred Rulings</p> <p>c. Veterinary Division report</p>	<p>30 - 38</p> <p>30 – 31</p> <p>31 – 32</p> <p>32 – 36</p>	<p>a. Chief State Steward Borden presented rulings that have been made since the last meeting; there were only five. Following the updated ruling list is a running total of all rulings issued since January, which total 136.</p> <p>b. Standardbred rulings were presented by Associate Judge Cooksey. The rulings were up to date through November.</p> <p>c. Chief Racing Veterinarian Smith filled in for Dr. Howard and presented three veterinary reports. The first report pertained to Keeneland; there were 1,482 starts at the fall meet; 437 were tested post-race and 274 tested for tCO2 levels. There were a total of 30 scratches, 48 horses placed on the KHRC vet list and no horses presented for bleeding, EIPH and none for distress. 142 total claimed horses came through the test barn and nine of them were voided for soundness. There were a total of eight ambulance runs, no racing fatalities, and one training fatality, which was musculoskeletal.</p> <p>The next report presented pertained to the Breeder's Cup; there were 243 total starters. 79 of those were tested post-race and 182 were tCO2 tested. There were a total of 6 veterinary scratches, all pre-race. 11 total horses placed on the veterinary list, 6 of which were the scratches and three</p>	<p>No action taken. Informational items only.</p>

AGENDA ITEM	TRANSCRIPT PAGE NUMBER(S)	DISCUSSION / CONCLUSIONS / RECOMMENDATIONS	ACTION TAKEN
<p>d. Pari-mutual Wagering & Compliance</p>	<p>36 – 38</p>	<p>post-race injuries and 2 for bleeding or EIPH. There were no claimed horses, four ambulance runs and no racing or training fatalities.</p> <p>The final report is for Churchill Downs fall meet. There were 1,633 starts for the meet and 519 of those tested post-race and 241 for tCO2 levels. There were 17 total vet scratches, 14 pre-race, 2 on the track, one for soundness-related and two were at the gate or paddock. There were 35 horses placed on the KHR vet list, 17 were scratches and 15 were post-race and three horses bled from EIPH for the meet. 220 horses were claimed, 7 were voided for soundness, 13 ambulance runs, 3 racing fatalities that were all musculoskeletal. There was one training fatality that was also musculoskeletal.</p> <p>Lastly, there is a tab that has racing fatalities since 2007 broken down by month and year.</p> <p>d. Pari-mutuel Wagering & Compliance reports were presented by Assistant Director Conway. October’s volume of wagers was similar to last year’s with 16 million for the month; this was also true for simultaneous wagering during the period for 9 million for the month. Wagers on historical races saw over 650 million through October. This represented just over a hundred million increases from this time last year. Advance deposit wagering was comparable to last year at just over 32 million. Live wagers have seen over 26 million this year, simulcast wagers 35 million. Historical wagering over 2.5 billion and account wagering seeing 126 million.</p>	
<p>e. Litigation</p>	<p>38</p>	<p>e. Litigation and Regulation report is for informational purposes only.</p>	

AGENDA ITEM	TRANSCRIPT PAGE NUMBER(S)	DISCUSSION / CONCLUSIONS / RECOMMENDATIONS	ACTION TAKEN
IV. Other Business	53 - 56	<p>Chairman Rabinowitz stated that Agenda Item 13 is for informational purposes only and would not be voted on.</p> <p>Chairman Rabinowitz asked Vice-Chairman Jones to say a few words about KyHBPA Executive Director Marty Maline. Vice-Chairman Jones gave a speech commending Mr. Maline and explained that he has been the heart and soul of the HBPA for as long as he has been a member; very dependable, knowledgeable, and calmed situations down for horsemen when they felt like they were being mistreated. Vice-Chairman Jones expressed gratitude for Mr. Maline because of his extensive background in the industry and the remarkable work he has done for the State of Kentucky and that he deserves many thanks as Executive Director of the Kentucky HBPA.</p> <p>Commissioner Shoop recognized Executive Director Eads' transition from interim-status to permanent Executive Director of the Commission.</p>	
V. Adjournment	57	<p>With no other business, Chairman Rabinowitz requested a motion to adjourn the October 31, 2022 Special Meeting. Motion by Commissioner O' Connor. Second by Commissioner Parke. Meeting adjourned.</p>	<p>Chairman Rabinowitz called for a vote to adjourn. Motion carried with no objections or abstentions.</p>

NOTE: The meeting materials and any amendments and/or supplements thereto, subject to any applicable exemptions, and the official Transcript are incorporated by reference as if set forth fully herein.