

**KENTUCKY HORSE RACING COMMISSION**  
**MINUTES OF THE MEETING**

Date: September 23, 2013 at 1:30 PM

Place: Grand Prix Seminar Room, US Dressage Federation, 4051 Iron Works Parkway, Lexington, KY

Members Present: Chairman Robert M. Beck, Jr.; Vice-Chairman Tracy Farmer; Commissioner Edward S. "Ned" Bonnie; Commissioner Burr Travis, Jr.; Commissioner Wade Houston, Jr.; Commissioner Alan J. Leavitt; Commissioner Neil Howard; Commissioner Elizabeth Lavin; Commissioner Frank Jones, Jr.; Commissioner John Phillips; Commissioner Thomas Conway; Commissioner Jerry Yon, M.D.; Commissioner D. Wayne Lukas; and Commissioner J. David Richardson, M.D.

Ex-officio Members Present: Mr. Robert D. Vance, representing the Public Protection Cabinet; and Mr. William Dexter, representing the Tourism, Arts and Heritage Cabinet

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

Others Participating: E. M. Lysonge and Rick Smith, Churchill Downs; Andrew Archibald, United Tote Company ("United Tote"); and Matthew Askew, AmTote International ("AmTote")

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

AGENDA ITEM	TRANSCRIPT PAGE NUMBER(S)	DISCUSSION / CONCLUSIONS / RECOMMENDATIONS	ACTION TAKEN
Not applicable	4 – 5	Prior to Chairman Beck performing the roll call, Justice Larry VanMeter, Kentucky Court of Appeals, swore in two newly appointed Commissioners, D. Wayne Lukas and Dr. J. David Richardson, and three reappointed Commissioners, Burr Travis, Jr., Jerry Yon, M.D. and Frank Jones, Jr.	No action taken.
Tab 1 Approve minutes of July 17, 2013 Commission Meeting	6	Chairman Beck presented the minutes of the meeting of July 17, 2013 for approval.	Motion to approve the July 17, 2013 minutes, as presented, by Commissioner Travis.

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			Second by Commissioner Lavin. Motion carried with no objections or abstentions.
<b>Tab 2 Ratify Kentucky Downs' Roster of Racing Officials for the 2013 Race Meet</b>	6 – 7	<p>Ms. Borden stated that by letter dated September 5, 2013, Kentucky Downs requested approval of a revised roster of racing officials for their 2013 race meet. All stewards are ROAP accredited and all officials have previously performed the duties for which they were listed and were licensed at the start of the meet.</p> <p>Due to the timing of the request, the Executive Director granted approval of the request pursuant to KRS 230.230</p> <p>Staff recommended ratification of the Executive Director's action.</p>	<p>Motion to ratify action of Executive Director by Commissioner Jones. Second by Commissioner Yon. Motion carried with no objections or abstentions.</p>
<b>Tab 3 Ratify Churchill Downs' Roster of Racing Officials for the 2013 September Meet</b>	7 – 8	<p>Ms. Borden stated that by letter dated September 5, 2013, Churchill Downs requested approval of a revised roster of racing officials for their September 2013 race meet. All stewards are ROAP accredited and all officials have previously performed the duties for which they were listed and were licensed at the start of the meet.</p> <p>Due to the timing of the request, the Executive Director granted approval of the request pursuant to KRS 230.230</p> <p>Staff recommended ratification of the Executive Director's action.</p>	<p>Motion by Commissioner Jones. Second by Commissioner Houston. Motion carried with no objections or abstentions.</p>
<b>Tab 4 Approve Roster of Racing Officials for Churchill Downs' 2013 Fall Meet</b>	8 – 9	<p>Ms. Borden stated that by letter dated September 17, 2013, Churchill Downs requested approval of its roster of racing officials for the 2013 Fall meet and its date preference system. All stewards are ROAP accredited and all officials have previously performed the duties for which they were listed and will be licensed by the meet opening.</p> <p>Staff recommends approval.</p>	<p>Motion by Commissioner Jones. Second by Commissioner Houston. Motion carried with no objections or abstentions.</p>

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<p><b>Tab 5 Approve Keeneland's KTDF Fall Allotment request</b></p>	<p>9 – 10</p>	<p>Ms. Eads stated that by letter dated July 11, 2013, Keeneland requested approval of its KTDF purse structure for its 2013 Fall meet and the ability to payout KTDF purses on eligible horses first through last place. Keeneland proposed KTDF purses in the amount of \$510,382 with an expected KTDF payout percentage of 78. KHRC staff has confirmed that at the end of the 2013 spring meet, Keeneland had a surplus of \$17,630.</p> <p>The KTDF Advisory Committee approved recommendation of Keeneland's request at its July 15, 2013 meeting.</p>	<p>Motion to approve the recommendation by Commissioner Howard. Second by Commissioner Yon. Motion carried with no objections or abstentions.</p>
<p><b>Tab 6 Approve Turfway Park's Backside Improvement request</b></p>	<p>10 – 13</p>	<p>Ms. Eads stated that by letter dated September 11, 2013, Turfway Park requested approval for the following backside improvement projects:</p> <ol style="list-style-type: none"> <li>1. New horse path - \$29,444; and</li> <li>2. Paving of barn area - \$31,070.</li> </ol> <p>Upon completion of each project, a request for reimbursement from the Backside Improvement Fund will be submitted to the Commission for approval.</p> <p>Turfway Park has received bids for and approval of the Kentucky Horsemen's Benevolent and Protective Association (KyHBPA) for each proposed project. Upon completion of each project, KHRC staff will inspect the repair work and confirm completion. Written documentation of the completed projects, final photographs and copies of invoices will be maintained on file at the KHRC office. Reimbursement requests will be presented to the Commission for approval prior to the release of any fund money.</p> <p>Staff has confirmed that Turfway Park has surplus of \$136,477.81 in available backside improvement funds. Staff recommended approval.</p>	<p>Motion to approve recommendation by Commissioner Lavin. Second by Commissioner Yon. Motion carried with no objections or abstentions.</p>

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		<p>In response to an inquiry by Commissioner Bonnie, Mr. Bach stated that Turfway Park had determined that responsibility for the repair of the leaking barn roofs was internal and; therefore, Turfway Park would not seek approval for use of backside improvements funds for those repairs.</p>	
<p><b>Tab 7 Ratify Kentucky Downs' request to change post-times and card additional races on September 18 and September 25</b></p>	<p>13 – 14</p>	<p>Ms. Speckert stated that by email dated September 12, 2013, Kentucky Downs requested approval to change post times and add up to an additional three races on both September 18 and 25, 2013 in order to make up six races that were cancelled on September 11, 2013 due to inclement weather.</p> <p>Due to the need for an immediate response, the Executive Director granted approval of the request pursuant to KRS 230.230</p> <p>Staff recommended ratification of the Executive Director's action.</p>	<p>Motion to ratify action of Executive Director by Commissioner Yon. Second by Commissioner Jones. Motion carried with no objections or abstentions.</p>
<p><b>Tab 8 Ratify Kentucky Downs' request to amend its 2013 race track application to add simulcast sites</b></p>	<p>14 – 16</p>	<p>Ms. Speckert stated that by letter dated August 28, 2013, Kentucky Downs requested approval to amend its 2013 race track application to add and delete simulcast sites. She stated that the staff had reviewed and confirmed that the list of sites was appropriate and the approval had been received from the KyHBPA and the Kentucky Thoroughbred Owners and Breeders, Inc. (KTOB).</p> <p>Due to the timing of the request, the Executive Director granted approval of the request pursuant to KRS 230.230.</p> <p>Staff recommended ratification of the Executive Director's action.</p>	<p>Motion to ratify action of Executive Director by Commissioner Jones. Second by Commissioner Houston. Motion carried with no objections or abstentions.</p>
<p><b>Tab 9 Approve contract with Kentucky Equine Research to fund research herd for medication studies</b></p>	<p>16 – 24</p>	<p>Dr. Scollay presented the proposed contract between the KHRC and Kentucky Equine Research (KER) for funding of a thoroughbred research herd to perform medication administration studies. KER will provide a research herd consisting of 9 treadmill-exercised thoroughbreds between 3-7 years old for a period of five months</p>	<p>Motion to approve recommendation by Commissioner Phillips. Second by Commissioner Bonnie. Motion carried</p>

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		<p>(November 15, 2013 to April 15, 2013). KER will be paid a \$100 per day per horse fee for a total cost of \$135,800. The \$100 per day per horse cost includes all expenses associated with care and management costs, administration of study medications and the collection of blood and urine samples.</p> <p>The Racing Medication and Testing Consortium (RMTC) will develop a list of proposed substances to be studied and submitted to the Equine Drug Research Council (EDRC) for approval of each proposed study prior to the commencement of any study. Following approval by the EDRC of the list of substances to be studied, the RMTC's Chemist Committee will design the studies, including dosing protocols and sample collection schedules, which will be presented to the EDRC for approval. The RMTC will be responsible for the funding of the analysis of the samples generated from the research herd.</p> <p>In response to an inquiry from Commissioner Leavitt, Dr. Scollay stated that in consultation with Dr. Rick Sams, HFL Sport Science, Inc. (HFL), and the RMTC Scientific Advisory Committee, the consensus was that the breed was not a critical component to the administration studies of the substances and the conclusions drawn from the studies would apply to all racing breeds, including standardbred, quarter horse and arabian.</p> <p>In response to an inquiry from Chairman Beck, Dr. Scollay stated that the end goal was that the results would be published in peer review scientific journals and be available globally.</p> <p>The EDRC, at its immediately preceding meeting, unanimously approved the proposed contract for recommendation to the Commission for approval.</p>	<p>with no objections or abstentions.</p>

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<p><b>Tab 10 Approve contract with HFL for Rapid Response Substance Testing Program</b></p>	<p>24 – 36</p>	<p>Ms. Speckert presented the proposed contract between the KHRC and HFL for substance testing and/or other research in connection with the Rapid Response Substance Testing Program (the "Program") that was approved by the Commission at its July 17, 2013 meeting. She noted that the EDRC, at its immediately preceding meeting, unanimously approved the proposed contract for recommendation to the Commission for approval. If the contract is approved by the Commission, it will go before the Government Contract Review Committee (GCRC) at its October meeting. If approved by the GCRC, the contract will go into effect immediately.</p> <p>As a reminder, she presented a summary of the Program. She also explained that the majority of the contract terms are boilerplate state contract provisions and the negotiated terms are included in Exhibit A and Exhibit B to the contract. Exhibit A sets out the Program protocol that the KHRC will follow in order to release funds to HFL. Exhibit B sets out the Program protocol that HFL will follow, that includes a requirement that for each individual testing and/or research project, HFL shall submit a detailed proposal outlining the testing and/or research to be performed along with the cost for each project. The maximum amount that can be expended under the contract is \$250,000, but funds will only be released on a per project basis. The term of the initial contract will expire June 30, 2014, the end of the current biennium. Upon expiration of the contract, if the Commission desires to continue the Program, it will be necessary for the EDRC and Commission to approve a new contract to be executed.</p> <p>Following a discussion during which Mr. Ward and Dr. Scollay answered questions, Chairman Beck requested a motion to approve the recommendation of the EDRC for approval of the contract.</p>	<p>Motion to approve recommendation by Commissioner Howard. Second by Commissioner Leavitt. Motion carried with no objections or abstentions.</p>

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<p><b>Tab 11 Approve 2014 License Applications to Provide Totalizator Services</b></p> <p>a. United Tote b. AmTote</p>	<p>36 – 43</p> <p>36 – 41</p> <p>41 – 43</p>	<p>a. Mr. Lysonge introduced Mr. Archibald, senior director of operations for United Tote. Mr. Archibald gave a presentation on behalf of United Tote and responded to questions from the Commissioners. Mr. Archibald stated the racetracks in Kentucky that United Tote serviced were Churchill Downs, Keeneland, Turfway Park, Thunder Ridge and The Red Mile. The presentation included an overview of the audit process of their security and operation systems. Ms. Speckert noted that United Tote had been licensed in Kentucky since the licensing requirement had become effective.</p> <p>b. Mr. Askew gave a brief presentation on behalf of AmTote. He stated that the racetracks in Kentucky that AmTote serviced were Kentucky Downs and Ellis Park. AmTote also has been licensed in Kentucky since the licensing requirement had become effective.</p> <p>Ms. Speckert stated that KHRC staff had reviewed both United Tote and AmTote's applications and that both applicants were cooperative and forthcoming with requests for additional information. She also stated that both companies have been and agreed to continue to stay in compliance with the totalizator standards. Approval is recommended.</p>	<p>a. Motion to approve 2014 license application of United Tote by Commissioner Jones. Second by Commissioner Richardson. Motion carried with no objections or abstentions.</p> <p>b. Motion to approve 2014 license application of AmTote by Commissioner Leavitt. Second by Commissioner Yon. Motion carried with no objections or abstentions.</p>
<p><b>Tab 12 Approve Keeneland Association's Roster of Racing Officials for the 2013 Fall Meet</b></p>	<p>43 – 44</p>	<p>Ms. Borden stated that by letter dated September 4, 2013, Keeneland requested approval of its roster of racing officials for the 2013 Fall meet and its date preference system. All stewards are ROAP accredited and all officials have previously performed the duties for which they were listed and will be licensed by the meet opening.</p> <p>Staff recommends approval.</p>	<p>Motion to approve recommendation by Commissioner Yon. Second by Commissioner Houston. Motion carried with no objections or abstentions.</p>
<p><b>Tab 13 Reports</b></p> <p>a. Thoroughbred Rulings</p>	<p>45 – 48</p>	<p>a. Ms. Borden presented the thoroughbred ruling report. She noted the following updates to the report as provided: Rulings 13-0047 through and including 13-0091 – paid. Ms. Borden answered</p>	<p>No action taken. Informational items only.</p>

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b. Standardbred Rulings (Deferred until next meeting) c. Veterinary Division d. Pari-Mutuel Wagering Division e. Regulations and Litigation	49  49 – 60          60 – 61          62	questions from Commissioners.  b. Standardbred Ruling Report deferred until next meeting.  c. Dr. Farmer presented the veterinary report for the 2013 meet at Ellis Park as provided and answered questions from the Commissioners.  In response to an inquiry by Chairman Beck, there was a discussion concerning the safety of racetrack surfaces. Chairman Beck requested that Commissioner Lavin include the issue on the agenda for the next meeting of the Safety and Welfare Committee. Commissioner Lavin responded that the issue was already on the agenda for the next meeting.  d. Mr. Lamb presented the reports for historical horse racing at Kentucky Downs and Ellis Park for July and August 2013, and live handle for Ellis Park for July 4 – September 2, 2013 and The Red Mile for August 4 – August 31, 2013. He noted a record combined total for Kentucky Downs and Ellis Park on September 14, 2103 of over \$2 million a day for historical horse racing. He also noted that purses at Kentucky Downs had increased from \$750,000 to \$4.5 million for the meet over the two-year period since wagering on historical horse racing was initiated. Percentages for historical horse racing at both Kentucky Downs and Ellis Park were up in July and August 2013.  e. Status Report on Regulations and Litigation – For Informational Purposes Only.	

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<p>Other Business</p> <p>1. E.M. Lysonge, Vice President, Legal Affairs, Churchill Downs Incorporated</p>	62 – 73	<p>Mr. Lysonge gave a presentation on the new Jackpot 6 wager that Churchill Downs was seeking approval from the Commission to implement during its upcoming Fall meet. Mr. Lamb stated that there were no concerns about the wager itself. However, because if one single person ended up with 2 winning bets, they would not win the jackpot the concern was to make sure that the betting public understood that facet of the wager. Mr. Smith, Director of Pari-Mutuel Wagering at Churchill Downs, explained how and what the wager would payout and answered questions.</p> <p>Following a discussion, Mr. Lysonge responded to an inquiry by Mr. Ward, that Churchill Downs would be agreeable to working with KHRC staff to address the concerns and bring the matter before the Commission again at its next scheduled meeting.</p>	<p>No action taken. Deferred to next scheduled meeting.</p>
<p>Executive Session</p>	<p>73</p> <p>74</p> <p>74 – 75</p>	<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;"><b><u>EXECUTIVE SESSION</u></b></p> <p>2) Chairman Beck requested a motion for the Commission to return to open session.</p> <p>3) In the matter of <i>John R. Neal v. KHRC</i>, Administrative Action No. KHRC-12-TB-008, issuance of the Final Order as prepared by the staff adopting and incorporating the Findings of Fact, Conclusions of Law and Recommended Order (“Recommended Order”) of the Hearing Officer affirming the decision of the License Review Committee was recommended.</p>	<p>1) Motion to go into executive session by Commissioner Jones. Second by Commissioner Travis. Motion carried with no objections or abstentions.</p> <p>2) Motion to return to open session by Commissioner Lavin. Second by Commissioner Houston. Motion carried with no objections or abstentions.</p>

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			3) Motion to adopt the Hearing Officer's Recommended Order and approve the Commission's Final Order incorporating the Recommended Order by Commissioner Travis. Second by Commissioner Bonnie. Motion carried with no objections or abstentions.
Adjournment	75	Chairman Beck requested a motion to adjourn.	Motion to adjourn by Commissioner Yon. Second by Commissioner Houston. Motion carried with no objections or abstentions.

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