



NORTH DAKOTA RACING COMMISSION

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Winston E. Satran

Director of Racing

Helen Tessmann

Administrative Staff Officer

NORTH DAKOTA RACING COMMISSION

Live and Telephone Meeting

Best Western Ramkota Hotel, 800 S 3rd Street, Lower Level, Heart Room, Bismarck, ND

Friday, February 15th, 2013 – 10:30 a.m. (central time)

Minutes

Present: Chairman Jim Ozbun, Commissioner Andy Maragos, Commissioner Steve Hartman, Commissioner Tom Senftner, Commissioner Ray Trottier, Director Winston Satran, Legal Counsel Edward Erickson and Administrative Staff Officer Helen Tessmann.

Others Present: L.J. Harsche, Leon Glasser, John Bubel, Ron Klein, Pete Davis, Robert Herman, Doug DeMontigny, Blaine DeCoteau, Mike Cichy, Cris McConnell, Mike Schmitz, Wes Heinert, Jad Breiner, Devron Leingang, Scott Horst, Arlie Roller, Ken Olson, Avery Erfle, David Bernsen, Ralph Buchholz, Richard Nevins and Robert Earle.

Call to Order: Chairman Jim Ozbun called the meeting to order at 10:35 a.m.

Chairman Ozbun asked if there were any additions or corrections to the agenda and if none asked for a motion to approve the agenda.

A motion was made by Commissioner Maragos and seconded by Commissioner Senftner to accept the agenda as presented. All Commissioners voted aye and hearing no negative vote the motion passed.

AGENDA

1. **Introduction of Edward Erickson, Assistant Attorney General**
2. **Approval of Minutes – November 29, 2012 Meeting**
3. **New Service Provider & Account Deposit Wagering – License Application**
 - 123Gaming, Inc.
4. **Director's Reports**
 - a. **2013 Legislative Issues**
 - ND Racing Commission Bills - HB1068, SB 2023
 - HB 1246 (Informational only)
 - b. **Information provided by Jim Fleming Trainer and Karen Glasser, Owner**
 - c. **Request by SocialGaming to allow substitute electronic data for paper storage**
 - d. **Canterbury Park Report**
 - e. **SocialGaming and eBets – kiosk placement in North Dakota**
5. **Outdoor Recreation Development Association - 2012 Race Meet Financial Report**
6. **Horse Race ND – Status of Financial Obligations**
 - a. **City of Fargo – TIF repayment**
 - b. **Economic Development – loan repayment**
7. **Breeders' Fund 2012 Distribution of Awards**
 - a. **Review Procedures**
 - b. **Adjustments in payments**

8. **Purse Fund Applications – 2013 Grant Requests = \$ 464,500**
 - a. ORDA \$ 192,000
 - b. ORDA – Grassroots Races \$ 2,500
 - c. Horse Race North Dakota \$ 220,000
 - d. ND Quarter Horse Racing Association \$ 25,000
 - e. ND Thoroughbred Association \$ 10,000
 - f. ND TOBA \$ 15,000
9. **Promotion Fund Applications – 2013 Grant Requests = \$ 487,550**
 - a. ORDA \$ 174,550
 - b. ORDA – Grassroots Races \$ 2,500
 - c. Horse Race North Dakota \$ 300,000
 - d. ND Quarter Horse Racing Association \$ 3,000
 - e. ND Thoroughbred Association \$ 5,000
 - f. ND TOBA \$ 2,500
10. **ND Horsemen's Council Issues or Recommendations**
11. **Any other business which may PROPERLY come before the commission**
12. **Adjournment**

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1. **Introduction of Edward Erickson, Assistant Attorney General**
(See below after agenda item #3.)

2. **Approval of Minutes – November 29, 2012 Meeting**
Previously, all Commissioners had received a copy of the minutes to review.

Chairman Ozbun noted that there was an error under agenda item # 13c regarding the late registration fee schedule for Year 2. To correct the wordage from "of the year of foaling" to "of the year following".

A motion was made by Commissioner Senftner and seconded by Commissioner Hartman to accept the minutes of November 29th, 2012 meeting as corrected. All Commissioners voted aye and hearing no negative vote the motion passed.

3. **New Service Provider & Account Deposit Wagering – License Application**
- 123Gaming, Inc.

Mr. Robert Earle, CEO, of 123Gaming, Inc. presented their Service Provider & Account Deposit Wagering license application. After the presentation, questions were asked by the Commissioners and answered by Mr. Earle. Director Satran recommended granting a license to 123Gaming, Inc.

Included in the license application was a tournament style wager. Mr. Earle gave a description of the tournament style wager they will be implementing if their license and the wager are approved.

A motion was made by Commissioner Maragos and seconded by Commissioner Trottier to approve the Service Provider & Account Deposit Wagering license application for 123Gaming, Inc. Maragos-Y, Trottier-Y, Hartman-Y, Senftner-Y, and Ozbun-Y. Motion passed.

Chairman Ozbun thanked Mr. Earle for coming to North Dakota and stated that the Commission looks forward to working with him and 123Gaming in the future.

1. **Introduction of Edward Erickson, Assistant Attorney General**

Chairman Ozbun introduced and welcomed Mr. Edward Erickson from the ND Attorney General's Office as the newly assigned Legal Counsel to the ND Racing Commission. Mr. Erickson replaces Mr. Bill Peterson who recently retired. Mr. Erickson mentioned he volunteered for this new assignment.

4. **Director's Reports**

a. 2013 Legislative Issues

ND Racing Commission Bills - HB1068, SB 2023
HB 1246 (Informational only)

Director Satran reported on the legislative actions regarding two bills which affect the Racing Commission: the Senate Bill 2023 is the budget appropriations bill and the House Bill 1068 is the tax bill which expires June 30 of this year and had to be revised. Both bills will keep the Racing Commission moving forward in a positive direction.

HB 1246 is more information relating to occupational and professional licensure of military spouses.

c. Request by SocialGaming to allow substitute electronic data for paper storage

Director Satran stated he had received a request by SocialGaming for approval to store their records electronically versus paper storage. SocialGaming with headquarters in Seattle will be storing their records out of state as other companies store their records on sites in state available for inspection.

A motion was made by Commissioner Maragos and seconded by Commissioner Trottier to give permission to SocialGaming to store their records electronically rather than paper storage. Maragos-Y, Trottier-Y, Hartman-Y, Senftner-Y, and Ozbun-Y. Motion passed.

d. Canterbury Park Report

Director Satran reported that the interest by Canterbury Park still continues and Steve Erban has been here to make an assessment of what Canterbury Park could actually do in North Dakota. On February 20th Mr. Erban presents his findings to his Board of Directors.

e. SocialGaming and eBets – kiosk placement in North Dakota

Director Satran reported on the in state kiosk placement by SocialGaming with currently ten locations. He also reported that eBets is also interested in placing kiosks and will report their decision to the Commission at a later date.

b. Information provided by Jim Fleming Trainer and Karen Glasser, Owner

Director Satran reported that at the last meeting a decision had been made regarding Jim Fleming and Karen Glasser. Commissioner Maragos had made a motion at that meeting that the owner not be awarded the purse. The Director had made a different recommendation.

Director Satran had since continued more research on the web site of Racing Medications and Testing Consortium on 338 rulings, including all race tracks, for 2010-2012. Director Satran gave a summary of rulings and fines placed on these rulings. This information was given to Legal Counsel Bill Peterson and the Commissioners.

Director Satran read Mr. Peterson's recommendation. "I agree that the Commission should reconsider initiating a disciplinary action against Ms. Glasser for the same reasons set forth by the Director. An additional fact, which is important to the information provided by the Director, is that the fines imposed in other jurisdictions are against trainers, not owners."

Director Satran agrees with Legal Counsel's recommendation to reconsider the action taken at the last meeting against Ms. Glasser.

A motion was made by Commissioner Maragos and seconded by Commissioner Hartman to rescind the action taken to not allow awarding the purse money to Ms. Glasser. Maragos-Y, Hartman-Y, Senftner-Y, Trottier-Y, and Ozbun-Y. Motion passed.

A motion was made by Commissioner Hartman and seconded by Commissioner Maragos to allow Ms. Glasser the purse money. Hartman-Y, Maragos-Y, Senftner-Y, Trottier-Y, and Ozbun-Y. Motion passed.

Commissioner Maragos left the meeting at 1:35 p.m.

5. Outdoor Recreation Development Association - 2012 Race Meet Financial Report

Director Satran handed out and read the Outdoor Recreation Development Association 2012 Race Meet financial report which was received on February 14th. Pete Davis for ORDA and Director Satran both reported on the strong community support given in volunteering for the 2012 race meet. Commissioner Senftner suggested that in the future Outdoor Recreation Development Association submit their report in a timelier manner.

6. Horse Race ND – Status of Financial Obligations

- a. City of Fargo – TIF repayment
- b. Economic Development – loan repayment

Wes Heinert, President of Horse Race ND reported that HRND is committed to paying the obligation of the TIF but they have never received a bill. He added that they do not know what amount is owed by ND Horse Park Foundation and what amount is owed by Horse Race ND.

Director Satran stressed how serious this matter is and to get it resolved soon. He added that this spring a meeting needs to occur between Horse Race ND, ND Horse Park Foundation, the city of Fargo and the ND Racing Commission.

Wes stated the total from Economic Development was \$250,000 which is a low interest loan. He said again they have never received a bill.

Chairman Ozbun asked Mr. Heinert if the information he just provided was in a written report. Mr. Heinert said it was not but that he could provide one in the next few days.

Commissioner Senftner asked Mr. Heinert to arrange a meeting for Horse Race ND and the ND Horse Park Foundation. Wes said he would report back to the Commission at the next meeting and added that ND Horse Park Foundation has no means to any revenue to pay their obligation.

At 11:50 a.m. a break was taken with the meeting reconvening at 12:02 p.m.

7. Breeders' Fund 2012 Distribution of Awards

- a. Review Procedures
- b. Adjustments in payments

Director Satran presented the MCC Services' administrator's report on payment adjustments to the 2012 Breeders' Awards. These adjustments were due to clerical errors, allowing unregistered horses in ND bred races and failure to report race results to Equibase which resulted in unpaid awards. Director Satran read each correction that needed to be made.

- a. Runner, Such A Silk Coat, was listed as "Not in Fund" for June 10, 2012, Race #3 for a Win. Records indicated that the runner was owned by John Bubel. Leo Herman provided transfer records on January 2, 2013.
 - Award to Leo Herman, Runner Owner, Such A Silk Coat = \$ 785.05
 - Award to John Bubel, Stallion Owner, Such Easy Cash = \$ 130.84
 - Award to John Bubel, Mare Owner, Southern Silk Coat = \$ 392.52

- b. Error in marking as Not in Fund.
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|---|-------------|
| Award to John Bubel, Owner, Such Easy Memories | = \$ 314.02 |
| Award to John Bubel, Stallion Owner, Such Easy Cash | = \$ 52.34 |
| Award to John Bubel, Mare Owner, Memories Jet | = \$ 157.00 |
- c. Missed Races for July 21, 2012. The last four races were not included; therefore some winners did not receive their breed fund awards on December 31, 2012.
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| Award to David Harsche, Runner Owner, Eyesa LaJolla | = \$ 549.54 |
| Award to David Harsche, Mare Owner, Lady LaJolla | = \$ 235.52 |
| Award to David Wisdom, Runner Owner, Outlaw Memories | = \$ 915.89 |
| Award to Mary Kautzman, Mare Owner, Miss Speedy Memories | = \$ 392.52 |
- d. Same as above, plus races in Belcourt were missed as marked Not in Fund.
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| Award to David Wisdom, Runner Owner, Checkin Her Out | = \$3,297.21 |
| Award to David Wisdom, Mare Owner, Royal Wild Time | = \$1,413.08 |
| Award to David Wisdom, Runner Owner, Mr. Zoomin Away | = \$ 549.54 |
| Award to David Wisdom, Mare Owner, Break Away Note | = \$ 235.52 |
| Award to Doug DeMontigny, Runner Owner, Speed News | = \$ 366.35 |
| Award to Doug DeMontigny, Mare Owner, Gamble On Speed | = \$ 157.00 |
- e. Nurse Jackie was marked as Not in Fund.
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| Award to Roger Erfle, Runner Owner, Nurse Jackie | = \$ 549.54 |
| Award to Roger Erfle, Mare Owner, Ekala | = \$ 235.52 |
- f. Striking Stride was marked Not in Fund.
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| Award to Doug Plummer, Runner Owner, Striking Stride | = \$ 366.35 |
| Award to Doug Plummer, Mare Owner, PRC Stride Ahead | = \$ 157.00 |
- g. Dis Jets A Cash was marked Not in Fund.
- After review of the Steward's records and rulings, it was found that No. 4 Streakin Butkus was disqualified due to overage of clenbuterol. This disqualification moved No. 6 MF Moonlit Cat into 1st place, No. 5 Dis Jets A Cash into 2nd, and No. 7 G Town City into 3rd place.
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| Award to Doug Plummer, Runner Owner, Dis Jets A Cash | = \$1,099.07 |
| Award to John Bubel, Stallion Owner, Such Easy Cash | = \$ 183.18 |
| Award to Doug Plummer, Mare Owner, Dis Jets A Puff | = \$ 549.52 |
- h. MF Moonlit Cat was marked Not in Fund.
- | | |
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| Award to Deb Quarne, Runner Owner, MF Moonlit Cat | = \$ 785.05 |
| Award to Deb Quarne, Stallion Owner, Category Five | = \$ 130.84 |
| Award to Deb Quarne, Mare Owner, Moonlight Madam | = \$ 392.52 |
- i. Races #8 and #9 not included on July 15, 2012.
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| Award to Rick Buchholz, Runner Owner, Buckorama | = \$ 549.54 |
| Award to Rick Buchholz, Mare Owner, Buckorama | = \$ 235.52 |

A motion was made by Commissioner Senftner and seconded by Commissioner Trottier to approve funding from the Breeders' Fund for payment of corrections for the 2012 Breeders' Awards. Senftner-Y, Trottier-Y, Hartman-Y, and Ozbun-Y. (Maragos-Absent). Motion passed.

Director Satran gave examples of problems when horses are entered in races at the race meet. He stressed we need every horse owner to be very honest, as humanly possible, when entering horses in a race. This upgrades

racing in North Dakota. Director Satran explained that the horse ownership problems, when entering a horse in a race, in the end affects the end result of the breeders' awards.

Director Satran recommended that the Robert Herman case and the Randy Schwartz case be assigned to Legal Counsel for exploration and review.

A motion was made by Commissioner Senftner and seconded by Commissioner Hartman to request a review by the Racing Commission's Assistant Attorney General for the Robert Herman case and the Randal Schwartz case. Senftner-Y, Hartman-Y, Trottier-Y, and Ozbun-Y. (Maragos-Absent). Motion passed.

A motion was made by Commissioner Trottier and seconded by Commissioner Hartman to approve, from the Breeders' Fund, the monetary awards in the amount suggested for each individual as presented in the Administrator's report. Trottier-Y, Hartman-Y, Senftner-Y, and Ozbun-Y. (Maragos-Absent.) Motion passed.

Commissioner Senftner asked a question if anyone besides the trainer can enter a horse in a race in regards to the trainer Doug Delorme and Leigh Backhaus and the horse, Eighteen Below. Pete Davis explained track procedures for entering a horse. Director Satran added that the trainer was told by the Racing Secretary that he could enter the horse.

A motion was made by Commissioner Senftner and seconded by Commissioner Trottier to approve funding of the award to Leigh Backhaus. Senftner-Y, Trottier-Y, Hartman-Y, and Ozbun-Y. (Maragos-Absent.) Motion passed.

Director Satran stated he and the Breeders' Registry Administrator have reviewed all the regulations and will send out a checklist to all the horsemen in North Dakota on how to register a Broodmare, how to register a Stallion and how to register a Foal. She will also develop checklists to be used in her office on requirements when a horse is registered. A letter will be sent out to the horsemen in the next thirty days.

8. <u>Purse Fund Applications – 2013 Grant Requests = \$ 464,500</u>	
a. <u>ORDA</u>	\$ 192,000
b. <u>ORDA – Grassroots Races</u>	\$ 2,500
c. <u>Horse Race North Dakota</u>	\$ 220,000
d. <u>ND Quarter Horse Racing Association</u>	\$ 25,000
e. <u>ND Thoroughbred Association</u>	\$ 10,000
f. <u>ND TOBA</u>	\$ 15,000

Director Satran reported that at the end of January \$183,773.11 was in the Purse Fund and in the Promotion Fund was \$149,684.21.

Director Satran recommended awarding ORDA \$142,000 the same as 2012 from the Purse Fund and to delay the award to Fargo until the first couple weeks in May to give the Purse Fund a chance to grow and then possibly have \$85,773 for Fargo. He also recommended delaying the ORDA – Grassroots Races, Horse Race ND, ND Quarter Horse Racing Association, ND Thoroughbred Association and ND TOBA requests [to see what the Purse Fund balance is May 1st].

A motion was made by Commissioner Trottier and seconded by Commissioner Hartman to approve awarding \$142,000 from the Purse Fund to ORDA. Trottier-Y, Hartman-Y, Senftner-Y and Ozbun-Y. (Maragos-Absent.) Motion passed.

9. <u>Promotion Fund Applications – 2013 Grant Requests = \$ 487,550</u>	
a. <u>ORDA</u>	\$ 174,550
b. <u>ORDA – Grassroots Races</u>	\$ 2,500
c. <u>Horse Race North Dakota</u>	\$ 300,000
d. <u>ND Quarter Horse Racing Association</u>	\$ 3,000
e. <u>ND Thoroughbred Association</u>	\$ 5,000
f. <u>ND TOBA</u>	\$ 2,500

Director Satran reported that the current balance, at the end of January, for the Promotion Fund was \$149,684.21. He recommended awarding ORDA \$88,000 and Horse Race ND \$61,684.

A motion was made by Commissioner Senftner and seconded by Commissioner Trottier to award ORDA \$88,000 and Horse Race ND \$61,684 from the Promotion Fund. Senftner-Y, Trottier-Y, Hartman-Y and Ozbun-Y. (Maragos-Absent.) Motion passed.

Director Satran recommended delaying the Promotion Fund applications from the ND Quarter Horse Racing Association, ND Thoroughbred Association and the ND TOBA.

A motion was made by Commissioner Hartman and seconded by Commissioner Trottier to delay action on the remainder Promotion Fund applications until the next Commission meeting in May. Hartman-Y, Trottier-Y, Senftner-Y, and Ozbun-Y. (Maragos-Absent.) Motion passed.

10. **ND Horsemen's Council Issues or Recommendations**

No report given. They are in the process of setting up a meeting.

11. **Any other business which may PROPERLY come before the commission**

No other business.

12. **Adjournment**

Chairman Ozbun requested the meeting be adjourned.

A motion was made by Commissioner Senftner and was seconded by Commissioner Trottier to adjourn the meeting. All Commissioners voted aye and hearing no negative vote the motion passed.

Meeting was adjourned at 1:41 p.m.