

OKLAHOMA HORSE RACING COMMISSION

REGULARLY SCHEDULED MEETING October 15, 2009

MINUTES

CALL TO ORDER/ROLL CALL

Chairman Grimmert called the October 15, 2009 Regularly Scheduled Meeting of the Commission to order at 9:35 a.m. in the Activity Center of Shepherd Mall, Oklahoma City, Oklahoma.

All Commissioners, except Mrs. Barkett, were present at 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 twenty-three other persons attended and signed the registry which is part of the record.

APPROVAL OF MINUTES

Commissioner Smicklas moved to approve the drafted Minutes, as presented, from the August 13, 2009 Regularly Scheduled Commission Meeting. Commissioner Bowers seconded the motion. The vote was as follows:

Aye: Mr. Smicklas, Mr. Bowers, Mr. Bollenbach, Mr. Burton, Mr. Carter,
Mrs. Goumaz, Mr. Grimmert,

Abstain: Mr. Savage

Mrs. Barkett was absent from the meeting.

The motion passed with 7 ayes and 1 abstention.

PUBLIC HEARING REGARDING THE ORIGINAL ORGANIZATION LICENSE APPLICATION FILED BY THE GLOBAL GAMING RP, LLC TO CONDUCT RACING AND GAMING IN CALENDAR YEAR 2009

In an original application, Global Gaming RP, LLC. requested approval to continue the current Thoroughbred race meeting at Remington Park and conduct gaming in Calendar Year 2009.

Presentations were made by Mr. John Elliott, CEO of Global Gaming Solutions, LLC, and Mr. Randy Calvert, Counsel. Mr. Calvert stated that Global Gaming Solutions and Global

Gaming RP were formed without sovereignty, making them subject to the jurisdictions of the Commission, the state, and federal courts. Mr. Calvert also said that at this time, Global Gaming RP had no assets or liabilities.

Mr. Neal Leader, Commission Counsel, said that he was trying to discover the relationship between all of the entities to determine whether there was immunity or not. Mr. Calvert responded that the standard the court uses is whether there is a clear indication that sovereign immunity does not exist, adding that it does exist in the bylaws. He also said that the resolution which was signed by the Nation's Governor indicates that it was formed with the intent that it would not have sovereign immunity.

Mr. Leader requested copies of the statutes regarding how the commerce division is set up and financial statements of the parent corporation. Mr. Calvert indicated that he was giving Mr. Leader a copy of a tribal resolution on the issue [which was made part of the record].

Ms. Debbie Schauf, Executive Director of the Oklahoma Quarter Horse Racing Association and Mr. Joe Lucas, a member of the Thoroughbred Racing Association of Oklahoma spoke in support of Global Gaming, LLC.

Chairman Grimmett said that the Commission would seek additional information for consideration at the November 19, 2009 meeting.

No action was taken.

PRELIMINARY CONSIDERATION OF CY 2010 RENEWAL RACING AND GAMING APPLICATIONS FROM GLOBAL GAMING RP, LLC

In anticipation of being granted 2009 licenses, Global Gaming RP, LLC submitted renewal applications to conduct racing and gaming activities in CY 2010. The Applicant applied to conduct two race meetings:

- a **Quarter Horse, Paint and Appaloosa race meeting**, 50 days in length, from March 5 through May 31, 2010 and
- a **Thoroughbred race meeting**, 67 days in length, from August 20 through December 12, 2010.

No action was taken.

CONTINUED CONSIDERATION OF CY 2010 RACING AND GAMING APPLICATIONS FOR REMINGTON PARK, INC. [OWNED BY MAGNA ENTERTAINMENT CORPORATION], BLUE RIBBON DOWNS, AND FAIR MEADOWS AT TULSA

Remington Park, Inc. [as currently owned by Magna Entertainment Corporation until sale of racetrack is finalized in Bankruptcy Court]

Remington Park, Inc. applied to conduct two race meetings:

- a **Quarter Horse, Paint and Appaloosa race meeting**, 50 days in length, from March 5 through May 31, 2010 and
- a **Thoroughbred race meeting**, 67 days in length, from August 20 through December 12, 2010. In July 2009, Remington Park requested that Mondays be exchanged for Thursdays to increase its simulcasting opportunities.

Backstretch, L.L.C. d/b/a Blue Ribbon Downs

Blue Ribbon Downs applied to conduct one race meeting:

- a **Thoroughbred, Quarter Horse, Paint and Appaloosa race meeting**, 52 days in length, from July 30 through November 27, 2010.

Tulsa State Fair (Tulsa County Public Facilities Authority)

The Tulsa State Fair (the Tulsa County Public Facilities Authority) applied to conduct one fair race meeting:

- a **Thoroughbred, Quarter Horse, Paint and Appaloosa fair race meeting** at Fair Meadows at Tulsa, 34 race days in length, from June 3 through July 25, 2010.

Each of these Applicants also filed a companion gaming application.

Commissioner Bowers made a motion to deliberate in Executive Session on CY 2010 racing and gaming applications for Remington Park [with Magna Entertainment Corporation as the owner], Blue Ribbon Downs and Fair Meadows at Tulsa and include Mr. Rieger, Mr. Leader and Ms. Roberts. Mr. Savage seconded the motion. The vote was as follows:

Aye: Mr. Bowers, Mr. Savage, Mr. Bollenbach, Mr. Burton, Mr. Carter,
Mrs. Goumaz, Mr. Smicklas, Mr. Grimmett

Mrs. Barkett was absent from the meeting.

The motion passed on an 8-0 vote.

Commissioner Carter made a motion to return to Open Session which was seconded by Commissioner Bowers. The vote was as follows:

Aye: Mr. Carter, Mr. Bowers, Mr. Bollenbach, Mr. Burton, Mrs. Goumaz,
Mr. Savage, Mr. Smicklas, Mr. Grimmett
Mrs. Barkett was absent from the meeting.
The motion passed on an 8-0 vote.

Commissioner Smicklas made a motion to take preliminary action to award CY 2010 racing and gaming licenses to Remington Park [with Magna Entertainment Corporation as owner] and instruct Commission Staff to draft Orders for continued deliberations at the November 19, 2009 meeting. Commissioner Savage seconded the motion. The vote was as follows:

Aye: Mr. Smicklas, Mr. Savage, Mr. Bollenbach, Mr. Bowers, Mr. Burton,
Mr. Carter, Mrs. Goumaz, Mr. Grimmett
Mrs. Barkett was absent from the meeting.
The motion passed on an 8-0 vote.

Commissioner Smicklas made a motion to take preliminary action to award CY 2010 racing and gaming licenses to Fair Meadows at Tulsa and instruct Commission Staff to draft Orders for continued deliberations at the November 19, 2009 meeting. Commissioner Bowers seconded the motion. The vote was as follows:

Aye: Mr. Smicklas, Mr. Bowers, Mr. Bollenbach, Mr. Burton, Mr. Carter,
Mrs. Goumaz, Mr. Savage, Mr. Grimmett
Mrs. Barkett was absent from the meeting.
The motion passed on an 8-0 vote.

Commissioner Smicklas made a motion to table deliberations on Blue Ribbon Downs' CY 2010 racing and gaming applications. Commissioner Bollenbach seconded the motion. The vote was as follows:

Aye: Mr. Smicklas, Mr. Bollenbach, Mr. Bowers, Mr. Burton, Mr. Carter,
Mrs. Goumaz, Mr. Savage, Mr. Grimmett
Mrs. Barkett was absent from the meeting.
The motion passed on an 8-0 vote.

AMENDED CY 2010 RACING APPLICATION FROM WILL ROGERS DOWNS

Originally, Will Rogers Downs applied to conduct one 44-day Thoroughbred, Quarter Horse, Paint and Appaloosa race meeting to be held February 27 through May 22, 2010.

Will Rogers Downs' amended application contained three components: (1) a proposed change in the number of live race dates and the addition of a second race meeting; (2) a proposed simulcast-in revenue distribution split; and (3) a proposed per-race fee for horsemen.

Proposed Change in Number of Live Race Dates and Addition of a Second Race Meeting

Will Rogers Downs requested a total of sixty (60) live race days to be conducted in two race meetings as follows:

- a **Thoroughbred race meeting**, 32 days in length, from March 6 through May 15, 2010 and
- a **Quarter Horse, Paint and Appaloosa race meeting**, 28 days in length, from September 23 through November 7, 2010.

Proposed Simulcast-In Revenue Distribution Split

If Blue Ribbon Downs elected not to participate in the CY 2010 race season, then Will Rogers Downs proposed that the simulcast-in revenue distribution split be set at 90% for Thoroughbreds and 10% for Quarter Horses, Paints and Appaloosas.

Because this request was belatedly filed with the Commission and, thus, there was not sufficient time to give the required notice to the parties [Will Rogers Downs, the Oklahoma Quarter Horse Racing Association and the Thoroughbred Racing Association of Oklahoma], a hearing on the simulcast-in revenue distribution split will be set for the November 19, 2009 meeting.

Proposed Per-Race Fee for Horsemen

Will Rogers Downs requested approval to charge horsemen an **unspecified** "reasonable" per-race fee "in an effort to recoup a portion of WRD's costs spent to employ the horsemen's bookkeeper and to purchase related software."

Mr. Mark Enterline, Consulting General Manager for Will Rogers Downs, said that the cost for the horsemen's bookkeeper, software, etc., was approximately \$75,000. Mr. Enterline also said that he would provide the Commission on November 19, 2009 with an exact accounting of incurred costs for employing the horsemen's bookkeeper and expenses related to that position. He also mentioned that if the two horsemen's groups were to take over the responsibilities of the horsemen's bookkeeper, the proposed per-race fee would be a moot point.

Commissioner Savage made a motion to continue deliberations regarding Will Rogers Downs' amended CY 2010 racing and companion gaming license applications to the

November 19, 2009 Commission meeting. Commissioner Bowers seconded the motion. The vote was as follows:

Aye: Mr. Savage, Mr. Bowers, Mr. Bollenbach, Mr. Burton, Mr. Carter,
Mrs. Goumaz, Mr. Smicklas, Mr. Grimmett
Mrs. Barkett was absent from the meeting.
The motion passed on an 8-0 vote.

**POSSIBLE FINAL ACTION ON PROPOSED RULE AMENDMENTS THAT
HAVE BEEN SUBJECT TO BOTH PUBLIC HEARING AND PUBLIC
COMMENT**

The Commission considered adopting proposed rule amendments to Rule 325:75-1-15, Distribution of Funds for Oklahoma-Bred Pari-Mutuel Races, by designating 'races per breed' as the method to be used for distribution of breakage and unclaimed ticket proceeds between race meetings and generated for use as purse supplements or awards at a racetrack each year.

Commissioner Bowers made a motion to adopt proposed rule amendments to Rule 325:75-1-15, Distribution of Funds for Oklahoma-Bred Pari-Mutuel Races. Commissioner Savage seconded the motion. The vote was as follows:

Aye: Mr. Bowers, Mr. Savage, Mr. Bollenbach, Mr. Burton, Mr. Carter,
Mrs. Goumaz, Mr. Smicklas, Mr. Grimmett
Mrs. Barkett was absent from the meeting.
The motion passed on an 8-0 vote.

**PROPOSED OPENING OF THE PERMANENT RULEMAKING PROCESS
TO CONSIDER A PROPOSED RULE AMENDMENT TO OHRC RULES OF
RACING**

Mr. Rodger Smith, Jockey Agent, submitted a petition requesting that the Commission consider amending Rule 325: 15-1-18, Jockey Agents, to eliminate the current restriction of representing only 2 Jockeys at a Mixed Breed race meeting whereas a single-breed race meeting allows representation of 3 Jockeys. Mr. Smith advised the Commission that recently at Blue Ribbon Downs, there were 30 Jockeys but only 5 Jockey Agents available, resulting in some Jockeys not being represented. Mr. Smith did not appear in person before the Commission.

In response to a question from Commissioner Goumaz, Mr. Constantin Rieger, Commission Executive Director, stated that there are no Apprentice Jockeys in the Quarter Horse industry as opposed to the Thoroughbred industry, which does allow Apprentice

Jockeys. However, the Apprentice Jockeys typically do not ride often, which is why a Jockey Agent in the Thoroughbred industry is allowed to represent two Journeymen Jockeys and one Apprentice Jockey. Mr. Rieger further stated that if there were more than three Journeymen Jockeys represented by one Jockey Agent, it could potentially lead to a Jockey Agent controlling a race.

Ms. Debbie Schauf, Executive Director of the Oklahoma Quarter Horse Racing Association (OQHRA), stated that OQHRA was not supporting [the rule change] by Mr. Smith nor did it have an objection to it.

Commissioner Goumaz made a motion to take no action on proposed rule amendments to Rule 325:15-1-18, Jockey Agents. Commissioner Bowers seconded the motion. The vote was as follows:

Aye: Mrs. Goumaz, Mr. Bowers, Mr. Bollenbach, Mr. Burton, Mr. Carter,
 Mr. Savage, Mr. Smicklas, Mr. Grimmett
 Mrs. Barkett was absent from the meeting.
 The motion passed on an 8-0 vote.

RECOMMENDATIONS FROM THE OKLAHOMA-BRED ADVISORY COUNCIL

The Oklahoma-Bred Advisory Council met on September 9, 2009 and forwarded recommendations for Commission consideration. This included proposed Nomination Forms for the following CY 2010 races:

Oklahoma Horsemen’s Association [OHA]
 Oklahoma-Bred Futurity and Derby Races for Quarter Horses
 Oklahoma-Bred Futurity and Derby Races for Paints and Appaloosas

Oklahoma Quarter Horse Racing Association [OQHRA]
 Oklahoma-Bred Quarter Horse Futurity and Derby

The two horsemen’s organizations listed above also requested Oklahoma-Bred added funds for the races as follows:

	Purse Supplements	Broodmare Awards	Stallion Awards	Total
OHA Oklahoma-Bred Quarter Horse Futurity	\$10,000	\$6,800	\$3,200	\$20,000
OHA Oklahoma-Bred Quarter Horse Derby	\$10,000	\$6,800	\$3,200	\$20,000
OHA Oklahoma-Bred Appaloosa and Paint Futurity	\$ 5,000	\$3,400	\$1,600	\$10,000
OHA Oklahoma-Bred Appaloosa and Paint Derby	\$ 5,000	\$3,400	\$1,600	<u>\$10,000</u>
				\$60,000
OQHRA Oklahoma-Bred Quarter Horse Futurity	\$10,000	\$6,800	\$3,200	\$20,000
OQHRA Oklahoma-Bred Quarter Horse Derby	\$ 2,500	\$1,700	\$ 800	<u>\$ 5,000</u>
				\$25,000

The Advisory Council recommended that one of the Oklahoma-Bred Champion Award categories be merged with another one. Specifically, the category of 'Champion Oklahoma-Bred – Fair Meets' would be merged with the category of 'Champion Oklahoma-Bred – Mixed Breed Meets' with an individual trophy presented to the Champion Oklahoma-Bred of each participating breed.

The Advisory Council also recommended funding up to \$10,000 for the annual promotion of the Oklahoma-Bred Program in industry publications and up to \$10,000 for the 2009 year-end Oklahoma-Bred Champion Awards.

In response to a question by the Commission regarding a possible change in location for the Oklahoma Quarter Horse Racing Association (OQHRA) races, Ms. Debbie Schauf, OQHRA Executive Director, stated that Rule 325:75-1-16, Distribution of Unexpended Oklahoma-Bred Funds Generated at a Race Meeting, says in part, that in the event an organization licensee does not conduct the subsequent race meeting in the succeeding calendar year or the Commission does not relicense the organization for the succeeding calendar year, the amounts which would have been carried over shall be allotted by the Commission to the credit of the respecting breeds participating in the immediate subsequent calendar year race meeting to provide supplements and awards for Oklahoma-Bred participants at levels established by the Commission.

Commissioner Smicklas made a motion to approve all of the above-mentioned recommendations from the Oklahoma-Bred Advisory Council, subject to the availability of Oklahoma-Bred funds. Commissioner Goumaz seconded the motion. The vote was as follows:

Aye: Mr. Smicklas, Mrs. Goumaz, Mr. Bollenbach, Mr. Bowers, Mr. Burton,
Mr. Carter, Mr. Savage, Mr. Grimmatt
Mrs. Barkett was absent from the meeting.
The motion passed on an 8-0 vote.

Chairman Grimmatt announced that the Commission would take a 10 minute break. Commissioner Savage left the meeting during the break.

Commissioner Carter made a motion to return to Open Session. Commissioner Bollenbach seconded the motion. The vote was as follows:

Aye: Mr. Carter, Mr. Bollenbach, Mr. Bowers, Mr. Burton, Mrs. Goumaz,
Mr. Smicklas, Mr. Grimmatt.
Mr. Savage was absent from the vote.
Mrs. Barkett was absent from the meeting.
The motion passed on a 7-0 vote.

HEARING ON APPEAL OF AARON BOX, OWNER/TRAINER

The record in the matter reflected that the Board of Stewards at Remington Park [RP] held a Stewards' Hearing on July 1, 2009 to consider the alleged violation that Mr. Box did not have a valid Workers' Compensation Insurance Policy in effect at RP to cover injuries sustained by Mr. Matthew Miller that resulted from a training accident on Mr. Box's horse.

Following the Hearing, the Board of Stewards at RP, in Order No. 09-RP-077, dated August 19, 2009, found that Mr. Miller was an employee of Mr. Box, rather than an independent contractor, and that Mr. Box was in violation of OHRC Pari-Mutuel *Rules of Racing* Rule 325:15-5-19, Workers' Compensation Act Compliance. The Board of Stewards fined Mr. Box the sum of five hundred dollars (\$500.00) which has not been paid. On August 21, 2009, the Commission received a Petition for Appeal and Request for Stay from Mr. Box. A Temporary Stay was issued on September 10, 2009 pending an Appeal Hearing before the Commission.

The Appellant Mr. Aaron Box was represented by attorney, Mr. Norman Hollingsworth, who made arguments and responded to questions on Mr. Box's behalf. Ms. Mary Ann Roberts, Commission Staff Attorney, appeared, made arguments and responded to questions on behalf of the Board of Stewards.

At the conclusion of arguments and questioning, Commissioner Goumaz made a motion to deliberate in Executive Session regarding Mr. Box's Appeal of the Stewards' Order and include Mr. Rieger and Mr. Leader. Commissioner Bollenbach seconded the motion. The vote was as follows:

Aye: Mrs. Goumaz, Mr. Bollenbach, Mr. Bowers, Mr. Burton, Mr. Carter,
Mr. Smicklas, Mr. Grimmatt
Mr. Savage was absent from the vote.
Mrs. Barkett was absent from the meeting.
The motion passed on a 7-0 vote.

Commissioner Bowers did not return from Executive Session.
Commissioner Bollenbach made a motion to return to Open Session. Mr. Carter seconded the motion. The vote was as follows:

Aye: Mr. Bollenbach, Mr. Carter, Mr. Burton, Mrs. Goumaz, Mr. Smicklas,
Mr. Grimmatt
Mr. Bowers and Mr. Savage were absent from the vote.
Mrs. Barkett was absent from the meeting.
The motion passed on a 6-0 vote.

Commissioner Goumaz made a motion to uphold the Stewards' decision regarding Mr. Aaron Box and instruct Commission Staff to draft an Order for continued deliberations at

the November 19, 2009 meeting. Mr. Burton seconded the motion. The vote was as follows:

Aye: Mrs. Goumaz, Mr. Burton, Mr. Bollenbach, Mr. Carter, Mr. Smicklas,
Mr. Grimmett

Mr. Bowers and Mr. Savage were absent from the vote.

Mrs. Barkett was absent from the meeting.

The motion passed on a 6-0 vote.

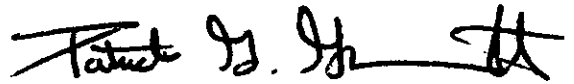
ANNOUNCEMENT

Mr. R. D. Logan, Executive Director of the Oklahoma Thoroughbred Association, told the Commission that attendance for the Classic races run on September 26, 2009 was good. He also thanked Commission Staff and Chairman Grimmett for coming.

ADJOURNMENT

By acclamation, the Commission meeting was adjourned at 12:15 p.m.

Approved this 19th day of November, 2009.



Mr. Patrick Grimmett, Chairman

On Behalf of the Commission:

ATTEST: 

Constantin A. Riegel, Executive Director

CAR/ejb/11/04/09, bjm/11/5/09, 11/9/09, 11/12/09, 11/20/09