

KENTUCKY HORSE RACING COMMISSION
MINUTES OF THE MEETING

Date: December 11, 2013

Place: Rolex Hospitality Room, 4089 Iron Works Parkway, Kentucky Horse Park, Lexington, KY

Members Present: Chairman Robert M. Beck, Jr.; Vice-Chairman Tracy Farmer; Commissioner Tom Conway, Jr.; Commissioner Allan Wade Houston, Sr.; Commissioner Frank Jones, Jr.; Commissioner Elizabeth S. Lavin; Commissioner Alan J. Leavitt; Commissioner J. David Richardson; Commissioner Jerry Yon, M.D.; Commissioner John Phillips; and Commissioner Neil Howard

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

KHRC 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; and Barbara Borden, Chief State Steward

Others Participating/Present: Mr. David Switzer, Kentucky Thoroughbred Association (“KTA”) and Kentucky Thoroughbred Owners and Breeders (“KTOB”); Mr. Nick Hughes, Kentucky Downs; Ms. Brittany Goodman, AmWest Entertainment; Ms. Audrey Kauffman, eBet Technologies; Mr. Brad Blackwell, TwinSpires; Ms. Ann Goodman, TVG Network; Ms. Alison Thompson, Premier Turf Club; Mr. Bruce Soulsby, Avatar Ventures; Mr. Dustin Fabian, XpressBet; Mr. Adam Humphrey, Lien Games Racing; and Mr. Nick Hughes, Kentucky Downs

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 October 22, 2013 Commission Meeting	5	Chairman Beck noted that approval of the October 22, 2013 minutes would be deferred until the next meeting.	No action taken.

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Tab 2 Approve Kentucky Racing Health and Welfare Fund Request for payment of unclaimed pari-mutuel tickets	5 – 6	<p>Ms. Eads presented a request from the Kentucky Racing Health and Welfare Fund (“KyRHWF”) for payment of unclaimed pari-mutuel tickets in the amount of \$2,252,106.12, less any claims received and advertising expenses, pursuant to KRS 230.374. The amount requested is the total of tickets sold to bettors between July 1, 2011 and June 30, 2012 that remained unclaimed as of July 1, 2013. The KyRHWF has submitted the required documents and staff recommends approval to release the funds.</p>	<p>Motion to approve recommendation by Commissioner Lavin. Second by Commissioner Leavitt. Motion carried with no objections or abstentions.</p>
Tab 3 Approve Kentucky Sire Stakes and County Fair Race Dates	7 – 8	<p>Ms. Eads presented the proposed race dates for the 2014 Kentucky Sire Stakes to be held at The Red Mile. For two and three-year olds, Leg 1 will be held on August 10, 2014 and Leg 2 on August 21, 2014. The Finals will be held on August 31, 2014. She noted that the funding for the Sire Stakes was previously approved at the Commission’s October 22, 2013 meeting. Staff recommends approval.</p> <p>Ms. Eads presented the proposed races dates for the 2014 Kentucky County Fairs as requested by the Kentucky Colt Association. She noted that the dates requested are the usual and customary dates for the County Fair races and there will be no pari-mutuel wagering. Staff recommends approval.</p>	<p>Motion to approve recommendation by Commissioner Leavitt. Second by Commissioner Houston. Motion carried with no objections or abstentions.</p>
Tab 4 Approve Turfway Park’s 2014 Winter/Spring Meet KTDF allotment request	8 – 10	<p>Ms. Eads stated that by letter dated December 5, 2013, Turfway Park requested approval of its Kentucky Thoroughbred Development Fund (“KTDF”) purse structure for its 2014 Winter/Spring meet and the ability to pay out KTDF purses on eligible horses first through last place. She noted that during discussions at the KTDF Advisory Committee (“Advisory Committee”) meeting on December</p>	<p>Motion to approve recommendation by Commissioner Richardson. Second by Commissioner Lavin. Motion carried with no objections or abstentions.</p>

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		<p>9, 2013, it was determined that Turfway Park had more available funds than requested in their December 5, 2013 request, so the amount of proposed KTDF purses was adjusted from \$692,000 to the range of \$800,000 to \$950,000.</p> <p>The Advisory Committee approved recommendation of Turfway Park's request at its December 9, 2013 meeting.</p>	
Tab 5 Approve Turfway Park's Roster Addendum for Holiday 2013-14 Winter/Spring Meet	10 – 11	<p>Mr. Guilfoil stated that by letter dated December 3, 2013, Turfway requested approval to add John Veitch to its roster of racing officials as paddock judge and entry clerk in the absence of Don Bork during the Holiday and Winter/Spring meet. Staff recommends approval.</p>	<p>Motion to approve made by Commissioner Phillips. Second by Commissioner Yon. Motion carried with no objections or abstentions.</p>
N/A	11	<p>Chairman Beck noted the arrival of Commissioners Jones and Conway.</p>	<p>No action taken.</p>
Tab 6 Approve Keeneland's Backside Improvement Request	11 – 13	<p>Mr. Guilfoil stated that by letter dated November 6, 2013, Keeneland requested approval for the following backside improvement projects:</p> <ol style="list-style-type: none"> 1. Barn shed row replacement for Barn 14; 2. 30 electrical heaters for barn tack rooms; and 3. Sprinkler pipe systems upgrade and fire alarm upgrades for barn area. <p>Staff has confirmed that Keeneland has \$185,253.01 in available backside improvement funds for fiscal year 2013. Keeneland has received bids for the proposed projects. Upon completion of the projects, 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</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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		presented to the Commission for approval prior to the release of any fund money.	
N/A	13	Chairman Beck noted the arrival of Ms. Spade.	No action taken.
Tab 7 Approve 2014 ADW License Conditions to Licensure	13 – 15	<p>Ms. Speckert presented the 2014 Advance Deposit Account Wagering (“ADW”) Conditions for Licensure (the “Conditions”). She noted typographical errors where the year “2013” would be corrected to read “2014.” She stated the Conditions were substantially the same as in the past with the exception of inclusion of a request for additional information. She noted that although this additional information has not been included as a part of the Conditions in the past, it has been requested of and provided by the applicants.</p> <p>The ADW’s have been in compliance with the Conditions. Staff has reviewed the Conditions and approval is recommended.</p>	<p>Motion to approve recommendation by Commissioner Jones. Second by Commissioner Richardson. Motion carried with no objections or abstentions.</p>
Tab 8 Approve 2014 ADW License Applications	15 – 19	<p>Ms. Speckert requested that each of the representatives present on behalf of the ADW applicants introduce themselves to the Commission. There are eight (8) renewal applicants for 2014: AmWest Entertainment; Ebet Technologies; Premier Turf Club; TVG Network; TwinSpire and Xpressbet. In response to an inquiry by Chairman Beck, Ms. Speckert stated that thorough background checks and an analysis of financial information such as tax returns is performed for each renewal applicant to determine the applicant’s financial viability. She noted that all the applicants had been compliant and forthcoming with the requested information. The staff recommends approval of renewal of each of the eight (8) renewal applicant’s license.</p>	<p>Motion to approve 2014 ADW license applications, subject to compliance with the ADW conditions of licensure, for Amwest Entertainment; Avatar Ventures; eBet Technologies; Lien Games Racing; Premier Turf Club; TVG Network; TwinSpire; and XpressBet made by Commissioner Richardson. Second by Commissioner Phillips.</p>

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			Motion carried with no objections or abstentions.
<p>Tab 9 Racing2Day's Changes in Ownership and 2014 ADW License Application</p>	19 – 22	<p>Ms. Speckert explained that during the review process of Racing2Day's 2014 ADW renewal application, it was discovered that it appeared a substantial change in ownership (more than 5%) had occurred without obtaining the required approval and that several nominal changes in ownership (less than 5%) had occurred without providing the required notice to the Commission. Mr. Denis Kelly, Manager, from Racing2Day was scheduled to be present at today's meeting to conduct a preliminary hearing; however, due to a death in his family was unable to attend. A proper continuance of the preliminary hearing was requested.</p> <p>Currently no Kentucky residents are customers of Racing2Day and they have agreed to accept none until the issue is resolved. Racing2Day has also agreed to defer consideration of their 2014 renewal application until the next meeting of the Commission and waive the December 15 approval deadline.</p> <p>Chairman Beck requested a motion to continue the preliminary hearing and consideration of Racing2Day's 2014 renewal application until the next regularly scheduled Commission meeting.</p>	Motion made by Commissioner Phillips. Second by Commissioner Howard. Motion carried with no objections or abstentions.
<p>Tab 10 Uniform Medication Proposal</p> <p>a. Proposed amendments to 810 KAR 1:040. Thoroughbred Drug,</p>	22 – 23	Chairman Beck explained that the Racing Medication and Testing Consortium ("RMTC") had established the Uniform Medication Proposal (the "RMTC Proposal") in an effort to promote uniformity across the country in medication regulations. He noted that prior to opening the floor for	1) Motion to approve by Commissioner Yon. Second by Commissioner Phillips. Motion carried with no

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		<p>brought before the Commission at a later date, today's discussion would focus on the third prong.</p> <p>The RMTC Schedule currently lists 24 therapeutic substances along with the regulatory threshold and corresponding withdrawal guideline for each substance. Dr. Scollay explained that the withdrawal guidelines are voluntary and advisory, and noted that the heading of the second column of the RMTC Schedule captioned "Restricted Administration Time" should be corrected to read "Withdrawal Guidelines." The regulatory thresholds and withdrawal guidelines established by the RMTC are science-based on administration and elimination studies. An annual review of the RMTC Schedule by a committee of stakeholders comprised of practicing veterinarians, regulators, scientist and chemists would be conducted and additions made based on the identification of need and the existence of the necessary scientific data. In response to an inquiry from Commissioner Jones, she stated that the process established by the RMTC to add to or eliminate a substance from the RMTC Schedule would require a majority vote of the RMTC board based upon recommendations from its scientific advisory committee.</p> <p>Because the focus of the RMTC Proposal is uniformity on medications among racing jurisdictions that engage in pari-mutuel horse racing in the United States, Dr. Scollay provided a PowerPoint presentation to demonstrate the status of the RMTC Proposal in other states. She stated that the RMTC Proposal has been adopted by 10 states, is under consideration by 10 states (including Kentucky), and</p>	<p>5) Motion to approve by Commissioner Yon. Second by Commissioner Lavin. Motion carried with no objections or abstentions.</p>

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	42 – 47	<p>is not currently being contemplated by 3 states.</p> <p>In response to an inquiry by Chairman Beck, Dr. Scollay confirmed that if the proposed amendments of the Withdrawal Guidelines/Substance Classification Schedule Regulations to incorporate the RMTTC Schedule are approved by the Commission and become effective in compliance with Kentucky's standard legislative process, any subsequent changes to the RMTTC Schedule by the RMTTC would also require subsequent amendment of the Withdrawal Guidelines/Substance Classification Schedule Regulations to incorporate those changes through the same approval and legislative processes. In response to an inquiry by Commissioner Lavin, Ms. Speckert explained that from the time the amendments are filed with the Legislative Research Commission (the "LRC"), the minimum timeframe for completion of the legislative process would generally be 4 to 6 months.</p> <p>Dr. Scollay explained that Kentucky already very similarly regulates a vast majority of the substances included in the RMTTC Schedule. The proposed changes would include: 1) interarticular corticosteroids – withdrawal time would change from 3 days to 7 days; and 2) clenbuterol - withdrawal time would change from 72 hours to 14 days. There would also be a corresponding change in threshold for both categories of substances.</p> <p><u>d. and e.:</u> Dr. Scollay explained that it would also be necessary to amend the standardbred medication regulation (811 KAR</p>	

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	47 – 50	<p>1:090) in order for it to be consistent with the proposed amendments to the standardbred Withdrawal Guidelines/Substance Classification Schedule Regulation (811 KAR 1:093) and the currently effective Thoroughbred, Quarter horse, appaloosa and Arabian regulations. The proposed amendments to 811 KAR 1:093 are: 1) change the threshold for pheylnbutazone from 5 micrograms per ml in serum to 2 micrograms per ml in serum; 2) prohibit the oral administration of pheylnbutazone; and 3) change the dosage of furosemide from a dose range of 100 mg - 250 mg to a dose range of 150 mg - 500 mg.</p> <p>Ms. Speckert explained that the standardbred penalty regulation (811 KAR 1:095) with regard to Class C drugs (flunixin, ketoprofen and phenylbutazone) also required amendment in order to make it consistent with the currently effective Thoroughbred and Quarter horse, appaloosa and Arabian regulations.</p> <p>Commissioner Yon reported that the EDRC had spent several months reviewing and discussing the RMTC Schedule and comparing the RMTC's recommendations for each drug to what Kentucky's current regulations provided. He stated that at the EDRC's December 3, 2013 meeting, by a 4-3 vote the EDRC approved recommendation of the proposed amendments to the Withdrawal Guidelines/Substance Classification Schedule Regulations for the Thoroughbred and Quarter horse, appaloosa and Arabian breeds (810 KAR 1:040 and 811 KAR 2:093); however, no recommendation was made with regard to the standardbred regulations. In response to an inquiry by</p>	

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	50 – 55	<p>Chairman Beck, Commissioner Yon noted that the EDRC's decision to not make any recommendation on the standardbred regulation was in part because Mr. Art Zubrod, EDRC standardbred representative member, was unable to attend the meeting and participate in the discussions due to a recent surgery.</p> <p>Commissioner Leavitt noted The Hambletonian Society, United States Trotting Association and the Kentucky Harness Horseman Association strongly believe that there should be separate regulations for standardbreds as opposed to Thoroughbreds. He expressed his objection to the proposed amendments to the withdrawal times and corresponding thresholds of clenbuterol and interarticular corticosteroids for standardbreds and noted there was no evidence of abuse of either substance in standardbred racing. In response to an inquiry by Commissioner Conway, Dr. Scollay stated that the RMTC Proposal is across all racing breeds and if the Commission elected to exclude standardbreds from the proposed amendments for these substances, Kentucky would not be considered part of the RMTC Proposal.</p>	
	55 – 70	A lengthy discussion followed during which comments were expressed and questions addressed.	
	70 – 71	1) Chairman Beck requested a motion to approve the proposed amendments to 810 KAR 1:040 – Thoroughbred drug, medication, and substance classification schedule and withdrawal guidelines.	

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	71 – 72	2) Chairman Beck requested a motion to approve the proposed amendments to 811 KAR 2:093 – Quarter horse, appaloosa and Arabian drug, medication, and substance classification schedule and withdrawal guidelines regulation.	
	72 – 73	3) Chairman Beck requested a motion to approve the proposed amendments to 811 KAR 1:093 – Standardbred drug, medication, and substance classification schedule and withdrawal guidelines.	
	73 – 74	4) Chairman Beck requested a motion to approve the proposed amendments to 811 KAR 1:090 – Standardbred medication, testing procedures, and prohibited practices.	
	74 – 75	5) Chairman Beck requested a motion to approve the proposed amendments to 811 KAR 1:095 – Standardbred disciplinary measures and penalties.	
Tab 11 Reports a. Thoroughbred Rulings b. Standardbred Rulings c. Veterinary Division d. Pari-Mutuel Wagering Division e. Regulations and Litigation	75	a. Ms. Borden presented the thoroughbred ruling report. She noted there were no updates to the report as provided.	No action taken. Informational items only.
	76	b. Mr. Guilfoil presented the standardbred ruling report. He noted that Rulings J2013-010, 011 and 012 had resulted in suspensions for nonpayment.	
	76 – 78	c. Dr. Scollay presented the 3 rd quarter (7/1-9/30/2013) drug testing summary and veterinary report for the 2013 Fall meet at Churchill Downs.	

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	78 – 79 79	d. Mr. Lamb presented the reports for historical horse racing at Kentucky Downs and Ellis Park for October and November 2013, and live handle for Churchill Downs for October 27 – November 30, 2013; Keeneland for October 4 - 26, 2013; and The Red Mile for October 3 – 6, 2013. e. Status Report on Regulations and Litigation – For Informational Purposes Only.	
<p>Other business</p> <p>1. Presentation of Kentucky Downs' check to KBIF</p>	79 – 83	<p>Prior to presentation of Kentucky Downs' check to the Kentucky Breeders' Incentive Fund (KBIF), Chairman Beck asked Commissioner Richardson to provide an update on the Advisory Committee December 9, 2013 meeting. Commissioner Richardson noted that the Advisory Committee voted unanimously to adopt a proposal from the KTA/KTOB that proposes amending the statute(s) to allow adding higher level claiming horses to KTDF eligibility on KTDF allowance optional claiming races.</p> <p>Mr. Switzer explained the proposed amendment would set a minimum claiming price of \$25,000 and is supported by the Kentucky Horseman's Benevolent and Protective Association, Ellis Park, Turfway Park, Churchill Downs, Keeneland and Kentucky Downs. It is believed that the proposed amendment will help with entries as well as keeping horses in Kentucky. Senator Schickel will sponsor the bill.</p> <p>Chairman Beck requested a motion for the Commission to express its approval along with the other parties indicated by Mr. Switzer.</p>	<p>Motion by Commissioner Phillips. Second by Commissioner Richardson. Motion carried with no objections or abstentions.</p>

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		1) Mr. Hughes presented a check from Kentucky Downs in the amount of \$202,171.52 to the Kentucky Breeders' Incentive Fund. He noted since September 2011, wagering on historical horse racing has generated \$8.4 million in pari-mutuel tax revenue that has gone to purses, and the Thoroughbred development fund and breeders' incentive fund.	1) No action taken.
Adjournment	85	Chairman Beck requested a motion for adjournment.	Motion to adjourn by Commissioner Yon. Second by Commissioner Lavin. 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.