

OKLAHOMA HORSE RACING COMMISSION

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DOUGLAS WRIGHT, MEMBER

AGENDA

Regularly Scheduled Meeting

Thursday, February 15, 2018, 9:30 a.m.

Meeting Location:

**Agriculture Board Room
Department of Agriculture, Food and Forestry
2800 N. Lincoln Boulevard
Oklahoma City, OK 73105**

OKLAHOMA HORSE RACING COMMISSION
2800 N. LINCOLN BLVD., SUITE 220
OKLAHOMA CITY, OKLAHOMA 73105
(Located in Department of Agriculture, Food and Forestry Building)
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AGENDA POSTED IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING ACT

All customers who attend public meetings of the Commission who need special accommodations, i.e., Sign Language Interpreter, amplification device, large print materials, Braille materials, audio cassette materials, readers or other special accommodations must notify the Commission by the deadline date and time for acceptance of agenda requests.

CALL TO ORDER Mr. Lucas, Chair

ROLL CALL Mr. Lucas, Chair

BUSINESS Mr. Lucas, Chair

A. MINUTES

The drafted Minutes of the January 11, 2018 Regularly Scheduled Commission Meeting [Item A.1] will be considered for approval.

THE FOLLOWING MATTERS ARE PRESENTED FOR CONSIDERATION AND ACTION, IF ANY, DEEMED APPROPRIATE BY THE COMMISSION.

B. POSSIBLE FINAL ACTION ON PROPOSED RULE AMENDMENTS TO FOUR CHAPTERS IN RULES OF RACING UNDER PERMANENT RULEMAKING

Background

At two CY 2017 meetings, the Commission approved opening the permanent rulemaking process to consider proposed amendments to the following four chapters in *Rules of Racing*:

- Chapter 40, Veterinarian Practices
- Chapter 45, Prohibited Practices and Equine Testing
- Chapter 65, Pari-Mutuel Wagering
- Chapter 75, Oklahoma-Bred Program

The Notices of Rulemaking Intent were published in *The Oklahoma Register*. The Public Hearing for Chapter 45 was held January 5, 2018. The Public Hearing for Chapters 40, 65 and 75 was held February 6, 2018. Mr. Bennett Abbott, Deputy General Counsel at the Department of Agriculture, Food and Forestry, will provide a report on comments received at the Public Hearings. **Item B.1** contains the proposed amendments.

Current Consideration

The next step in the rulemaking process is the Commission's consideration of adopting the proposed rule amendments in the four chapters under the permanent rulemaking process.

Possible Action:

Possible action may include, but is not limited to: taking no action; adopting the proposed amendments, in whole or in part; deciding not to adopt the proposed amendments; or continuing the discussion.

C. REQUEST OF REMINGTON PARK AND THE OKLAHOMA QUARTER HORSE RACING ASSOCIATION FOR APPROVAL OF A \$1,000,000 UNDERPAYMENT FOR CY 2018 QUARTER HORSE, PAINT AND APPALOOSA RACE MEETING

Remington Park's CY 2018 license application did not request an underpayment for this race meeting. OAC 325:10-1-33(c)(3), Horsemen's Purses, states in part that:

The Commission may allow an Organization Licensee to alter the amount of underpayment or overpayment set forth in the organization license between race meetings for good cause shown upon the joint application of the Organization Licensee and the duly elected horsemen's representative organization.

Current Consideration

Item C.1 contains a joint application from Remington Park and the OQHRA, requesting the Commission approve said underpayment for the CY 2018 Quarter Horse, Paint and Appaloosa race meeting, beginning March 9 and ending June 2, 2018.

Possible Action:

Possible action may include, but is not limited to: taking no action; approve altering the amount of underpayment set forth in Remington Park's license to allow for up to \$1 million of underpayment for said race meeting; or continuing the matter.

D. CONSIDERATION DELIBERATIONS ON SIQ LJUBLJANA'S APPLICATION FOR A NEW GAMING INDEPENDENT TESTING LABORATORY LICENSE

Background

At the January 11, 2018 meeting, the Commission conducted a Hearing on the original application for a new gaming Independent Testing Laboratory by The Slovenian Institute of Quality and Metrology, Ljubljana, more commonly known as SIQ Ljubljana [SIQ]. The Commission took preliminary action to award SIQ a CY 2018 license as an Independent Testing Laboratory contingent upon a favorable report from another U.S. jurisdiction that conducted an on-site visit to SIQ in Slovenia and to advise Commission Staff to draft a license Order for further deliberations at the February 15, 2018 meeting.

Following the meeting, Mr. Pete Markstone, Commission Director of Law Enforcement, advised Commission Staff that Nevada provided a favorable report on its on-site visit to SIQ in Slovenia.

Current Consideration

The Commission will continue deliberations, including review of the drafted Order for SIQ's CY 2018 License as an Independent Testing Laboratory.

The drafted Order was distributed prior to the meeting to the Commissioners.

Possible Executive Session for Deliberations in an Individual Proceeding Regarding SIQ's Original Application for a CY 2018 Independent Testing Laboratory License

Pursuant to 75 O.S. § 312, 25 O.S. § 307(B)(8) and 311 (B)(1), an Executive Session is proposed for continued deliberations in an individual proceeding regarding SIQ's original application for a CY 2018 Independent Testing Laboratory License.

1. Motion and Vote to Go Into Executive Session for the Purpose Stated Above
2. Vote to Reconvene in Open Session

Possible Action:

Possible action may include, but is not limited to: taking no action; taking final action to adopt the drafted Order; modifying the drafted Order; or continuing the discussion.

E. CONTINUED DELIBERATIONS IN MANUEL MATA'S APPEAL FOR REHEARING, REOPENING AND/OR RECONSIDERATION OF COMMISSION ORDER 2017-OHRC-003

Background

At the January 11, 2018 meeting, the Commission conducted a Hearing on Mr. Mata's Appeal for Rehearing, Reopening and/or Reconsideration of Commission Order 2017-OHRC-003, dated May 18, 2017. In that Order, the Commission imposed the following penalties to be served consecutively for the Stewards' findings of violations of the drug and Trainer responsibility rules for two horses with positive tests for prohibited substances following three races held in July, September, and October 2016: For 17-FMT-001, a five year suspension and a \$10,000 fine; for 17-WRD-005, a five year suspension and \$10,000 fine; and for 17-WRD-006, a one year suspension and \$5,000 fine.

Following the Hearing, the Commission took preliminary action to deny Mr. Mata's Motion and instruct Commission Legal Advisor to draft an Order, complete with Findings of Fact and Conclusions of Law consistent with the motion, for further deliberations at the February 15, 2018 meeting.

Current Consideration

The Commission will continue deliberations, including review of the drafted Order denying Mr. Mata's Motion.

The drafted Order was distributed prior to the meeting to the Commissioners

Possible Executive Session

Pursuant to 25 O.S. § 307 (B)(8) and 311 (B)(1), an Executive Session may be proposed for the purpose of continued deliberations in an individual proceeding regarding Mr. Mata's Motion for Rehearing, Re-Opening and/or Reconsideration of Commission Order 2017-OHRC-003.

1. Motion and Vote to Go Into Executive Session for the Purpose Stated Above
2. Vote to Reconvene in Open Session

Possible Action:

Possible action may include, but is not limited to: taking no action; adopting the drafted Order; modifying the drafted Order; or continuing the matter.

F. APPEAL HEARING FOR J. ROSCOE CALDWELL, JR., REGARDING STEWARDS' ORDER 17-RP-095

Background

Item F.1 is the record regarding Stewards' Order 17-RP-095 in which Mr. Caldwell was found to be in violation of OAC 325:35-1-5, Trainer Responsibility, and OAC 325:45-1-4, Drugs or Medication, for his horses, CAJUN DON and AWESOME TALE, testing positive for Carbazochrome, a prohibited substance. The Board of Stewards fined Mr. Caldwell \$2,000. Regarding CAJUN DON, the Stewards disqualified the horse from first place with the horse to remain unplaced in the 9th race at Remington Park on Thursday, October 3, 2015, and ordered the purse to be redistributed. Regarding AWESOME TALE, the Stewards disqualified the horse from second place with the horse to remain unplaced in the 2nd race at Remington Park on Friday, October 9, 2015, and ordered the purse to be redistributed.

On August 29, 2017, Mr. Caldwell filed an appeal. The Hearing was originally scheduled for the November 16, 2017 Commission meeting. After receiving the Notice of Hearing on September 27, 2017, Mr. Caldwell's counsel requested a briefing schedule that provided time for a brief to be submitted in support of the Petition for Appeal. A briefing schedule was subsequently set.

Mr. Caldwell is represented by Mr. John Mac Hayes. The Board of Stewards is represented by Mr. Bennett Abbott, Deputy General Counsel, Department of Agriculture, Food and Forestry.

Current Consideration

The Hearing before the Commission will be conducted pursuant to the authority and jurisdiction of the Oklahoma Administrative Procedures Act, Title 75, § 301 et seq., the Oklahoma Horse Racing Act, Title 3A O.S. § 200 et seq., OAC 325 (OHRC *Rules of Racing*), OAC 325:70-1-22, Grounds for Appeal from Decision of the Stewards, and OAC 325:70-1-24, Appeal Hearing Procedure.

The procedure for the Hearing before the Commission is set as follows:

1. The Appeal is not a new evidentiary hearing on the matter. Presentations on both sides are limited to the arguments/comments regarding the record of the Board of Stewards' Hearing. The Commission may consider new evidence not found in the record of the Board of Stewards' Hearing, provided that the proponent makes an offer of proof briefly explaining the new evidence, including an explanation of how the evidence satisfies the requirements set forth in OAC 70-1-22(2).
2. The appellant, Mr. J. Roscoe Caldwell, Jr., and the Board of Stewards at Remington Park are entitled to be present and to present arguments.
3. The appellant, Mr. J. Roscoe Caldwell, Jr., or his counsel will present oral arguments first, with the Board of Stewards or their counsel proceeding next. Each party will be allowed fifteen (15) minutes to present its case.
4. All parties are subject to questioning by Commissioners, Commission Staff and Commission Counsel.

Possible Executive Session

Pursuant to 25 O.S. § 307 (B)(8) and 311 (B)(1), an Executive Session may be proposed for the purpose of deliberations in an individual proceeding regarding Mr. Caldwell's Appeal of Stewards' Order 17-RP-095.

1. Motion and Vote to Go Into Executive Session for the Purpose Stated Above
2. Vote to Reconvene in Open Session

Possible Action:

Possible action may include, but is not limited to: taking no action; taking preliminary action in the matter and instructing Commission Legal Advisor to draft an Order for consideration in further deliberations at the March 29, 2018 Commission meeting; or continuing the matter.

G. APPEAL HEARING FOR MIGUEL C. BANUELOS REGARDING STEWARDS' ORDER 17-FMT-002

Background

Item G.1 is the record regarding Stewards' Order 17-FMT-002 in which Mr. Banuelos was found to be in violation of OAC 325:35-1-5, Trainer Responsibility, and OAC 325:45-1-4, Drugs or Medication, for his horse, KUHL WAVE, testing positive for Levamisole, a prohibited substance. The Board of Stewards fined Mr. Banuelos \$1,500. The Stewards also disqualified the horse, KUHL WAVE, from second place with the horse to remain unplaced in the 11th race at Fair Meadows at Tulsa on Friday, June 27, 2015. The purse was ordered to be redistributed.

On July 3, 2017, Mr. Banuelos filed an appeal. The Hearing was originally scheduled for the October 19, 2017 Commission meeting. After receiving the Notice of Hearing on September 27, 2017, Mr. Banuelos's counsel requested a briefing schedule that provided time for a brief to be submitted in support of the Petition for Appeal. A briefing schedule was subsequently set.

Mr. Banuelos is represented by Mr. John Mac Hayes. The Board of Stewards is represented by Mr. Bennett Abbott, Deputy General Counsel, Department of Agriculture, Food and Forestry.

Current Consideration

The Hearing before the Commission will be conducted pursuant to the authority and jurisdiction of the Oklahoma Administrative Procedures Act, Title 75, § 301 et seq., the Oklahoma Horse Racing Act, Title 3A O.S. § 200 et seq., OAC 325 (*OHRC Rules of Racing*), OAC 325:70-1-22, Grounds for Appeal from Decision of the Stewards, and OAC 325:70-1-24, Appeal Hearing Procedure.

The procedure for the Hearing before the Commission is set as follows:

1. The Appeal is not a new evidentiary hearing on the matter. Presentations on both sides are limited to the arguments/comments regarding the record of the Board of Stewards' Hearing. The Commission may consider new evidence not found in the record of the Board of Stewards' Hearing, provided that the proponent makes an offer of proof briefly explaining the new evidence, including an explanation of how the evidence satisfies the requirements set forth in OAC 70-1-22(2).
2. The appellant, Mr. Miguel C. Banuelos, and the Board of Stewards at Remington Park are entitled to be present and to present arguments.

3. The appellant, Mr. Miguel C. Banuelos, or his counsel will present oral arguments first, with the Board of Stewards or their counsel proceeding next. Each party will be allowed fifteen (15) minutes to present its case.
4. All parties are subject to questioning by Commissioners, Commission Staff and Commission Counsel.

Possible Executive Session

Pursuant to 25 O.S. § 307 (B)(8) and 311 (B)(1), an Executive Session may be proposed for the purpose of deliberations in an individual proceeding regarding Mr. Banuelos's Appeal of Stewards' Order 17-FMT-002.

1. Motion and Vote to Go Into Executive Session for the Purpose Stated Above
2. Vote to Reconvene in Open Session

Possible Action:

Possible action may include, but is not limited to: taking no action; taking preliminary action in the matter and instructing Commission Legal Advisor to draft an Order for consideration in further deliberations at the March 29, 2018 Commission meeting; or continuing the matter.

H. REPORTS

1. The Second Regular Session of the 56th Legislature began its work on Monday, February 8, 2018. Chairman Lucas, as Chair of the Ad Hoc Committee on Rules and Legislation, will report on bills being tracked.

I. **ANY MATTER NOT KNOWN ABOUT OR WHICH COULD NOT HAVE BEEN REASONABLY FORESEEN PRIOR TO POSTING THE AGENDA**

J. **ANNOUNCEMENTS**

1. The Oklahoma Quarter Horse Racing Association's Annual Awards Program is scheduled for February 24, 2018, 6:00 p.m., at the Hard Rock Casino in Catoosa. The Commission will be presenting CY 2017 Oklahoma-Bred Champion Awards for Quarter Horses, Paints and Appaloosas.

2. Live racing returns next month:
 - Remington Park's 50-race day Quarter Horse, Paint and Appaloosa race meeting is scheduled to begin on Friday, March 9, 2018.
 - Will Rogers Downs's 30-race day Thoroughbred race meeting is scheduled to start on Monday, March 12, 2018.

3. The Commission's next meeting is scheduled for March 29, 2018.

ADJOURNMENT.....Mr. Lucas, Chair

PLEASE SEE NEXT PAGE FOR CALENDAR

MID-FEBRUARY THROUGH MARCH, 2018 CALENDAR

2/19/18 – HOLIDAY [Presidents' Day]

2/24/18 – Oklahoma Quarter Horse Racing Association's Annual Awards Program, Hard Rock Casino and Hotel, Catoosa, OK

3/9/18 – Remington Park's Quarter Horse, Paint and Appaloosa race meeting begins

3/12/18 – Will Rogers Downs's Thoroughbred race meeting begins

3/15/18 – Deadline for submitting agenda topics for 3/29/18 Commission meeting

3/29/18 – Commission Regularly Scheduled Meeting, 9:30 a.m., Agriculture Board Room, Department of Agriculture, Food and Forestry, 2800 N. Lincoln Boulevard, Oklahoma City, OK