

KENTUCKY HORSE RACING COMMISSION
MINUTES OF THE MEETING

Date: August 17, 2021 at 1:30 PM

Place: Via video conference from Kentucky Horse Racing Commission, Conference Room, 4063 Iron Works Parkway, Building B, Kentucky Horse Park, Lexington, Kentucky

Members Present: Chairman Jonathan Rabinowitz; Vice-Chairman Frank Jones, Jr.; Commissioner Kerry T. Cauthen; Commissioner Naveed Chowhan, M.D.; Commissioner James D. Gates, Jr.; Commissioner Gregory Harbut; Commissioner Douglas A. Hendrickson; Commissioner Lesley Howard; Commissioner Kenneth A. Jackson; Commissioner William L.S. Landes; Commissioner Charles O'Connor; Commissioner Tom Riddle, DVM; Commissioner Mark Simendinger; and Commissioner James Edwin Worley

Ex-officio Members Present: DJ Wasson on behalf of Secretary Ray Perry, Public Protection Cabinet; Charles Rowland, Executive Legal Advisor, on behalf of Interim Secretary Larry Hayes, Cabinet for Economic Development; Yvonne Board on behalf of Mike Berry, Tourism, Arts & Heritage Cabinet

KHRC Staff Participating/Present: Marc A. Guilfoil, Executive Director; Jamie Eads, Deputy Executive Director and Director of Division of Incentives and Development; Jennifer Wolsing, General Counsel; Chad Thompson, Deputy General Counsel; Bruce Howard, DVM, Equine Medical Director; Nicholas Smith, DVM, Chief Racing Veterinarian; Barbara Borden, Chief State Steward; Waqas Ahmed, Director, Pari-mutuel Wagering and Compliance; Joanna Ricci, Executive Administrative Secretary

Others Participating: Chauncey Morris, Executive Director, Kentucky Thoroughbred Owners and Breeders (KTOB)

<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 – 6	Chairman Rabinowitz called the meeting of the Kentucky Horse Racing Commission (KHRC) to order and performed the roll call. A quorum was recognized. Prior to addressing Tab 1, Chairman Rabinowitz announced that Chad Thompson, would be leaving the KHRC to assume a new position as General Counsel with the Department of Insurance. He thanked Mr. Thompson for his service to the KHRC and, on behalf of the Commission, wished him success at his new position.	No action taken.

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II. New Business Tab 1 Minutes from June 22, 2021	6 – 36 6 – 7	<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 June 22, 2021. Motion by Vice-Chairman Jones. Second by Commissioner Chowhan.</p> <p>Ms. Eads presented the proposed minutes as set out in the agenda materials.</p> <p>Approval of the proposed minutes was recommended by KHRC staff.</p>	<p>Chairman Rabinowitz called for a vote to approve the proposed minutes of the June 22, 2021 KHRC meeting, as presented. Motion carried with no objections or abstentions.</p>
Tab 2 KTDF Purse Structure – Churchill Downs’ September Meet	7 – 9	<p>Chairman Rabinowitz requested a motion from the Commission to address the recommendation of the Kentucky Thoroughbred Development Fund Advisory Committee (KTDF Advisory Committee) to approve the proposed KTDF purse structure for Churchill Downs’ 2021 September meet. Motion by Vice-Chairman Jones. Second by Commissioner Landes.</p> <p>Ms. Eads presented the KTDF Advisory Committee’s recommendation for approval of Churchill Downs’ request dated July 30, 2021, as outlined in the agenda materials. At its August 3, 2021 meeting, the KTDF Advisory Committee recommended approval of the proposal as presented.</p> <p>Approval was recommended by KHRC staff and the KTDF Advisory Committee.</p>	<p>Chairman Rabinowitz called for a vote to approve the proposed KTDF purse structure for Churchill Downs’ 2021 September meet, as presented and recommended by the KTDF Advisory Committee. Motion carried with no objections or abstentions.</p>
Tab 3 KTDF Purse Structure – Keeneland Fall Meet	9– 10	<p>Chairman Rabinowitz requested a motion from the Commission to address the recommendation of the KTDF Advisory Committee to approve the proposed KTDF purse structure for Keeneland’s 2021 Fall meet. Motion by Commissioner Howard. Second by Commissioner Landes.</p>	<p>Chairman Rabinowitz called for a vote to approve the proposed KTDF purse structure and for Keeneland’s 2021 Fall meet, as presented and</p>

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		<p>Ms. Eads presented the KTDF Advisory Committee's recommendation for approval of Keeneland's request dated July 29, 2021, as outlined in the agenda materials. At its August 3, 2021 meeting, the KTDF Advisory Committee recommended approval of the proposal as presented.</p> <p>Approval was recommended by KHRC staff and the KTDF Advisory Committee.</p>	<p>recommended by the KTDF Advisory Committee. Motion carried with no objections or abstentions.</p>
<p>Tab 4 Kentucky Downs KTDF Purse Increase</p>	<p>10 – 13</p>	<p>Chairman Rabinowitz requested a motion from the Commission to address the recommendation of the KTDF Advisory Committee to approve the proposed KTDF purse increase for Kentucky Downs' 2021 September meet. Motion by Commissioner Landes. Second by Commissioner O'Connor.</p> <p>Ms. Eads presented the KTDF Advisory Committee's recommendation for approval of Kentucky Downs' request received July 29, 2021, as outlined in the agenda materials. At its August 3, 2021 meeting, the KTDF Advisory Committee recommended approval of the proposal as presented.</p> <p>Approval was recommended by KHRC staff and the KTDF Advisory Committee.</p>	<p>Chairman Rabinowitz called for a vote to approve the proposed KTDF purse increase for Kentucky Downs' 2021 September meet, as presented and recommended by the KTDF Advisory Committee. Motion carried with no objections or abstentions.</p>
<p>Tab 5 Backside Improvement Request: Kentucky Downs</p>	<p>13 – 14</p>	<p>Chairman Rabinowitz requested a motion from the Commission to address Kentucky Downs' request to approve a proposed backside improvement fund expenditure totaling approximately \$56,763. Motion by Commissioner Landes. Second by Commissioner O'Connor.</p> <p>Ms. Eads presented the KTDF Advisory Committee's recommendation for approval of Kentucky Downs' request received</p>	<p>Chairman Rabinowitz called for a vote to approve Kentucky Downs' backside improvement fund expenditure, as presented. Motion carried with no</p>

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		Approval was recommended by KHRC staff.	seeking a shift in its previously approved race dates as presented. Motion carried with no objections or abstentions.
Tab 8 Proposed amendment to 810 KAR 5:030: Claim Races	20 – 23	<p>Chairman Rabinowitz requested a motion from the Commission to address the recommendation of the Rules Committee to approve proposed amendments to 810 KAR 5:030. Motion by Vice-Chairman Jones. Second by Commissioner Simendinger.</p> <p>Ms. Wolsing presented the proposed amendments to 810 KAR 5:030, as outlined in the agenda materials. At its August 7, 2021 meeting, the Rules Committee recommended approval of the proposed amendments.</p> <p>Approval was recommended by KHRC staff and the Rules Committee.</p>	Chairman Rabinowitz called for a vote to approve the proposed amendments to 810 KAR 5:030 as presented and recommended by the Rules Committee. Motion carried with no objections or abstentions.
Tab 9 Proposed amendment to 810 KAR 5:060: Entries and starters	23 – 26	<p>Chairman Rabinowitz requested a motion from the Commission to address the recommendation of the Rules Committee to approve proposed amendments to 810 KAR 5:060. Motion by Commissioner Gates. Second by Commissioner Simendinger.</p> <p>Ms. Wolsing presented the proposed amendments to 810 KAR 5:060, as outlined in the agenda materials. At its August 7, 2021 meeting, the Rules Committee recommended approval of the proposed amendments.</p> <p>Approval was recommended by KHRC staff and the Rules Committee.</p>	Chairman Rabinowitz called for a vote to approve the proposed amendments to 810 KAR 5:060 as presented and recommended by the Rules Committee. Motion carried with no objections or abstentions.

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<p>Tab 10 Proposed amendment to 810 KAR 5:070: Running of the race</p>	<p>26 – 27</p>	<p>Chairman Rabinowitz requested a motion from the Commission to address the recommendation of the Rules Committee to approve proposed amendments to 810 KAR 5:070. Motion by Commissioner Simendinger. Second by Commissioner O'Connor.</p> <p>Ms. Wolsing presented the proposed amendments to 810 KAR 5:070, as outlined in the agenda materials. At its August 7, 2021 meeting, the Rules Committee recommended approval of the proposed amendments.</p> <p>Approval was recommended by KHRC staff and the Rules Committee.</p>	<p>Chairman Rabinowitz called for a vote to approve the proposed amendments to 810 KAR 5:070 as presented and recommended by the Rules Committee. Motion carried with no objections or abstentions.</p>
<p>Tab 11 Keeneland Association's Request to Alter Wagering Format</p>	<p>27 – 30</p>	<p>Chairman Rabinowitz requested a motion from the Commission to address Keeneland's requests to amend its 2021 application for a license to conduct live horse racing, simulcasting, and pari-mutuel wagering, seeking to alter the wagering format for its Super High-Five and Pick 3 wagers. Motion by Commissioner Simendinger. Second by Commissioner Cauthen.</p> <p>Mr. Ahmed presented Keeneland's requests dated June 8, 2021 and July 30, 2021, as outlined in the agenda materials. In response to an inquiry from Vice-Chairman Jones, Mr. Ahmed clarified the Pick 3 wager request was for an additional Pick 3 wager to the traditional Pick 3 wager and was only applicable for turf races.</p> <p>Approval was recommended by KHRC staff subject to the condition of adherence to the requirements for each wager listed in 810 KAR 6:020.</p>	<p>Chairman Rabinowitz called for a vote to approve Keeneland's requests to amend its 2021 application for a license to conduct live horse racing, simulcasting, and pari-mutuel wagering, seeking to alter the wagering format for its Super High-Five and Pick 3 wagers as presented and subject to the condition of adherence to the requirements for each wager listed in 810 KAR 6:020. Motion carried with no</p>

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			objections or abstentions.
Tab 12 Ratification of Executive Director Conditional Approval of FSG Services' Change of Control Request for NYRA Bets	30 – 33	<p>Chairman Rabinowitz requested a motion from the Commission to address ratification of the Executive Director's conditional approval of the change of control request submitted by FSG Services, LLC in relation to NYRabets, LLC. Motion by Commissioner Simendinger. Second by Commissioner Landes.</p> <p>Mr. Ahmed presented FSG Services, LLC's request and the Executive Director's conditional approval dated June 18, 2021, as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff of the Executive Director's conditional approval of FSG Services, LLC's request.</p>	<p>Chairman Rabinowitz called for a vote to ratify the Executive Director's conditional approval of FSG Services, LLC's change of control request in relation to NYRabets, LLC as presented. Motion carried with no objections or abstentions.</p>
Tab 13 Keeneland's Proposed 2021 Fall Race Meet Officials and Date Preference System	33 – 35	<p>Chairman Rabinowitz requested a motion from the Commission to address Keeneland's proposed 2021 Fall race meet officials and date preference system. Motion by Commissioner Simendinger. Second by Commissioner Jackson.</p> <p>Ms. Borden presented Keeneland's request dated July 27, 2021, as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	<p>Chairman Rabinowitz called for a vote to approve Keeneland's proposed 2021 Fall race meet and date preference system as presented. Motion carried with no objections or abstentions.</p>
Tab 14 Oak Grove Racing, Gaming & Hotel's 2021 Race Meet Officials	35 – 36	<p>Chairman Rabinowitz requested a motion from the Commission to address Oak Grove Racing, Gaming & Hotel's 2021 race meet officials. Motion by Commissioner Simendinger. Second by Commissioner Jackson.</p>	<p>Chairman Rabinowitz called for a vote to approve Oak Grove's proposed 2021 race meet officials as presented. Motion</p>

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		<p>Ms. Borden presented Oak Grove Racing, Gaming & Hotel's request dated July 27, 2021.</p> <p>Approval was recommended by KHRC staff.</p>	<p>carried with no objections or abstentions.</p>
<p>Tab 15 Reports</p> <p>a. Thoroughbred Rulings</p> <p>b. Standardbred Rulings</p> <p>c. Veterinary Division Report</p> <p>d. Litigation <i>(CONFIDENTIAL - Informational only)</i></p>	<p>36 – 42</p> <p>36 - 39</p> <p>39 – 40</p> <p>40 – 42</p> <p>42</p>	<p>a. Ms. Borden presented the thoroughbred rulings reports, as outlined in the agenda materials. She updated the report to include that the fines for Ruling Nos. 21-0059, 21-0061 and 21-065 had been paid. Ms. Borden and Ms. Wolsing addressed an inquiry from Commissioner Landes.</p> <p>b. Mr. Guilfoil presented the Standardbred rulings report, as outlined in the agenda materials.</p> <p>c. Drs. Smith and Howard presented the veterinary division reports, as outlined in the agenda materials.</p> <p>d. Litigation and Regulation report is for informational purposes only.</p>	<p>No action taken. Informational items only.</p>
<p>III. Executive Session</p> <p>Final Orders Regarding Rossi v. KHRC, KHRC-18-TB-004</p> <p>Settlement Regarding Gaffalione v. KHRC, KHRC-21-TB-007</p>	<p>42 – 45</p> <p>43</p>	<p>Chairman Rabinowitz requested a motion from the Commission to convene in closed session to discuss proposed or pending litigation against or on behalf of the agency as permitted by KRS 61.810(1)(c). Motion by Vice-Chairman Jones. Second by Commissioner Chowhan.</p> <p style="text-align: center;"><u>EXECUTIVE SESSION</u></p> <p>Prior to the Zoom meeting being reopened to the court reporter, Chairman Rabinowitz requested a motion from the Commission to return to open session. Motion by Commissioner Landes. Second by Commissioner O'Connor.</p>	<p>Chairman Rabinowitz called for a vote to approve convening in closed session. Motion carried with no objections or abstentions.</p> <p>Chairman Rabinowitz called for a vote to approve returning to open session. Motion</p>

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	<p>43 – 44</p> <p>44 – 45</p>	<p style="text-align: center;"><u>RECONVENED TO OPEN SESSION</u></p> <p>Upon return to open session, Chairman Rabinowitz requested a motion from the Commission to reject the hearing officer’s recommended order in <i>Rossi v. KHRC</i>, KHRC Agency Case Number 18-TB-004. Motion by Commissioner Simendinger. Second by Commissioner Landes.</p> <p>Chairman Rabinowitz requested a motion to approve the settlement agreement in <i>Tyler Gaffalione v. KHRC</i>, Administrative Action Number KHRC-21-041. Motion by Vice-Chairman Jones. Second by Commissioner O’Connor.</p>	<p>carried with no objections or abstentions.</p> <p>Chairman Rabinowitz called for a vote to reject the hearing officer’s recommended order. Motion carried with no objections or abstentions.</p> <p>Chairman Rabinowitz called for a vote for the Commission to approve the settlement agreement. Motion carried with no objections or abstentions.</p>
IV. Other Business	45	Chairman noted that there was no other business.	Informational only. No action taken.
V. Adjournment	45	<p>Chairman Rabinowitz requested a motion to adjourn the August 17, 2021 meeting of the KHRC. Motion by Commissioner Chowhan. Second by Commissioner Cauthen.</p> <p>Meeting adjourned.</p>	Chairman Rabinowitz called for a vote to adjourn the August 17, 2021 meeting of the KHRC. Motion carried with no objections or abstentions.

NOTE: The Agenda 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.