

OKLAHOMA HORSE RACING COMMISSION

REGULARLY SCHEDULED MEETING June 18, 2009

MINUTES

CALL TO ORDER/ROLL CALL

Chairman Bledsoe called the June 18, 2009 Regularly Scheduled Meeting of the Commission to order at 9:35 a.m. in the Activity Center of Shepherd Mall, Oklahoma City, Oklahoma.

Commission members answering roll call were Commissioner Bledsoe, Commissioner Bollenbach, Commissioner Bowers, Commissioner Carter, Commissioner Grimmett, and Commissioner Smicklas. Commissioners Barkett and Savage were absent from the meeting. Mr. Leader, Commission Counsel, was present as well as the following Commission staff members: Mr. Constantin A. Rieger, Ms. Mary Ann Roberts, Ms. Sue Chappell, Mr. Mike Corey, Ms. Bonnie Morris and Ms. E J Brees. Approximately sixteen other persons attended and signed the registry which is part of the record.

APPROVAL OF MINUTES

Commissioner Bowers moved to approve the drafted Minutes from the May 21, 2009 Regularly Scheduled Commission Meeting. Commissioner Bollenbach seconded the motion. The vote was as follows:

Aye: Mr. Bowers, Mr. Bollenbach, Mr. Grimmett, Mr. Smicklas, Dr. Bledsoe

Abstain: Mr. Carter

Mrs. Barkett and Mr. Savage were absent from the meeting.

The motion passed with 5 ayes and 1 abstention.

PRESENTATION ON COMPULSIVE GAMING ASSISTANCE PLANS BY RACETRACK GAMING OPERATOR LICENSEES

Since FY-2008, Dr. Curtis Barrett has monitored the respective Compulsive Gambling Assistance Plans of Remington Park, Blue Ribbon Downs and Will Rogers Downs.

Dr. Barrett made a presentation about FY-2009 activities of the Compulsive Gambling Assistance Plans for each of the three racetracks in relation to compliance with

requirements established in the Rules for Racetrack Gaming. Dr. Barrett proposed the same budget for continuation of monitoring the Plans as the current approved budget of \$22,000 in which Remington Park pays 50% [or \$11,000] and Blue Ribbon Downs and Will Rogers Downs pay 25% each [or \$5,500 each].

Commissioner Bollenbach made a motion to continue Dr. Barrett's monitoring program for the racetracks' Compulsive Gambling Assistance Programs for another year. Commissioner Bowers seconded the motion. The vote was as follows:

Aye: Mr. Bollenbach, Mr. Bowers, Mr. Carter, Mr. Grimmett, Mr. Smicklas,
Dr. Bledsoe

Mrs. Barkett and Mr. Savage were absent from the meeting.

The motion passed on a 6-0 vote.

REPORT ON THE STATUS OF THE MEC BANKRUPTCY AS IT PERTAINS TO THE OPERATIONS OF REMINGTON PARK

On March 5, 2009, Magna Entertainment Corporation [MEC], the parent company of Remington Park, announced that it had filed for Chapter 11 bankruptcy protection, filing voluntary petitions for reorganization in the U.S. Bankruptcy Court for the District of Delaware.

Mr. Scott Wells, President and General Manager of Remington Park, provided a status report on the bankruptcy, stating that since the last [Commission] meeting, Remington Park concluded its Quarter Horse, Paint and Appaloosa race meeting with one of the most successful weekends of Quarter Horse racing in the history of Oklahoma. Overall, attendance during race nights was up 9.4% and live handle was up 3% compared to last year. Off-track betting sites showed an increase of 1.4%. Overall wagering on Remington Park races closed up 4.9%. Mr. Wells further stated that Remington Park is one of the few tracks in the country to have completed a race meeting with positive numbers. The purse average was \$265,577 per day, including owners' contributions with the largest purses in the history of Remington Park for any race meeting. Remington Park had the biggest crowd ever to attend Remington Park on Preakness Day and only slightly missed equaling last year's record on Kentucky Derby Day. On Saturday night of the closing week, Remington Park had over 12,500 people in attendance. Mr. Wells said that, as reflected by the numbers, the operations of Remington Park had been seamless and the customers had seen no difference in Remington Park from past years.

No action was taken by the Commission.

INDIVIDUAL PROCEEDING TO DETERMINE HOW BREAKAGE AND UNCLAIMED TICKET PROCEEDS GENERATED OUTSIDE OF RACE MEETINGS AND DESIGNATED FOR USE AS PURSE SUPPLEMENTS OR AWARDS AT REMINGTON PARK IN 2009 ARE TO BE DISTRIBUTED (1) BETWEEN RACE MEETINGS AND (2) AMONG PARTICIPATING BREEDS AT THE RACETRACK'S MIXED BREED RACE MEETING

Background

In an October 3, 2008 Letter of Counsel provided by Senior Assistant Attorney General Neal Leader, the Commission's Counsel, he noted that there are gaps in the Commission's present regulatory scheme – one of which is lack of any direction on how breakage and unclaimed ticket revenues, generated outside of a race meeting, are to be distributed. Accordingly, such issues must be determined on a case-by-case basis until the Commission acts to fill the regulatory gap.

At its January 22, 2009 meeting, the Commission held a Hearing regarding the distribution of breakage and unclaimed ticket revenues, generated outside a race meeting, at Fair Meadows at Tulsa for 2009, and determined the distribution will be based on per breed ratios based on the number of races per breed as evidenced in Commission Order 2009-OHRC-006 dated February 19, 2009.

The Oklahoma Quarter Horse Racing Association requested that the Commission determine the issues for Remington Park's 2009 race meetings. On May 12, 2009, the Commission sent Notice of a Hearing on the issues to the parties.

Mr. Wells stated that Remington Park would continue to cooperate with the Commission and the Horsemen's Groups and would appreciate the Commission's input into the matter. Remington Park took no position on the issues.

Ms. Debbie Schauf, Executive Director of the Oklahoma Quarter Horse Racing Association (OQHRA), said that the OQHRA would prefer that the split be handled in the same manner as Fair Meadows at Tulsa in Order 2009-OHRC-006.

Mr. Mark Ramsey, representing the Thoroughbred Association of Oklahoma, spoke against changing the split at Remington Park. The Association supported distributing breakage and unclaimed ticket proceeds in the same manner that simulcast-in revenues are split.

A motion to take preliminary action to make the number of live race days as listed in the organization license Order the method to be used for distribution of breakage and unclaimed ticket proceeds between race meetings at Remington Park for 2009 and Staff was instructed to draft an Order, including Findings of Facts and Conclusions of Law, for continued deliberation at the June 18, 2009 meeting; and include the definition of "racing program" as the live racing program.

Commission Action

Commissioner Bowers made a motion to take final action to adopt the drafted Order on OQHRA's request that the Commission determine the method of distribution for breakage and unclaimed tickets proceeds between race meetings at Remington Park for CY 2009. Mr. Bollenbach seconded the motion. The vote was as follows:

Aye: Mr. Bowers, Mr. Bollenbach, Mr. Carter, Mr. Smicklas, Dr. Bledsoe

Abstain: Mr. Grimmert

Mrs. Barkett and Mr. Savage were absent from the meeting.

The motion passed with 5 ayes and 1 abstention.

BLUE RIBBON DOWNS' REQUEST TO EXTEND APPLICATION DEADLINE FOR CY 2009 LICENSE

OHRC Rules of Racing Rule 325:15-3-2, Application for License and Days to Conduct a Horse Racing Meeting, sets the application deadline of June 1 of the calendar year preceding the calendar year for which the requested race meeting is to be conducted. That rule was amended in 2004 to address the issue of the sale of a racetrack which reads:

"... when an existing racing facility licensed by the Commission is sold or transferred to a new owner within sixty days of the June 1 application deadline, or after the June 1 application deadline, the new owner must file its application within ninety (90) days after ownership is transferred to it. Additionally, if ownership of a racetrack licensed by the Commission is transferred during a year in which the new owner wishes to operate for a portion of the remaining year, the new owner may file an application to do so no later than forty-five (45) days after ownership is transferred to it. Further, for good cause shown, the Commission may, in the exercise of its discretion, grant any applicant an extension of time in which to file its application."

[Emphasis Added]

In a May 28, 2009 letter, Mr. Blaine Story, General Manger of Operations at Blue Ribbon Downs [BRD], requested an extension of the application deadline, stating that the Choctaw Nation of Oklahoma, the current owner, was negotiating the sale of the racetrack with an executed agreement between the parties expected in the near future. A May 28, 2009 letter from Mr. Bob Rabon, Counsel for the Choctaw Nation, advised that the Choctaw Nation had entered into a contract with Furlong Perfecta, LLC, for the sale of the ownership of Backstretch, LLC. The Joint Application for Approval of the Transfer of All Outstanding Units of Backstretch, LLC d/b/a Blue Ribbon Downs, Sallisaw, Oklahoma, dated June 12, 2009, will be placed on a future Commission agenda.

Mr. Story said he was prepared to submit and pay for the racing and gaming license application fees in the event that the Commission denied BRD's request for an extension.

Commissioner Grimmatt made a motion to extend the deadline for Blue Ribbon Downs to submit its CY 2010 racing and gaming license applications to August 1, 2009. Commissioner Bollenbach seconded the motion. The vote was as follows:

Aye: Mr. Grimmatt, Mr. Bollenbach, Mr. Bowers, Mr. Carter, Mr. Smicklas,
Dr. Bledsoe

Mrs. Barkett and Mr. Savage were absent from the meeting.

The motion passed on a 6-0 vote.

PROPOSED AMENDMENT TO COMMISSION-SANCTIONED MEDICATION THRESHOLD DIRECTIVE

Since March 23, 2006, the Commission has a Directive on Commission-Sanctioned Thresholds. Updates have been made five times: May 18, 2006, January 25, 2007, February 21, 2008, June 19, 2008 and May 21, 2009.

An amendment is proposed to the Directive regarding the use of anabolic steroids. Commission Staff proposed the following narrative be added to the Directive:

(4) Anabolic Steroids

The presence of anabolic steroids in a race horse is strictly prohibited except for the presence of the following approved anabolic steroids at plasma/serum levels below Commission-Sanctioned Thresholds:

- (a) Stanozolol: 85 pg/ml
- (b) Boldenone [Equipoise]: 215 pg/ml
- (c) Nandrolone: 65 pg/ml
- (d) Testosterone: 100 pg/ml

The recommendation from the Medication Committee was that these levels be based upon a 60 day withdrawal and become effective on the 61st day after approval by the Commission.

In response to a question from Commissioner Grimmatt, Mr. Rieger stated that the threshold levels would be consistent with several other racing jurisdictions.

Commissioner Smicklas asked if the levels would be in line with the national alliance [the Racing Medication Testing Consortium] to which Mr. Rieger said that the national standards are lower, (almost a zero tolerance), resulting in Oklahoma numbers higher than the national standard at his time.

Mr. Scott Wells, President and General Manager of Remington Park, stated that Remington Park wants to be in compliance with the national alliance standards because the possibility of regaining graded status on some of its Thoroughbred stakes is of crucial importance to their future.

Mr. Blaine Story, General Manager of Operations at Blue Ribbon Downs, voiced concern over the cost of testing, stating that the budget for drug testing may almost double as a result. In response, Mr. Rieger said that by statute, the racetracks are required to pay for the cost of testing. Mr. Story asked if the tests were being conducted to determine the level of steroids or simply the presence of the drugs to which Mr. Rieger responded that it would be the level of the drugs in question. Mr. Story said that testing for the level would cost significantly more than simply testing for the presence of the drugs.

Mr. Rieger also stated that the Commission's Ad Hoc Committee on Medication Rules was in agreement that the enhanced steroid screening and quantification should begin during the period of time when the Directive is not in effect in order to avoid multiple positives on and immediately after August 18, 2009, when the Directive's portion on anabolic steroids will be in effect.

Mr. Ron Shotts, Director of Racing at Fair Meadows at Tulsa [FMT], stated that he did not believe the Commission had the authority to make FMT pay for the drug testing during the interim period, adding that he regarded the Directive as unenforceable and not a violation of the rules. He further said that four people would not be employed this year if FMT is forced to pay for what he considered as "research" in the amount of \$44,000. Mr. Rieger responded by saying that he had responded to Mr. Shotts' letter, advising FMT that the amount spent on the drug testing would be substantially lower than \$44,000.

Commissioner Smicklas asked Ms. Mary Ann Roberts, OHRC Staff Attorney, if there was anything in the rules or statutes that would support the racetracks being responsible for paying the drug testing fees during the interim. She responded that in Title 3A, Oklahoma Horse Racing Act, § 204, 1B, the statute creates the Equine Drug Revolving Fund and does not refer to prosecution or any purpose other than to pay for drug testing. She added that Rule 325:45-1-3, Intent of Medication Rules, states that: "It shall be the intent of the rules in this Chapter to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public and the racing participants through the prohibition or control of all drugs, medications, and substances foreign to the natural horse."

Ms. Debbie Schauf, Executive Director of the Oklahoma Quarter Horse Racing Association and member of the Commission's Ad Hoc Committee on Medication Rules, asked if a report would be provided regarding the testing. Mr. Rieger replied that the results would be compiled and given the horsemen's groups when the report has been completed.

Commissioner Smicklas made a motion to adopt the proposed change to Commission-Sanctioned Thresholds to include anabolic steroids. Commissioner Grimmatt seconded the motion. The vote was as follows:

Aye: Mr. Smicklas, Mr. Grimmatt, Mr. Bollenbach, Mr. Bowers, Mr. Carter,
Dr. Bledsoe

Mrs. Barkett and Mr. Savage were absent from the meeting.

The motion passed on a 6-0 vote.

PROPOSED OPENING OF THE PERMANENT RULEMAKING PROCESS TO CONSIDER PROPOSED RULE AMENDMENTS TO OHRC RULES OF RACING

At the May 21, 2009 meeting, Commissioner Calvert asked that the Commission consider at its next meeting opening the permanent rulemaking process to consider proposed rule amendments in OHRC Rules of Racing to establish (1) the percentage of simulcast-in revenues at a racetrack and (2) the method to be used for distribution of breakage and unclaimed ticket proceeds at a racetrack.

The specific rules to be considered for amendment are:

- Rule 325:10-1-33, Horsemen's Purses, regarding the simulcast-in revenue split, and
- Rule 325:75-1-15, Distribution of Funds for Oklahoma-Bred Pari-Mutuel Races, regarding the distribution of breakage and unclaimed ticket proceeds.

As a starting point for discussion of these proposed rule amendments, Commission Counsel, Mr. Neal Leader, proposed two options for considering amendment to Rule 325:10-1-33 for the percentage of simulcast-in revenues at a racetrack: (1) by agreement only and (2) if no agreement by mixed formula. Mr. Leader also proposed two options to Rule 325:75-1-15 for considering amendment for the method to be used for distribution of breakage and unclaimed ticket proceeds at a racetrack: (1) by number of races and (2) by number of races and number of race days.

Commissioner Smicklas made a motion to open the permanent rulemaking process for proposed amendments to Rule 325:75-1-15, Distribution of Funds for Oklahoma-Bred Pari-Mutuel Races, regarding the method of distribution to be used for breakage and unclaimed ticket proceeds; and take no action on proposed rule amendments to Rule 325:10-1-33, Horsemen's Purses, in order to give Commission Staff time to develop proposed language options for consideration at the August 13, 2009 meeting. Commissioner Grimmatt seconded the motion. The vote was as follows:

Aye: Mr. Smicklas, Mr. Grimmett, Mr. Bollenbach, Mr. Bowers, Mr. Carter,
Dr. Bledsoe
Mrs. Barkett and Mr. Savage were absent from the meeting.
The motion passed on a 6-0 vote.

RECOMMENDATIONS FROM OKLAHOMA-BRED ADVISORY COUNCIL

The Oklahoma-Bred Advisory Council met on June 3, 2009 and forwarded the following recommendations to the Commission for funding from the Oklahoma Breeding Development Fund Special Account [OBDFSA].

1. Remington Park's Funding Request for Thoroughbred Stakes Races

The Oklahoma-Bred Advisory Council recommended funding from the Oklahoma Breeding Development Fund Special Account [OBDFSA] of \$160,000 in Thoroughbred funds to Remington Park in response to An April 23, 2009 request from Mr. Fred Hutton, Remington Park's Director of Racing. Mr. Hutton requested Oklahoma-Bred funds be added to the following stakes races to be run during the 2009 Thoroughbred race meeting with a payout percentage breakdown of 60%, 20%, 11%, 6% and 3% to the top five finishers:

	Purse Supplements	Broodmare Awards	Stallion Awards	Total
Silver Goblin	\$20,000	\$13,600	\$ 6,400	\$ 40,000
Black Mesa	\$20,000	\$13,600	\$ 6,400	\$ 40,000
Red Earth	\$20,000	\$13,600	\$ 6,400	\$ 40,000
Osage Hills	<u>\$20,000</u>	<u>\$13,600</u>	<u>\$ 6,400</u>	<u>\$ 40,000</u>
	\$80,000	\$54,400	\$25,600	\$160,000

The \$160,000 request was twice the amount of Oklahoma-Bred funds requested for these stakes races since CY 2006.

2. Oklahoma State University's Funding Request for Necropsy Study

The Advisory Council unanimously recommended OBDFSA funding at a level of \$50,000 for the May 12, 2009 request of Oklahoma State University (OSU) to continue providing the Veterinary Medical Diagnostic Program (Necropsy Study) for another year. While the Necropsy Study has been funded at a \$45,000 level, OSU requested funding of \$50,000. The current balance for the Study is \$10,283. An

additional \$39,717 would need to be added to meet the \$50,000 ceiling level request.

Commissioner Grimmatt made a motion to approve funding recommendations made by the Oklahoma-Bred Advisory Council from the Oklahoma Breeding Development Fund Special Account for (1) Remington Park's request for \$160,000 to add to four Thoroughbred stakes races to be run during the CY 2009 Thoroughbred race meeting and (2) OSU's request to continue the Necropsy Study for another year at \$50,000. Commissioner Bowers seconded the motion. The vote was as follows:

Aye: Mr. Grimmatt, Mr. Bowers, Mr. Bollenbach, Mr. Carter, Mr. Smicklas,
Dr. Bledsoe

Mrs. Barkett and Mr. Savage were absent from the meeting.

The motion passed on a 6-0 vote.

**PROPOSED SLATE OF COMMISSION OFFICERS PRESENTED BY THE
NOMINATING COMMITTEE AND ELECTION OF OFFICERS FOR FY-2010**

The Nominating Committee [comprised of Commissioners Savage, Smicklas and Bowers] presented the following proposed slate of Commission Officers for consideration for election for FY 2010 (July 1, 2009 through June 30, 2010)

Chair	Commissioner Grimmatt
Vice-Chair	Commissioner Barkett
Secretary	Commissioner Savage

Commissioner Smicklas made a motion to close the nominations for FY 2010 Officers. Commissioner Bowers seconded the motion. The vote was as follows:

Aye: Mr. Smicklas, Mr. Bowers, Mr. Bollenbach, Mr. Carter, Mr. Grimmatt,
Dr. Bledsoe

Mrs. Barkett and Mr. Savage were absent from the meeting.

The motion passed on a 6-0 vote.

Commissioner Smicklas made a motion to elect the proposed slate of FY 2010 Officers as presented. Commissioner Bowers seconded the motion: The vote was as follows:

Aye: Mr. Smicklas, Mr. Bowers, Mr. Bollenbach, Mr. Carter, Mr. Grimmatt,
Dr. Bledsoe

Mrs. Barkett and Mr. Savage were absent from the meeting.

The motion passed on a 6-0 vote.

REPORTS

Post-Session Legislative Tracking Report

The Regular Session of the CY 2009 Legislative Session adjourned on Wednesday, May 27, 2009. A Post-Session Legislative Tracking Report was provided. Commission Staff are following the proposed Interim Studies by the House and Senate in relation to those concerned about the industry.

Receipt of Renewal Applications for Organization [Racing] Licenses for CY 2010 Racing Activities

By the annual deadline of June 1, the Commission received renewal applications for organization [racing] licenses from Will Rogers Downs and Fair Meadows at Tulsa to conduct racing activities in CY 2010.

At the request of Remington Park, that racetrack was given an extended deadline to June 17, 2009 to submit its CY 2010 racing application.

Blue Ribbon Downs requested an application deadline extension due to the possible sale of the racetrack.

Commission Staff is in the process of reviewing the applications and writing the Staff Narratives. At the same time, the Commission's Law Enforcement Division is currently conducting its background investigations. The current plan is for the Commission to also consider these racing applications at the August 13, 2009 Commission meeting.

Receipt of Renewal Applications for CY 2010 Racetrack Gaming Operator Licenses and Recipient Racetrack Gaming License

By the June 1, 2009 deadline, the Commission received renewal CY 2010 Racetrack Gaming Operator License applications from Remington Park and Will Rogers Downs and a renewal CY 2010 Recipient Racetrack Gaming License application from Fair Meadows at Tulsa.

Blue Ribbon Downs requested an application deadline extension due to the possible sale of the racetrack.

The Commission's Law Enforcement Division is currently conducting its background investigations. The current plan is for the Commission to consider these applications at the August 13, 2009 Commission meeting

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

There was no new business that could not have been foreseen prior to the posting of the agenda.

ANNOUNCEMENTS

Commissioners Bledsoe and Bowers will complete their current six-year terms on June 30, 2009. Commissioner Calvert resigned on May 31, 2009.

Governor Henry has reappointed Commissioner Bowers to an additional six-year term; the Senate confirmed the nomination.

Governor Henry has appointed Ms. Becky Goumaz of Kellyville to replace Chairman Bledsoe; the Senate confirmed the nomination.

Governor Henry has appointed Mr. Brandon Burton of Oklahoma City to replace Commissioner Calvert; the Senate confirmed the nomination.

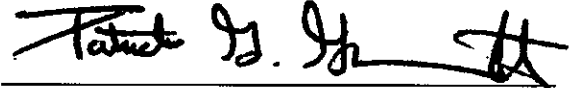
On May 4, 2009, Governor Henry approved the proposed rule amendments and proposed new rules to Chapter 75, Oklahoma-Bred Program, and five gaming rule amendments adopted by the Commission at its March 26, 2009 meeting. Legislative approval occurred on May 21, 2009. The effective date for the rule amendments and new rules is June 25, 2009.

The Oklahoma Thoroughbred Association's annual awards program is scheduled for Saturday, August 15, 2009, at Remington Park. The Commission will present the 2008 Thoroughbred Oklahoma-Bred awards during the program.

ADJOURNMENT

By acclamation, the Commission meeting was adjourned at 11:03 a.m.

Approved this 13th day of August, 2009.



Patrick Grimm, Chairman

On Behalf of the Commission:
ATTEST:



Constantin A. Rieger, Executive Director
CAR/ejb/8/13/09