

NEW YORK STATE
GAMING COMMISSION

MINUTES

MEETING of JANUARY 26, 2016

NEW YORK, NEW YORK

A meeting of the N.Y.S. Gaming Commission was conducted in New York, New York.

1. Call to Order

Executive Director Robert Williams called the meeting to order at 1:02 p.m. Establishment of a quorum was noted by Acting Secretary Kristen Buckley. In attendance were Commissioners John Crotty, John Poklemba, Barry Sample and Todd Snyder. Commissioner Crotty was unanimously elected as presiding officer for the meeting.

2. Consideration of the Minutes from December 21, 2015

The Commission considered previously circulated draft minutes of the meeting conducted on December 21, 2015. The minutes were then accepted as circulated.

3. Report of the Executive Director

Executive Director Williams provided a brief report on the Jockey Injury Compensation Fund, the proposal by Nassau Regional Off-Track Betting Corporation to site a video lottery gaming facility at Belmont Park, the recent Powerball jackpot and a staff initiative to further research into Lasix use.

4. Rulemaking

a. Re-Proposal: SGC-39-15-00005-P, Thoroughbred Restricted Time Periods for Various Drugs

The Commission considered re-proposal of a previously proposed regulation, with amendments to reflect industry comment. Specifically, the Commission's existing rules permit the topical use of DMSO on race day. The Commission had proposed to replace this restriction with a new restricted time period limiting topical use administration to 48 hours while reducing the restricted time period for other administrations from one week to 48 hours. The new proposal will

allow topical race day DMSO administration while restricting oral and intravenous DMSO administrations to 48 hours before racing. The re-proposal will trigger new rulemaking publication and comment period.

ON A MOTION BY: Commissioner Poklemba
APPROVED: 4-0

b. **Adoption: SGC-46-15-00004-P, To Require Claimant to Indicate on Claim Form Whether Commission at Claimant's Expense Shall Test a Claimed Horse for Drug Use**

The Commission considered adoption of a proposed regulation in relation to the cost and frequency of post-race testing of claimed horses to determine whether an impermissible drug or other substance was administered to the horse.

ON A MOTION BY: Commissioner Snyder
APPROVED: 4-0

c. **Adoption: SGC-46-15-00007-P, Requirement of Specific Minimum Penalties for Certain Multiple Medication Violations**

The Commission considered adoption of a proposed regulation that would require specific minimum penalties for multiple medication violations.

ON A MOTION BY: Commissioner Sample
APPROVED: 4-0

d. **Adoption: SGC-48-15-00006-P, Per Se Thresholds and Related Rule Amendments for Cobalt, Ketoprofen, Isoflupredone and Albuterol**

The Commission considered adoption of a proposed regulation that would regulate the use of certain substances with *per se* thresholds and restricted time periods. Specifically, the proposal would add thresholds for albuterol and isoflupredone, lower the threshold for ketaprofen and establish two thresholds for cobalt.

ON A MOTION BY: Commissioner Poklemba
APPROVED: 4-0

5. Adjudications

- a. **In the Matter of Ben S. Joseph.** The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had agreed, on a 4-0 vote, to modify the Hearing Officer's recommendation, sustaining the applicant's license suspension, but conditioning his return upon not failing any random drug and alcohol testing for a period of not less than one year following reinstatement.
- b. **In the Matter of Jerome Palumbo.** The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had remanded the case to the Hearing Officer to reconsider the record in light of the appropriate standard, preponderance of the evidence.
- c. **In the Matter of Roy Sedlacek.** The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had agreed, on a 4-0 vote, to accept the Hearing Officer's recommendation.

6. Old Business/New Business

- a. **Old Business.**
 - (1) **Discussion of the Staff Report in Regard to Allegations Advanced by the People for the Ethical Treatment of Animals in Regard to the Practices of KDE Equine, LLC et al.** The Commission was provided a status report by staff on the nine regulatory measures for Commission consideration proposed in the Report. Equine Medical Director Scott Palmer and Assistant Counsel Rick Goodell outlined their communications with the racing industry regarding the proposals, the issues and concerns raised by the industry thus far and potential modifications to the proposals.
 - (2) **Use of Whip Research.** The Commission considered research regarding the use of the whip in other jurisdiction and received a presentation regard whip use from Thomas M. Kennedy of Kennedy, Jennik & Murray, who serves as outside counsel to The Jockeys' Guild, Mindy Coleman, the Guild's general counsel and Jeff Johnston, a Regional Guild Manager.

b. **New Business.** No new business was offered for discussion.

7. **Scheduling of Next Meeting**

It was announced that the next meeting date would be February 22, 2015.

8. **Adjournment**

The meeting was adjourned at 2:25 p.m.

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