

Robert Williams: This present meeting of the Commission is now called to order. Miss Secretary, will you please call the roll?

Secretary: John Crotty.

John Crotty: Here.

Secretary: Peter Moschetti.

Peter Moschetti: Here.

Secretary: John Poklemba.

John Poklemba: Here.

Secretary: Barry Sample.

Barry Sample: Here.

Secretary: Todd Snyder.

Todd Snyder: Here.

Robert Williams: Miss Secretary, please have the record reflect that a quorum of qualified members are present, thus enabling transaction of business. Given the absence of a designated Chair, would the members like to select a member for the purpose of presiding over today's meeting?

Unidentified Male: I nominate Todd Snyder.

Unidentified Male: Second.

Todd Snyder: I am honored.

Robert Williams: All in favor? Mr. Chairman.

Todd Snyder: Minutes of the Commission Meetings conducted on October 26, 2015 have been provided to the members in advance. At this time, I would like to ask the members if there are any edits, corrections, or amendments. Let me start by just saying that there is a typographical error in Item 3 on the minutes. We should correct the name of the gaming facility location.

Robert Williams: So noted.

Todd Snyder: Anybody else have corrections or concerns about the minutes? I will entertain a motion to approve.

Unidentified Male: So moved.

Todd Snyder: Second anybody?

Second.

Todd Snyder: All in favor.

All members: Approved.

Todd Snyder: Next up Rob, is the report of the Executive Director.

Robert Williams: Certainly, thank you. As you are aware, a preliminary suitability report that includes some analysis and background investigations for one of the prospective licensees and principal management staff at that project was provided for your consideration. Staff remains working on compiling and reviewing all post-selection updates for three entity applications and making additional enhancements at the suggestion and request of the Commissioners. These updates are going to include, but not be limited to, the addition or replacement of key personnel, changes to project financing structure, alternations of the design project, and more. These summaries will be additionally provided to you when they are completed. Staff continues to work on the licensing documents themselves, which will be akin to a comprehensive contract, and this material is still ongoing. Last month, Commissioner Poklemba asked for guidance on the Commission's role, if any, regarding the regulation of Daily Fantasy Sports. As I have previously communicated individually to you, the Office of the State Attorney General, subsequently announced an investigation that morphed into litigation. I think it is appropriate to allow the litigation to proceed before we publicly comment on it, but staff will be watching for any additional developments relative to this item.

I want to call it to your attention, if you missed our press release, but New York's Equine Medical Director is beginning a pilot program at Aqueduct Racetrack in Belmont Park, to screen thoroughbreds for cardiac arrhythmias with the use of a small recording device attached to a Smartphone or computer. The additional plan is to test the accuracy of the device and to build a database of horses and their electrocardiogram results, with an ultimate goal of using future screenings to determine whether a horse has a serious enough condition to warrant being scratched from a race. This program follows a report by the Equine Safety Review Board, which was headed by the Equine Medical Director and the Board's investigation into horse fatalities during the 2014 Saratoga Meet which included several from cardiac-related deaths.

There were also several meetings, since our last October meeting, that be of some interest to you. The Harry M. Zweig Fund for Equine Research conducted its annual meeting at Cornell University last week. The Zweig Fund, which receives its funding, indirectly from Racing Handle, is a pass-through from the Standardbred and Thoroughbred Breeding and Development Funds, is statutorily charged to promote equine research at the Cornell University College of Veterinary Medicine. The Zweig Fund annually solicits and reviews research grant proposals. This year, they received 11 proposals requesting over one-point-three-four-million dollars in funding, and ultimately chose to award six grants in the cumulative amount of nearly \$600,000. The Funds work is important as it provides for the study of critical issues relative to equine health and issues of significance for the racing industry.

The Commission staff also attended four events by prospective casino licensees and presented information regarding the vendor licensing process. Our discussion focused on MWBE qualification, as under traditional MWBE programs, state registration is the last step to market entrance. Here, a license will be required to work in the industry. Given this overlay of vendor licensing, we have been endeavoring to undertake a broad and continuous outreach to better enable each license applicant to meet or exceed the 30% MWBE goal, and to de-mystify the process of licensing for entities that might not have had to undergo a gaming license registration previous.

Lastly, the Responsible Play Partnership, the group that comprises representatives of the Commission, the Office of Alcohol and Substance Abuse Services, and the New York Council on Problem Gambling conducted its final “Let’s Start the Conversation” Event. Which brought regional gaming operators and problem gambling service providers together, to discuss issues and opportunities that lie ahead, given the state’s changing gambling landscape. The well-attended event took place in Queens this past week, the Responsible Play Partnership already contemplating actions for next year, so they can continue their work.

Finally, as the staff considers the upcoming calendar year 2016, I would like each of the Commissioners to take some time and consider what policy or procedural objectives you would like to see addressed this year and bring some of those ideas to staff, so that we may be able to do that. As you are aware, this past year, we started the process of reviewing Lasix is operated in New York, and we also undertook the Retired Race Horse Forum. Which were both initiatives that were brought to us. Mr. Snyder.

Todd Snyder: Yes. New York State Pari-Mutuel Wagering and Breeding Law, Section 104-19, authorizes the Commission to promulgate rules and regulations that it deems necessary to carry out its responsibilities. In that regard, the Commission will, from time-to-time, promulgate rules and rule amendments pursuant to the State Administrative Procedure Act. We have one such item for consideration today, Rob, will you outline the item for us?

Robert Williams: Yes. As Item 4-A for Commission consideration is adoption of a proposed regulation that conforms existing regulations to Legislation enacted, specifically, Chapter 258 of the Laws of 2014, allowed harness tracks to run races solely for New York bred horses, and further provides that conditions may be written for such races, “notwithstanding any preference date requirements.” The proposed rule would amend the existing rule, 4108.8 to add a new subdivision C, making the existing preference date requirements consistent with the new statute. These amendments were published in the New York State Registrar on October 7; the public comment period for this proposal closes today, November 23. Two public comments have been received so far, one suggested a more expansive approach, reaching beyond the Stakes program. The second submitted by the Empire State Harness Horsemen’s Alliance, supports the Commission in its promulgation of the rule change. Staff recommends adoption of this rule, conditioned on no substantive comment being received by the close of business today.

Commissioners, any questions on the adoption of the amendment to the existing rule regarding preferences in harness racing. No, no questions. There are no questions. May I have a motion?

So, moved.

Second.

Second.

All in favor?

All members: Agreed.

Any opposed? Motion carries.

Todd Snyder: That brings us to our adjudications. The Commission had two Hearing Officer reports for consideration today. Rob, will you please outline the first case.

Robert Williams: The first case is in the matter of Jose Lezcano. Thoroughbred jockey, Jose Lezcano was fined \$300 by the Commission Steward for violation of Commission Rules 4035.9 and 4022.21. Specifically, he was alleged to strike his mount with goggles instead of a riding crop during the fourth race at Belmont Park on June 11, 2015. Upon request, a hearing was conducted August 6, 10, and 27 of this year. The Hearing Officer also submitted a report to the Commission's acting Secretary on October 19; the Hearing Officer found that the Commission citing and fining of Mr. Lezcano was arbitrary and capricious, and was not supported by substantial evidence. The Hearing Officer recommended that the finding of a violation be rescinded and that the fine imposed be exonerated. At a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of New Public Officer's Law, Section 108.1; the Commission considered this matter.

Todd Snyder: The Commission duly deliberated, considered this matter, and determined upon a five-to-zero vote to sustain the Hearing Officer's report, and recommendations. Rob, would you please outline the second case?

Robert Williams: Yes. So the second case is in the matter of John Velazquez. Thoroughbred jockey, John Velazquez was fined \$500 by the Commission Steward on July 9, 2015 for violation of Commission Rules 4022.13, 4022.21, and 4035.9-c-1. Specifically, he was alleged to have misused his riding crop while riding in the Grade-2 Suburban Handicap at Belmont Park on July 4, 2015. Upon request, a hearing was conducted on August 27, the Hearing Officer submitted a report to the Commission's acting Secretary on October 19, the Hearing Officer found that the Commission citing and fining of Mr. Velazquez was not arbitrary and capricious and was supported by substantial evidence. The Hearing Officer recommended that the finding of a violation be sustained, and that the fine imposed remain in effect. At a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of New York Public Officer's Law Section 108.1, the Commission considered this matter.

Todd Snyder: The Commission duly deliberated and considered this matter, and determined upon a vote of five-to-zero to sustain the Hearing Officer's report and recommendations. That brings us to new and old business. The next item, I think is old business, is there any old business to consider, Rob?

Robert Williams: No, we have no old business?

Todd Snyder: Old business?

Unidentified Male: Were we not getting more info back from the localities on Lasix?

Robert Williams: We are still in the process of gathering that information. The Lasix study and utilization is still an object of continued review.

Unidentified Male: Yes, that should take some time to finish up, though, right. Those reports seem to run for a while. With the information of the market size. I just did not know if they were being helpful, do they care, Kentucky and California?

Robert Williams: With what they are doing right now?

Unidentified Male: Yes. It seems to be a controversial issue in Kentucky.

Robert Williams: And in California.

Unidentified Male: In California, a little bit, but not as much as Kentucky. You would think that perhaps they either had this or asked for it, as well.

Robert Williams: Yes, there has not been much movement since the last time we discussed the issue and I provided the state-by-state overview.

Unidentified Male: Right, okay. Do you think we will get anything from them?

Robert Williams: I do not know the answer to that.

Todd Snyder: Okay, that brings us to new business, and I think we have two items of new business. One, Rob, was that the issue of rules relating to what constitutes an appropriate crop and how it can be used in a race has come up. We would like to ask you to have the staff look at the issue, look at how that issue is handled in other venues, and report back to us with recommendations, whether we need to explore amendments to our existing rules.

Robert Williams: Okay, we will certainly do that.

Todd Snyder: The other item, as I understand it, is there is a staff report, with regard to allegations that have been made by PETA. Rob, could you outline this item for us?

Robert Williams: Yes, certainly. I would like to present to the Commission a staff report in regards to allegations advanced by the People for the Ethical Treatment of Animals, in regard to practices of KDE Equine, LLC et al. I am certain you are all aware of the People for the Ethical Treatment of Animals or PETA, sent the commission three letters, which lodged serious allegations against thoroughbred horse trainer Steven M. Asmussen, his top assistant, Scott A. Blasi and the veterinarians who perform services for KDE Equine, LLC which is the stable name used by Mr. Asmussen.

The first letter in general, requested investigation of the Asmussen stable and two veterinarians for falsely and improperly racing their horses with race-day injections of the diuretic furosemide, commonly known as Lasix. And to investigate a statement of Mr. Blasi that one of the

jockeys used by the Asmussen stable, rode with an electrical shocking device. A videotape airing these and other concerns was publicly released in proximity to the PETA letter request. The second letter asked the Commission to investigate allegations that the horse, In-A-Flash was raced in violation of the Commission rule, within 10-days of an incident in which its lungs bled internally, a condition otherwise known in racing as exercise-induced pulmonary hemorrhage. PETA also alleged that furosemide was used extensively and to enhance the race performance by the Asmussen stable, and that the stable pushed its horse too hard to race. Thus causing the bleeding in the lungs.

The final letter, received from PETA alleged that the Asmussen stable, used a medically unnecessary thyroid hormone supplement called thyroxin, creating danger of heart attacks and other health problems in horses, to improve the race performance of their horses. And administered the thyroxin in violation of the Commission rule restricting administration of any hormone within 48-hours of racing. Commission's staff investigation was comprehensive and far-reaching; it included interviews with dozens of individuals, close scrutiny of more than seven-hours of recorded video, and review of thousands of pages of material, including veterinary documents and notes. While the primary investigation was concluded months ago, the volume of materials and writings necessitated staff condense and organize the material into a practical format, with applicable conclusions.

From there, the Commission carefully formulated specific - staff carefully formulated specific regulatory recommendations to address the most serious allegations that were either brought by PETA or reviewed in context of the investigation undertaken. In short, of the 14 allegations brought by PETA, Commission staff found four of the allegations, which are not necessarily equivalent to regulatory violations, to be sustained. These were that veterinarian Joseph Migliacci allowed partially completed furosemide eligibility forms to be completed by third-parties. Trainer Steven Asmussen used a synthetic thyroxin on animals under his care; thyroxin was administered unlawfully within 48-hours of racing, and drugs, being thyroxin, were administered without evidence of medical necessity.

As mentioned, the evidence and allegations provided by PETA led staff to identify none regulatory measures for Commission consideration. With regard to furosemide, staff recommends rule proposals that would require a horse that bleeds visibly from its nostrils, should be removed from racing and placed on a veterinarians list by explicit rule. Serious EIPH episodes should be disclosed to subsequent owners, and periodic endoscopic examinations should be required for horses with significant EIPH.

With regard to metabolism, staff recommends rule proposals that would require drugs that regulate metabolism such as thyroxin, among others, should not be permitted within 30-days of racing. Possession of drugs to regulate metabolism like thyroxin, should be restricted at the racetrack. With regard to over-medication, staff recommends proposals that would require that no drug or other substance that could abnormally effect a horse, should be administered unless in the codex of reasonable good faith care of the horse. Trainers should be required to keep an administration log of the dispensed medications, veterinarians should renew prescriptions based only on their own medical judgment, and no drug may be administered except to treat a diagnosed medical disorder or as a generally accepted preventative medical practice.

We understand at the staff level, that several of these recommendations may be controversial to the potentially regulated parties, thus staff requests that the Commission allow the nine recommendations to be released, to receive comment in advance of rule making consideration. This

will get the various proposals out to the potentially affected parties more quickly, which should allow a refinement of the draft's before formal rule making is considered by this Commission.

Todd Snyder: So I think we all should get a chance to review the report, so that we can read it, and take it under advisement. Unless anyone has an objection, it seems appropriate to let the Commission go ahead and put the rules out for public comment. I think we should schedule a follow-up discussion for our next meeting, if that meets with the other Commissioner's approval? We can address any need for further consideration at that time.

Robert Williams: I presume if we get the rules out before the proposal comment, we will have some backup materials to discuss at the next meeting.

Unidentified Male: Do you think we could have Dr. Palmer present for that, so he could then address some of the issues with respect to the veterinarian?

Todd Snyder: Sure, Dr. Palmer is on the phone right now. Scott, are you available at our next meeting? At least we thought he was.

Scott Palmer: Yes, I am.

Todd Snyder: Yes. That deals with the issue for now. Does anyone have other new business for consideration? No, I do not have anything. Staffing issues, for later on. Any old business? Hearing none. The next meeting is scheduled for December 28, please advise Miss Buckley of your availability.

Unidentified Male: Christmas is two days before that.

Todd Snyder: We want to get it in between Christmas and New Years, if we can.

Unidentified Male: Okay.

Todd Snyder: Whatever plans you have _____ [00:20:32] Christen has told me, I am to say it is the 28.

Unidentified Male: Is that a Monday?

Robert Williams: It is a Monday.

Todd Snyder: Our traditional meeting date is the fourth Monday of each month.

Unidentified Male: We can all make a round of calls. But, we will all advise Christen about our availability.

Todd Snyder: That concludes today's published agenda. Do any of the Commissioners have other items they would like to present for consideration? Hearing none -

Unidentified Male: Before we conclude, if we do not meet again in two weeks or three weeks, you would be looking, well after the first of the year, right.

Robert Williams: We are actually subject to call whenever you would like. We have traditionally chosen the fourth Monday.

Unidentified Male: I understand that.

Unidentified Male: Are you talking about something between Thanksgiving and Christmas?

Unidentified Male: Yes, if you do not do it then, you would be doing five or six weeks, or later.

Unidentified Male: I think we can push it out.

Todd Snyder: That is what I am saying, unless there is urgent business coming up in the next 21 days, we can take a look at '16 now anyways. We could do it on the phone; it is to what day is appropriate.

Robert Williams: Are you saying the 28th is not something you are interested in?

Unidentified Male: Well, I will not be here. Then your option is to go earlier or later and later would make sense unless there is something urgent in the next 21 days.

Todd Snyder: Let us ask Miss Buckley to look at some dates in the first couple of weeks of January and see what we can do. Is that a no?

Unidentified Male: No, that is fine.

Todd Snyder: Okay, sounds good. I think that covers the published agenda. If none of you have additional business for consideration, I think we can adjourn the Committee, the Commission.

Unidentified Male: Thank you, Mr. Chairman.

Unidentified Male: Well, done, Mr. Chairman.