

KENTUCKY HORSE RACING COMMISSION
MINUTES OF THE MEETING

Date: April 9, 2013 at 1:30 PM

Place: Rolex Hospitality Room, Kentucky Horse Park, Lexington, KY

Members Present: Chairman Robert M. Beck, Jr.; Vice-Chairman Tracy Farmer; Commissioner Edward S. "Ned" Bonnie; Commissioner Burr Travis; Commissioner Franklin S. Kling, Jr.; Commissioner Alan J. Leavitt; Commissioner Jerry Yon, M.D.; Commissioner John Phillips; Commissioner Neil Howard; Commissioner Elizabeth Lavin; Commissioner Foster Northrop, DVM; and Commissioner Frank Jones, Jr.

Ex-officio Members Present: Mr. Robert D. Vance, representing the Public Protection Cabinet; and Ms. Hollie Spade, representing the Cabinet for Economic Development

KHRC Staff Participating: John T. Ward, Jr., Executive Director; Marc A. Guilfoil, Deputy Executive Director; Susan B. Speckert, General Counsel; Michael T. Davis, Deputy General Counsel; Mary Scollay, DVM, Equine Medical Director; Jamie Eads, Director of Breeders Incentives and Development; Greg Lamb, Supervisor of Pari-Mutuel Wagering; Barbara Borden, Acting Chief State Steward; and Will Farmer, Chief Racing Veterinarian

Others Participating: Shannon Arvin, Stoll Keenon Ogden, legal counsel for Keeneland; Chip Bach, Turfway Park; and Remi Bellocq, North America Riding Academy (NARA)

Meeting called to order and roll call performed by Chairman Beck. A quorum was recognized.

<i>AGENDA ITEM</i>	<i>TRANSCRIPT PAGE NUMBER(S)</i>	<i>DISCUSSION / CONCLUSIONS / RECOMMENDATIONS</i>	<i>ACTION TAKEN</i>
Tab 1 Approve minutes of March 13, 2013	5	Chairman Beck presented the minutes of the meeting of February 13, 2013 for approval. Ms. Speckert noted non-substantive amendments to the Minutes as provided in the Agenda materials to correct typographical errors.	Motion to approve as amended by Commissioner Bonnie. Second by Commissioner Phillips. Motion carried with no objections or abstentions.

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<p>Tab 2 Approve Keeneland's amendments to legal site</p>	<p>5 – 11</p>	<p>Ms. Speckert presented Keeneland's request for approval by letters dated March 26, 2013 to amend the legal site description provided in its 2013 license application to include the premises known as the Thoroughbred Training Center and to include a portion of the Kentucky Horse Park (KHP) to be leased in order to facilitate offering drive-through betting at these locations on Oaks and Derby days.</p> <p>The staff has confirmed that Keeneland has met the requirements of the statute, with the exception of providing a copy of the lease agreement between Keeneland and the KHP. Staff recommends approval of Keeneland's request contingent upon receipt of that lease agreement.</p> <p>In response to a concern expressed by Commissioner Bonnie, Ms. Arvin stated that Keeneland would provide a legal description of the premises to be leased at the KHP with the copy of the lease agreement to be provided and would also submit a more specific description of the area to be utilized at the Thoroughbred Training Center.</p>	<p>Motion to approve the recommendation by Commissioner Travis. Second by Commissioner Bonnie. Motion carried with no objections or abstentions.</p>
<p>Tab 3 Approval of payment to Kentucky Colt Association</p>	<p>11 – 12</p>	<p>Ms. Eads stated that by letter dated April 1, 2013, the Kentucky Colt Association requested payment of the Kentucky Fairs portion of the uncashed standardbred pari-mutuel tickets from 2011 in the amount of \$82,270.27 and taxes paid by the off-track betting parlors in the amount of \$11,299.84.</p> <p>Ms. Eads stated that KHRC staff has confirmed the amounts requested and approval is recommended.</p>	<p>Motion to approve the recommendation by Commissioner Travis. Second by Commissioner Bonnie. Motion carried with no objections or abstentions.</p>
<p>Tab 4 Approve Kentucky Downs' request to add additional terminals and wagers</p>	<p>12 – 21</p>	<p>Ms. Speckert presented Kentucky Downs' request for approval by letter dated March 26, 2013 to add 40 additional historical horse racing wagering terminals to its floor and 4 new wagers.</p>	<p>Motion to approve the recommendations by Vice-Chairman Farmer. Second by Commissioner Yon. Motion carried with</p>

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		<p>KHRC staff will be on-site to oversee the downloading of wagers onto the new terminals and to conduct a review of the final floor plan and surveillance coverage. Additionally, the new terminals will not be made available for use by the public until a satisfactory report is received from the independent testing laboratory, Gaming Laboratories International, LLC ("GLI").</p> <p>The four new wagers are based on RCI Model Rule 004-155A (4)-(6); have been reviewed by John Walzack, an outside consultant expert, and KHRC staff. Mr. Walzak has opined that the wagers are: (1) pari-mutuel; and (2) on horse racing, and KHRC staff has determined the wagers are in compliance with KHRC regulations.</p> <p>Approval of the addition of 40 new terminals is recommended contingent upon KHRC staff review and approval of: (1) the final floor plan layout; (2) the surveillance as it pertains to the new terminals; and (3) receipt of a satisfactory functionality report from GLI.</p> <p>Approval of the addition of four new wagers is recommended contingent upon the KHRC's receipt of a satisfactory functionality report from GLI.</p> <p>Commissioner Bonnie expressed concern with the expansion of adding new terminals prior to a resolution of the historical horse racing lawsuit and about whether the new wagers were consistent with the statutes. Chairman Beck responded that it is his belief that the timing of expansion is in the purview of Kentucky Downs. He further noted that all wagers that the Commission has previously approved have been approved in reliance on Mr. Walzak's expert opinion that those wagers were statutorily compliant and the Commission must rely on the same in considering these four new wagers for approval.</p>	<p>one abstention by Commissioner Bonnie and no objections.</p>

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<p>Tab 5 Approve agreement with HFL Sports Science to determine Ketoprofen Equine Research Samples</p>	<p>21 – 27</p>	<p>Mr. Davis presented a proposed agreement with HFL Sport Science, Inc. (HFL), the KHRC’s official testing laboratory, which would provide for HFL to establish and validate a method for the determination of ketoprofen in horse serum. He noted a correction in the memorandum provided in the agenda materials. The purpose of the proposal would be to establish a secondary threshold, and not a primary as stated, because a primary threshold is already established.</p> <p>Dr. Scollay explained that the regulations allow for administration up to 24 hours out from the race of one of three NSAIDS, flunixin, phenylbutazone or ketoprofen. There is an established secondary threshold for phenylbutazone and flunixin, but not for ketoprofen. HFL’s findings will be provided to the Racing Medication and Testing Consortium (RMTC) for a recommended secondary threshold for ketoprofen.</p> <p>Mr. Davis explained that because the work would be used for medication regulation in Kentucky, and because the analytic method sought must be validated at and by HFL for the purpose of regulating ketoprofen in Kentucky, it was not feasible to bid the proposal to multiple vendors; therefore, the agreement would need to be submitted for approval to the Finance and Administration Cabinet (FAC) as a “not feasible to bid” (“sole source” provider) agreement. No problems in obtaining such approval from the FAC are anticipated. At its April 3, 2013 meeting, the KHRC Equine Drug Research Council (EDRC) approved recommendation of the agreement contingent upon its approval by the FAC as a “not feasible to bid” (“sole source” provider) agreement for approval by the Commission.</p> <p>In response to an inquiry by Commissioner Bonnie, Dr. Scollay stated that the number of “20” horses for the study was determined by the</p>	<p>Dr. Yon moved to approve the recommendation as approved by the EDRC. Second by Commissioner Lavin. Motion carried with no objections or abstentions.</p>

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		<p>RMTC scientific advisory committee after statistical analysis and in consultation with other regulatory authorities and that she believed that they would be capable of defending their decision.</p>	
<p>Tab 6 Reports a. Thoroughbred Rulings b. Veterinary Division c. Pari-Mutuel Wagering Division d. Regulations and Litigation</p>	<p>27 – 28</p> <p>28 – 45</p> <p>46 – 48</p> <p>48</p>	<p>a. Ms. Borden presented the thoroughbred ruling report. She noted that there were no updates or corrections to the report as provided. Ms. Borden answered questions from Commissioners.</p> <p>b. Dr. Farmer presented the veterinary report for the Winter/Spring 2013 meet at Turfway Park and the Race-related Fatal Injury Occurrence over time report. He noted that the data for the Turfway Park meet now included the training fatalities data for the entire Winter/Spring meet. He also noted that there were no race-related fatalities at Turfway Park during the month of March. In response to an inquiry from Commissioner Bonnie, Dr. Farmer stated that 3 of the 4 race-related fatalities were due to distal fractures and 1 soft tissue injury. A discussion followed Dr. Farmer’s presentation during which he answered questions from Commissioners.</p> <p>c. Mr. Lamb presented the reports for historical horse racing at Kentucky Downs and Ellis Park, amounts wagered by Kentucky residents thru ADWs for 2012, and live handle for Turfway Park for March 2013.</p> <p>d. Status Report on Regulations and Litigation – For Informational Purposes Only.</p>	<p>No action taken. Informational items only.</p>
<p>Other Business</p>	<p>48 – 51</p>	<p>Mr. Bellocq made a presentation on the 2013 Spiral Stakes and Bourbonette held at Turfway Park on March 23, 2013. He thanked the Commission, Turfway Park and the Kentucky Horsemen’s Benevolent and Protective Association (KyHBPA) for their assistance with and support of the event. He noted that \$20,000 was raised through the</p>	<p>No action taken. Informational items only.</p>

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	51 – 58	<p>pari-mutuel handle that was donated by Turfway Park and the KyHBPA to go towards the care, training and feeding of the horses utilized in the program. Additionally, as Commissioner Bonnie requested at the February 13, 2013 Commission meeting, Mr. Bellocq provided Commission members with an informational packet about NARA's program.</p> <p>Mr. Bach presented a summary of Turfway Park's recently completed winter/spring meet.</p>	
Tab 7 Executive Session	58 59 59 – 60	<p>1) Chairman Beck requested a motion for the Commission to go into executive session to deliberate in its role as a quasi-judicial body as permitted by KRS 61.810(1)(j) and to discuss proposed or pending litigation against or on behalf of the agency as permitted by KRS 61.810(1)(c).</p> <p style="text-align: center;">EXECUTIVE SESSION</p> <p>2) Chairman Beck requested a motion for the Commission to return to open session.</p> <p>3) In the matter of Dr. Rodney Stewart v. Kentucky Horse Racing Commission, Court of Appeals Nos. 2010-CA-001929-MR and 2010-CA001984-MR, on March 15, 2013 the Court of Appeals entered an unpublished Opinion Reversing and Remanding Appeal and Affirming Cross-Appeal. Commissioner Travis recommended that the KHRC seek discretionary review by the Kentucky Supreme Court of the Court of Appeals' Opinion that the regulation relied upon by the Commission to suspend Dr. Stewart's license was impermissibly vague.</p>	<p>1) Motion to go into executive session by Commissioner Travis. Second by Commissioner Bonnie. Motion carried with no objections or abstentions.</p> <p>2) Motion to return to open session by Commissioner Lavin. Second by Commissioner Yon. Motion carried with no objections or abstentions.</p> <p>3) Motion to approve filing of Motion for Discretionary Review in Kentucky Supreme Court by Commissioner Travis.</p>

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			Second by Commissioner Jones. Motion carried with no objections or abstentions.
Adjournment	60	Meeting adjourned.	Motion to adjourn by Commissioner Lavin. Second by Commissioner Northrop. Motion carried with no objections or abstentions.

NOTE: A copy of all that was provided in the Agenda materials, and any amendments thereto, subject to any applicable exemptions are to be attached hereto and incorporated herein.