

KENTUCKY HORSE RACING COMMISSION
MINUTES OF THE MEETING

Date: December 13, 2016 at 1:30 PM

Place: Rolex Hospitality Room, 4089 Iron Works Parkway, Lexington, KY 40511

Members Present: Chairman Franklin S. Kling, Jr.; Vice-Chairman John C. Roach; Commissioner Stuart E. Brown, II; Commissioner Douglas A. Hendrickson; Commissioner Brereton C. Jones, Jr.; Commissioner Foster Northrop, DVM; Commissioner Mark Simendinger; Commissioner Gerald W. Holt; Commissioner James Gatewood Bell, Jr.; Commissioner Kiki Cortelis; Commissioner Kerry T. Cauthen; Commissioner Patrick A. Day; Commissioner Lesley Ann May Howard; Commissioner Kenneth A. Jackson; and Commissioner J. David Richardson, M.D.

Ex-officio Members Present: Secretary David Dickerson, representing the Public Protection Cabinet; Leigh Powers, by proxy and on behalf of Secretary Don Parkinson, Tourism, Arts, and Heritage Cabinet; and Caroline Baesler, by proxy and on behalf of Acting Secretary Erik Dunnigan, Cabinet of Economic Development

KHRC Staff Participating/Present: Marc A. Guilfoil, Executive Director; Jamie Eads, Director, Division of Incentives and Development; John L. Forgy, General Counsel; and Steve May, Director of Pari-Mutuel Wagering; Mary Scollay, DVM, Equine Medical Director; Bruce Howard, DVM, Chief Racing Veterinarian; and Barbara Borden, Chief State Steward

Others Participating: None.

<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	3 – 5	Meeting called to order and roll call performed by Chairman Kling. A quorum was recognized.	No action taken.
II. New Business Tab 1 Minutes from September 6, 2016	5	Chairman Kling requested a motion to approve the minutes of the September 6, 2016 Commission meeting.	Motion to approve as presented by Commissioner Bell. Second by unidentified Commissioner. Motion

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			carried with no objections or abstentions.
Tab 2 Minutes from October 4, 2016	5 – 7	Chairman Kling requested a motion to approve the minutes of the October 4, 2016 Commission meeting with the following revision: Under Tab #5 on page 3 of 4, replace “August 2016” with “September 2016.”	Motion to approve and second as amended by unidentified Commissioners. Motion carried with no objections or abstentions.
Tab 3 Minutes from November 1, 2016	7 – 8	Chairman Kling requested a motion to approve the minutes of the November 1, 2016 Commission meeting with the following revision: Under Tab #2 on page 2 of 5, insert “Chairman Kling requested a motion to approve the KTDF purse structure request of Turfway Park for its 2016 Holiday meet and 2017 Winter Spring meet.”	Motion to approve as amended by Commissioner Courtelis. Second by Commissioner Day. Motion carried with no objections or abstentions.
Tab 4 Kentucky Sire Stakes race dates and purse distributions	8 – 9	<p>Chairman Kling requested a motion to approve the 2017 Kentucky Sire Stakes purse distributions and race dates.</p> <p>Ms. Eads presented the proposed 2017 Kentucky Sire Stakes purse distributions and race dates as approved by the Kentucky Standardbred Development Fund and Kentucky Standardbred Breeders’ Incentive Fund (KSDF/KSBIF) Advisory Panel at its November 15, 2016 meeting.</p> <p>There will be three \$30,000 legs for two-year olds and finals of \$250,000. Three-year olds will have two legs at a \$15,000/\$10,000 split and finals of \$175,000.</p> <p>KHRC staff recommends approval.</p>	Motion to approve as presented by Commissioner Cauthen. Second by unidentified Commissioner. Motion carried with no objections or abstentions.
Tab 5 Kentucky County Fairs: Race dates, officials and	10 – 11	Chairman Kling requested a motion to approve requests from the Kentucky Colt Association (KCA) for the Kentucky Fair Racing 2017	Motion to approve by Commissioner

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payment to the Kentucky Colt Association		<p>race dates and racing officials, and payment of the 2016 Standardbred un-cashed ticket money to the KCA.</p> <p>Ms. Eads presented the KCA's request for its usual and customary county fairs race dates, race officials and un-cashed ticket money. KHRC staff confirmed \$67,681.07 has been collected for 2016 un-cashed tickets; however, she noted that the amount may decrease pending any claims and advertising expenses.</p> <p><u>NOTE: Chairman Kling noted the arrival of Commissioner Northrop.</u></p> <p>KHRC staff recommends approval.</p>	Hendrickson. Second by Commissioner Day. Motion carried with no objections or abstentions.
Tab 6 Transfer of funds to the Kentucky Racing Health & Welfare Fund	11 – 13	<p>Chairman Kling requested a motion to approve the Kentucky Racing Health and Welfare Fund's (KRHWF) request dated November 1, 2016 for a transfer of funds from the unclaimed pari-mutuel tickets.</p> <p>Ms. Eads presented the KRHWF's request for \$2,040.306.61 in unclaimed pari-mutuel tickets pursuant to KRS 230.374. She noted that the total amount would decrease pending payment of advertising expenses from Fayette and Simpson Counties. All pertinent documentation has been provided and the KHRC staff recommends approval.</p>	Motion to approve as presented and second by two unidentified Commissioners. Motion carried with no objections or abstentions.
Tab 7 Advance Deposit Wagering Applications	13 – 19	Chairman Kling requested a motion to approve all initial and renewal advance deposit account wagering applications for 2017, subject to the following provisions: 1) all licenses shall be issued subject to the KHRC's conditions of wagering and licensing for 2017; 2) all applications shall have a 30-day grace period from this date, December 13, 2016, to become compliant with Items 12, 13 and 14 of the conditions; and 3) all applicants who cannot comply	Motion to approve all applicants as presented by Commissioner Day. Second by unidentified Commissioner. Motion carried with no objections or abstentions.

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		<p>with Item 12 of the conditions may instead provide information to the Kentucky Horse Racing Commission Executive Director, Director of Pari-mutuel Wagering, who shall, in consultation with the Chairman of the Kentucky Horse Racing Commission, determine an appropriate and sufficient bond amount.</p> <p>Mr. May presented six renewal applications from AmWest Entertainment, eBET Gaming, Lien Games, TVG, Twin Spires and Xpressbet and two initial applications from Newco Adventures and Watch and Wager.</p> <p>KHRC staff and the KHRC Wagering Integrity Committee have reviewed all applications and all applicants have been cooperative and forthcoming with requests for additional information.</p> <p>KHRC staff recommends approval.</p>	
<p>Tab 8 Amendments to Regulations Approved by the Kentucky Standardbred Advisory Panel on November 15, 2016</p> <p>a. 811 KAR 1:215</p> <p>b. 811 KAR 1:220</p>	<p>19 – 22</p>	<p>a. Chairman Kling requested a motion to approve the proposed amendments as presented to 811 KAR 1:215, Kentucky Standardbred Development Fund and Breeders’ Incentive Fund.</p> <p>Ms. Eads presented the proposed amendments to 811 KAR 1:215. The KSDF/KSBIF Advisory Panel conducted meetings on September 9 and November 15, 2016 to discuss the proposed amendments. The proposed amendments will: 1) clarify the definition of Kentucky Bred, 2) clarify the mare residency requirements, and 3) clarify the appointment and terms of the advisory panel. Ms. Eads noted that the third bullet of Section 2 of her memorandum referencing “Special Filing period” was not applicable and should be stricken.</p> <p>The KSDF/KSBIF and KHRC staff recommend approval.</p>	<p>a. Motion to approve as presented by unidentified Commissioner. Second by Commissioner Holt. Motion carried with no objections or abstentions.</p>

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	22 – 25	<p>b. Chairman Kling requested a motion to approve the proposed amendments as presented to 811 KAR 1:220, Harness racing at county fairs.</p> <p>Ms. Eads presented the proposed amendments to 811 KAR 1:220. The KCA approached the Commission seeking the proposed amendments and the KSDF/KSBIF considered the proposed amendments at its September 9 and November 15, 2016 meetings. Letters of support for the proposed amendments have also been received from the KCA and the Kentucky Harness Horsemen’s Association. Due to amendments in 2014 of the Kentucky Sire Stakes (KYSS) regulation that allowed foals born out-of-residency mares the ability to race in the KYSS, the number of foals that are eligible to race increased. The county fairs provides a venue to race those horses that will not be able to race at The Red Mile, the Grand Circuit or the KYSS.</p> <p>The KSDF/KSBIF and KHRC staff recommend approval.</p>	<p>b. Motion to approve as presented by Commissioner Day. Second by unidentified Commissioner. Motion carried with no objections or abstentions.</p>
<p>Tab 9 EDRC recommendation to use Rapid Response funds for analyses of double-blind proficiency samples</p>	25 – 34	<p>Chairman Kling requested a motion to approve the Equine Drug Research Council’s (EDRC) recommendation to use Rapid Response funds for analyses of double-blind proficiency samples.</p> <p>Dr. Scollay presented the EDRC’s unanimous recommendation to allow the expenditure of Rapid Response funds for the screening analysis and confirmatory analysis of double-blind samples as a quality control measure to assess the laboratory’s day-to-day performance. Unlike a single-blind sample which is clearly distinguishable from a post-race sample by the laboratory, a double-blind sample is provided in containers consistent with those used in the Test Barn, and labeled consistent with standard samples to be undistinguishable from a post-race sample.</p>	<p>Motion to approve as presented by Commissioner Day. Second by Commissioner Roach. Motion carried 16-1 with one objection by Commissioner Holt and no abstentions.</p>

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		<p>It is anticipated that there will be no more than 20 samples over a 12-month period and that funds disbursed will not exceed \$16,000.</p> <p>The EDRC and KHRC staff recommend approval.</p>	
<p>Tab 10 EDRC recommendation to extend funding for clearance testing of therapeutic medications</p>	<p>34 – 38</p>	<p>Chairman Kling requested a motion to approve the EDRC’s recommendation to extend funding for clearance testing of therapeutic medications.</p> <p>Dr. Scollay presented the EDRC’s unanimous recommendation considered at its October 28, 2016 meeting for approval of extending funding for analysis of samples derived from horses treated with therapeutic medications. She noted in 2014 the KHRC approved funds to be designated for funding of target analysis for corticosteroids in order to assist stakeholders in complying with regulatory thresholds and withdrawal guidelines. The corticosteroid clearance testing has been a valuable tool. Results of analyses and details of treatments administered are anonymized and published on the KHRC website as an educational aid to veterinarians in determining appropriate withdrawal intervals. Over recent months, there have been requests for “clearance” testing of other therapeutic medications. To assist stakeholders in preventing therapeutic medication overages, the EDRC supports extending funding for another two-year period to expand the available scope of analysis to include therapeutic medications and recommended \$10,000 per year over the two-year period. Any funds not expended would revert back to the EDRC.</p> <p>The EDRC and KHRC staff recommend approval.</p>	<p>Motion to approve as presented by unidentified Commissioner. Second by Commissioner Richardson. Motion carried 16-1 with one objection by Commissioner Holt and no abstentions.</p>

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Tab 11 EDRC recommendation to provide financial support for 3 horses at Kentucky Equine Research (KER) for purposes of performing administration studies and generating double-blind proficiency samples	38 – 41	<p>Chairman Kling requested a motion to approve the EDRC’s recommendation to provide financial support for 3 horses at Kentucky Equine Research (KER) for purposes of performing administration studies and generating of double-blind proficiency samples.</p> <p>Dr. Scollay presented the EDRC’s unanimous recommendation considered at its October 28, 2016 meeting to provide financial support for three Thoroughbred geldings of racing age at KER for the purpose of performing administration studies and generating double-blind proficiency samples. Substances currently proposed for administration studies are levamisole, fluphenazine and reserpine. The administration studies will be reviewed and approved by an external committee. The amount requested is \$27,375.00.</p> <p>The EDRC and KHRC staff recommend approval.</p>	<p>Motion to approve as presented by Commissioner Day. Second by Commissioner Brown. Motion carried 16-1 with one objection by Commissioner Holt and no abstentions.</p>
Tab 12 2017 KHRC Meeting Calendar	42	<p>Chairman Kling presented the 2017 Commission meeting dates and the 2017 calendar of events and deadlines.</p>	<p>No action taken. Informational item only.</p>
Tab 13 Reports a. Thoroughbred Rulings b. Standardbred Rulings c. Veterinary Division d. Pari-Mutuel Wagering Division e. Confidential – Litigation and Regulations	<p>42 – 44</p> <p>44</p> <p>44 – 45</p>	<p>a. Ms. Borden presented the thoroughbred rulings report. Items from the last report remain unchanged and new items since presentation of the last report through December 8, 2016 have been added.</p> <p>b. Mr. Guilfoil presented the Standardbred rulings report. There were no updates since the last report.</p> <p>c. Dr. Howard presented the veterinary report for the Keeneland 2016 Fall meet.</p>	<p>No action taken. Informational items only.</p>

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	45 – 49 49 – 55	d. Mr. May presented the pari-mutuel wagering division report. He noted an error on the Handle and Excise October 2016 report as it was originally provided and that a corrected report had been replaced in the meeting materials distributed. e. Mr. Forgy presented the litigation and regulations report. He noted that the US Supreme Court had denied Mr. Jerry M. Jamgotchian’s motion for discretionary review of the Kentucky Supreme Court’s upholding of Kentucky’s claiming rule. Mr. Guilfoil and Commissioner Roach commended the efforts and contributions of outside counsel, Stoll Keenon Ogden, Public Protection Cabinet attorneys and Mr. Forgy	
III. Other Business	N/A	No other business was presented.	Not applicable.
IV. Adjournment	55 – 56	Chairman Kling requested a motion to adjourn.	Motion to adjourn and second by unidentified Commissioners. 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.