



NORTH DAKOTA RACING COMMISSION

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Director of Racing

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NORTH DAKOTA RACING COMMISSION

Live and Telephone Meeting

Bismarck Public Library

515 North 5th Street, Lower Level, Room A, Bismarck, ND

July 11, 2013 – 11:00 AM, Central Time

AGENDA

1. **Approval of Additional Race Day – July 19, 2013 - for Horse Race North Dakota**
2. **Promotion and Purse Funds to Horse Race North Dakota**
3. **Investigation into Tattooing Services Provided in 2012 by Wayne Epstein**
4. **Agreement Between Horse Race North Dakota and The North Dakota Horse Park Foundation**
5. **Modification of Licensing Rules for General Partnerships, Limited Partnerships, and Business Corporations for the 2013 Race Season**
6. **Amendment to Meeting Minutes of May 7, 2013 Commission Meeting**

Present: Chairman, Jim Ozburn; Commissioner Steve Hartman; Commissioner Andy Maragos; Commissioner Tom Senftner; Commissioner Ray Trottier; Director Gunner laCour; Legal Counsel Edward Erickson and Administrative Staff Officer Helen Tessmann.

Others Present: Dave Thompson, Prairie Public Radio; Mike Cichy, HRND; Scott A. Horst, NDTA; L.J. Harsche, ND TOBA; Leon A. Glass, NDQHRA; Patrick E. Carpentier, HRND-Fair Circuit; Richard Nevins, HRND-Fair Circuit; Chris McConnell, HRND; Wayne Epstein, AQHA & Personal; John Bubel, HRND – Fair Circuit; Mike Schmitz, Volunteer for HRND; Wes Heinert, Vice President, HRND; Diane Carpentier, Horse Owner; Doug Plummer (not on attendance log but did speak during meeting).

Helen: This is a tape recording of the North Dakota Racing Commission live and telephone meeting at the Bismarck Public Library, 515 North 5th Street, Lower Level, Room A, in Bismarck, ND, on July 11, 2013, at 11 a.m. Central time.

Ozbun: If everyone would have a chair we would get the meeting under control. Thank you. Let me call the meeting to order. A couple of items to start with, first of all, this is Gunner laCour up here. He is our new Executive Director, been on board now for one month about, a little over, and doing a good job for us so welcome to Gunner. You'll all have a chance to get to know him through the meeting and as we move into the future. The second announcement is that Helen is going to be retiring. I don't know how long she has been planning this retirement but at any rate she is planning to retire and she will be with

us until mid-September about so she will still be with us at our next meeting and at that time we'll plan a little retirement event for her, so thanks Helen for all you've done for racing in North Dakota and best wishes to you as you move into your future endeavors.

Helen: You're welcome. Thank you.

Ozbun: She's going to spend more time back on the farm I think. Maybe she's going to start driving tractor I don't know.

Helen: Oh, again? It's that John Deere combine I'm looking at.

Ozbun: A couple of rules for this particular meeting and for future meetings for that matter. As we tried to take minutes from our last meeting the recordings were kind of jumbled and mumbled so what we are going to do is if you want to have something to say, come up to the podium and be recognized and speak up and introduce yourself and say your name and maybe who you represent and that way we will have a better record of the meeting than what we had at our last meeting. So with that I'll ask Helen to call roll and we'll move on.

Helen: Commissioner Maragos? Maragos: Here.

Helen: Commissioner Senftner? Senftner: Yes.

Helen: Chairman Ozbun? Ozbun: Here.

Helen: And of course we have the Director, and then Commissioner Ray Trottier? Trottier: Here.

Helen: And Commissioner Steve Hartman? Hartman: Yes.

Ozbun: Thank you. To start out the meeting, I'm going to ask Gunner to make a few comments about how the Belcourt races turned out.

Gunner: I think Belcourt went very well. We had so far (indiscernible) but we had positive tests, we had good attendance I believe it seemed like it was at least on par with previous years from what I'm told. Good horses, races were filled easily. Overall the management of it seemed to go fairly well. Really I can't say that I have too many complaints about what happened. And I'll have a more comprehensive report when we get to August when we are going to deal with everything from Fargo and from Belcourt.

Ozbun: Thanks Gunner. We'll move on with the agenda. The first agenda item is approval of race days for Fargo. But before we do that I would ask some representative from the Fargo group to come up and report on the status and how you're coming along with the agreements we need and so on. Is that going to be you Chris?

McConnell: Yes. I'm Chris McConnell Horse Race ND. If you want to start with the agreements, that's the first thing you had mentioned. The two items that we needed to furnish was from MOC insurance (indiscernible) policy sent them by email just today that was for the MOC insurance that's what we were waiting on. Gunner, I believe I did also forward you our Trident Services their 2013 race dates addendum? Did you get that?

Gunner: I have not gotten the addendum to that. So, I've got 2012 for Trident but I don't have the item that would make it final.

McConnell: I had gotten that yesterday and I thought I had forwarded it to you. I do have copies here with me today also on that. All of the other agreements basically are in order, Amtote, Trident Services, our insurance, god there's so many, Racing Services TruForm Racing Services, F-M Fargo Moorhead Ambulance Service, like I said I don't have the whole list in front of me but those were the only two things that you were awaiting for to finish up on the agreements.

Gunner: Ya, we need the officials list. You were revising that to have a different paddock judge and steward. I don't know if you've found anybody for that.

McConnell: At the moment I'd like to offer my name for that position if I may.

Maragos: For which position?

McConnell: For the paddock judge, until, as such, I mean

Gunner: Aren't you going to be managing?

McConnell: I'll be doing a little running around. But I'll be in the paddock area anyway during race day. I mean

Gunner: I have had a suggestion

Unknown: (indiscernible)

Ozbun: If you're going to speak we need to hear you so we can record it.

McConnell: OK Richard Nevins had just spoken to Pat about, I didn't know that was about being a paddock judge, so we'd like to put Pat's name forward..

Gunner: Ok, I don't know Pat. But do you have any, can you just tell me something brief about him?

McConnell: Well I'd rather, like I said, I know that he's with Fair Circuit and Horse Race ND and stuff, I mean he would be the best one to speak about that.

Maragos: So what does that fall under – officials?

McConnell: Officials.

Maragos: And how many other officials are we looking at?

Gunner: That should finalize it.

McConnell: Yes sir.

Ozbun: Pat, what's your last name?

Carpentier: Carpentier.

Ozbun: All right.

Carpentier: I think we know each other.

Ozbun: Ya.

Carpentier: I was with NDSU Extension Service for 50 years, McLean County extension agent, I was up in Ward County for awhile and over at Griggs County, and since then I've retired and we've been running horses I suppose for 30 years.

Gunner: Okay.

Ozbun: Thank you.

Carpentier: Ya.

Gunner: Do you have any questions?

Carpentier: No.

Gunner: Okay there was one thing, Smallerz, the steward Smallerz?

McConnell: Yes, Kevin.

Gunner: I was just looking for a brief background on that. Just because I didn't know him and he hasn't contacted me.

McConnell: Ya.

Gunner: So if you could just have him contact me and talk to me briefly then we will be done with that.

(0:08:16)

McConnell: Will do. Well where we are with the track there was as you know just having a track start up after a year you know there is a lot to do. However most of the stuff that was done in the previous year bringing up the track, I've been in the coverall several times, it basically all it needs is a dust and a wipe down and cleaning on the inside itself. Everything is basically working, water, electrical, we checked those, we haven't checked the internet, that's been turned on, phones are working. So everything, like so the cover all just basically needs to be opened and wiped down and cleaned. As far as the grounds itself there was concern about the cutting. There was a company, SRT, that was engaged by Jad Breiner and they've started cutting. They were out there last night still cutting and finishing up so they're going to cut down the taller grass, remove it, and then they are going to use smaller mowers to finish up. They were out there last night and we expect them to be out there again today for the grass. In regards to the track, I had spoken to Ken Pawluk a couple weeks ago. He pointed out some areas that needed to be repaired.

Jad knows about those areas and spoke to Glen Thompson about trying to make a permanent fix to one of the water erosion areas where the horses come across the track and go to the infield. It seems to be all the time an erosion problem, so Glen is working on a fix for that. But those patches will be done as well as the rail repairs. Ken had said that they would take care of the rail repairs and Glen Thompson is going to be working on the rail repairs. There was only two major, one was a support that was damaged and another one had a kink on one of the rails. So those were the two main points that needed to be repaired. Everything else was just minor on the rail repair. The track itself, Northern Improvement will be out on Monday and that was requested by

Gunner: the Foundation and we're going to talk about that later.

McConnell: Okay but that's what I'm saying. Okay so that date for Monday was the earliest that the Foundation could get them in. That was what we were told on that. So that's why if you went to the track right now there's nothing done to it just yet. On Monday afternoon all the tractors and to work on the track will be in place. Jad said he has friends, two people from the crew that will be working on the track. I have their full names on another pad and I can provide that to you. These were people who worked last year on the track meaning they are acquainted with the track, they know what needs to be done for the track to bring it back. Those are really like I said the two main things. Our plan is starting tomorrow again we will be accepting horses into the NDSU barns so we'll be of that, and then training will start on Tuesday, Tuesday morning at 7. Our plan is this Friday, Saturday, and Sunday we have a number of people coming in to again work on the trailers, clean them out, get them ready, stocked up, whatever they need, as well as cleaning the interior of the cover all. Arranging for the gazebos, we had some repairs to be made on some of the gazebos. I mentioned that to Jad that we have to get not just baling wire but just a couple of metal supports that probably need to be welded or something like that. And then he will start putting up the awnings later on in the week. We don't want to have a lot of wind and possible damage that way so the gazebos and the rest of that type of thing, tables and chairs, will be put out properly on Wednesday that will be completed. Mike Cichy is here. We're training, working on getting tellers from last year. There is going to be some training and then there will be some tellers that need to be licensed. We'll be doing that on Thursday and again I think it was after 1 o'clock, is that correct?

Gunner: We'll be there Wednesday actually.

McConnell: Oh you'll be there Wednesday.

Gunner: Ya. We'll be setting up probably about 1 but after I'd say 2 we should be able to license.

McConnell: Okay. There are two other agreements basically and its basically the Dempsey's will do the alcohol and soda and then Petrosis for the food. Trying to go back to (indiscernible). With Dempsey's we finalized everything, we signed it, I signed it, and I got to have the owner sign it and then on Saturday we're getting the final signature from Petrosis to prove that they're all set up and they've satisfied what we're looking for, health permits and who's doing what, how many people, and all that kind of stuff.

Senftner: Are those the same companies you had last year?

McConnell: Yes.

Senftner: They did a good job.

McConnell: Like I said we went to them directly we didn't talk to anyone else initially this year because like I said everyone thought they did a good job. So it's not a lot it's almost duplicate what you did last year but let's go through everything because I didn't see the agreements or anything from last year. It's do you have this covered and this covered and this covered, so we'll have those

Gunner: The fire and electrical inspection you were waiting on because you were doing repairs to the cover all?

McConnell: Ya we're doing repairs. I do believe one thing we did not do is test the outlets in the cover all building yet. So what we're going to do is once we test the outlets to see if anything needs to be repaired which Jad said we don't expect any problems with the electrical, we're going to have the fire permit and we'll also do the fire extinguishers for the whole facility to make sure they're all up to code and stuff like that. So the fire inspection itself will be done after we just double check make sure electrical is all up and if there is any repairs that need to be done

Gunner: And when is that going to be done?

McConnell: That will probably be done on Wednesday. It depends on if we can get them out, I'd like to have them, because we have to check on everything and do the repairs, so what I'm saying is by Wednesday we can have the final inspection and fire extinguishers and fire service also

Ozbun: What's been done on promotion?

McConnell: On promotion we've done some local posters, I know Brian (indiscernible) was working on the media, we're working on the media thing that was going to come out this week to the local media to promote the track. We're working on I believe, Mike are we going to have the media event this Wednesday? This is Mike Schmitz, he's been working on marketing so he can also expand on that.

Schmitz: I'm Mike. I'm the lead volunteer for this group the last two years. I'm working with the two media partners that we worked with last year, Great Pains Media and Radio Fargo-Moorhead replicating the ads that we did as far as the cash what we purchased and then what we traded with them so basically they're getting double our money for what they spent which is pretty awesome. We have (indiscernible) schedules we made over 10,000 that are out throughout the community, posters you know talking about the different events. Thursday we're going have a media day invite from all over from your weekly magazines your monthly magazines to your radio, tv, paper, there's a lot of different things. We're working on the social media aspect, facebook, twitter, let people know about the different events. Sunday I'm doing the mascot race again which was a huge success last year. We got a couple of other things, giveaways and stuff for kids on Sunday. Sunday is family day so as far as that thing's concerned I think it's going to replicate the success that it was last year.

Maragos: So Mike pretty much you're going to run the same format this year as you did last year and created such a success?

Schmitz: Ya the little resources we had we got the most bang for our buck so

Maragos: Good.

McConnell: We're also working with AQHA just for on the bonus day. We're going to run basically a simple promotion for a free promotion for people who come in and buy a ticket give them a chance to win a AQHA hat we'll give away about 50 hats and stuff but it gives them an opportunity to receive something back from the track.

Ozbun: You really had good coverage last year in the Forum. Has somebody followed up with the Forum?

McConnell: Brian had worked, was talking with the Forum, Brian (indiscernible) he's working with the media. I will double check

Schmitz: We're already in contact with those same players a lot of those guys, Wendy, Glen, some of the people who had great access last year you know bring out some of those stories last year like Tiffany Mossett, the jockey, you know I made sure to get Glen set up with her, so all those players last year that were there and helped shine that light on Fargo (indiscernible) invited to come out Thursday and kind of give them all access to everything. Radio's going right now but all those people last year that we were on contact with they're (indiscernible)

Senftner: Good. I got a question.

McConnell: Yes sir.

Senftner: Has anyone contacted like Midcontinent cable?

McConnell: Now I went to Cable One initially for a sponsorship deal. I was talking to the marketing people there. They weren't interested in any for a sponsorship.

Senftner: Okay.

McConnell: They felt that it wasn't a big enough bang for their buck and stuff like that.

Senftner: The reason why I asked that is because they'll go to these small Class B towns and televise a football game or basketball game. Would they be interested in doing one day at the track?

McConnell: I'll find out

Schmitz: That's a good idea actually. (indiscernible) I'll contact someone and see you know even if it's a preview or not a preview but a post meet wrap up with interviews and stuff (indiscernible)

McConnell: We're also working with Trident to get like a feature race of the day as soon as it's done for the next day to again present it to the tv video media.

Senftner: I think that'd be great.

McConnell: Ya.

Ozbun: Any further questions for Chris?

Senftner: I did see one email I think about a concern. I don't know if it was the barn or the track that last year it wasn't left in the state that it was when we started.

Gunner: It's the agreement between the Foundation and Horse Race North Dakota that I was trying that I just passed along that the Foundation wanted to put in place some kind of agreement with them to return the facilities to the same state they were in when they got it and for some of the proceeds from our barn. I suggested a reciprocal indemnity agreement just to keep everybody safe, and I know that Chris actually took the initiative and put that together because he was having a hard time getting with Ken and I don't know if you've gotten any feedback from Ken.

McConnell: No I haven't, I know he's traveling. Initially I had wanted Ken to do it. Again all the points that he mentioned including cleaning and stuff like that we all basically agreed to but if it was coming from them I wanted them to generate the agreement. When Ken didn't generate the agreement and we went back and forth, we created based upon the bullet points that I spoke with Ken about, again this included cleaning and stuff like that, with revenue share. All the things that Ken had we had written five bullet points so we took care of in that agreement and stated in that agreement, so waiting on Ken. If not, I do believe Glen Thompson will be around tomorrow. I will ask him to sign for the Foundation so we can get a signature from the Foundation that these points that we agreed upon.

Gunner: I think that reciprocal indemnity part is important.

McConnell: Okay

Gunner: Just to keep you guys from paying for the Foundation's mistakes and the Foundation from paying for your guys' mistakes.

McConnell: Absolutely, okay.

Gunner: That should be something in that other agreement which I don't know anything about. I just sent it over to you because it got sent to me. That actually has the language that (indiscernible) you might even be able to just pull it out of that.

McConnell: I had spoken to Lorrell about that, that language.

Gunner: Okay. So just to summarize I should have the photos, the officials, and the proof of the insurance policies today.

McConnell: Yes in fact like I said I have the Trident stuff, I made a copy of it for you today and, but like I said, they just sent over the, they didn't send it yesterday because they found a mistake

in it some (indiscernible) policy. She called me right before the meeting and it should be in my email right now.

Gunner: And you said the inspections are Wednesday or Thursday?

McConnell: By Wednesday okay because we've got to go check everything and get everything ready and then once everything is set up and we are confident that everything is done we'll call the fire inspector for the last final (indiscernible). I believe, like I said, the safety of the patrons and the building and the horses and stuff like that is paramount like I said I will be meeting with Terry from NDSU to find out more about their barn and what they do and make sure everything is taken care of in their barn.

Hartman: You're confident that the race track is going to be in running order

McConnell: In racing shape

Hartman: and then we say it and everything but you say you've got horses coming in come Monday?

McConnell: The horses are allowed to come into the barns starting Friday.

Hartman: Okay.

McConnell: Okay. They will be allowed to go on the track on Tuesday for training. We've set it up that once the track after its bladed and done we're going to be working the track. Jad has a schedule set up to work the track from that point on every chance they can get. We're going to meet and going to have a talk with Richard about some of the training schedule to make sure again as we need to go back on the track if he holds up people. But training is only going to be for 7 to

Nevins: It's 7 to 11

McConnell: 7 to 11

Nevins: Tuesday through Saturday.

McConnell: So during that other time they'll be working on the track. The water truck came back and is working and everything is there so we have most of the equipment on we're waiting for the starting gate from Belcourt. Wayne Slater is supposed to bring down that as well as jockey silks and weights and stuff like that.

Maragos: Mr. Chairman?

Ozbun: Yes.

Maragos: Just as briefly as possible Chris, what kind of training is entailed if the track isn't right in running condition. I mean just can you give me in a nutshell what kind of training goes on before Jad and his crew get out there and prepare the track?

Nevins: The horsemen are not allowed on the track until it's (indiscernible)

McConnell: I believe the question was the people that are working the track what training did they go through, is that correct?

Maragos: No. You said that horses will be allowed into the barns on Monday was it?

McConnell: On Friday.

Maragos: Friday and then on Tuesday they'll be allowed to train.

McConnell: Correct.

Maragos: So does that mean the track is in its operating condition as it would be for the races?

Nevins: As of Tuesday morning yes. I'm actually going out there tomorrow morning

Maragos: I was missing kind of the time frame there. Thank you. That's all I have.

Nevins: Going there tomorrow and follow up all week long to make sure everything gets done. I worked with Glen and Ken last year to make sure it gets done.

Maragos: Thank you.

McConnell: Anything else?

Ozbun: Anything else?

Gunner: I would just want to make a general comment because this is, let's see, we have 8 days left. Next year we cannot have this stuff running until the very end. It's caused us to have to sit here and talk about it and you to come here, it's just

Heinert: Excuse me. I hate to interrupt. The only reason we're so late Gunner, we didn't get the dates or money until May. We didn't have time in advance. If we would have had dates back in January we could have set it up and done it but when we didn't know what we were going to be able to operate, that's why we're at the last second.

Ozbun: That's maybe part of that too and we understand that but let's see if we can't do better next year.

Heinert: Oh we'd love too.

McConnell: Absolutely. And like I said, with Gunner I know what Gunner expects now, like I said when it comes to agreements and stuff like that, I sent him an addendum assuming that they'd already received the policy from previous or the agreement from last year. We'll make sure that next year everything will be on time.

Ozbun: Okay one of the things that we need to do now is approve the final racing dates because at the last meeting it was pretty well emphasized that we were going to do two weeks, two weekends, and everything that we did at the last meeting was based on the assumption

that we were going to go for two weekends for a total of four days racing. Even though at that meeting you indicated that there was some possibility (indiscernible)

McConnell: I said that I would take it back to the board that the board had voted for three days and I brought back that we received X amount of money and that it was the wish of the commission to try and run for two weekends.

Ozbun: Yep.

McConnell: And I do believe

Unknown: We wanted to run two weekends.

McConnell: Right.

Unknown: We didn't have enough funds to simply do it and still pay our expenses for the year. We need to make sure. We don't want to go in debt as in previous years. We want to make sure everything is covered.

Ozbun: Okay so the commission needs to readdress the approval for July 19 which would be the third day for your three day weekend. And we can talk about that right now if you're ready. Anybody got some comments? Gunner you got any comments about that?

Gunner: Ya, I mean obviously I wasn't here you know but I went through and listened to the meeting. I went through and had the minutes transcribed for you guys and so you could see that that eighteen thousand in additional Promotion Funds was based on the four days, the two weekends

Ozbun: Right

Gunner: and without that the board, as Chris said at the last meeting, had previously approved the three days with the \$61,684 from the February meeting. So to me that seems to, that would mean they could run on the \$61,684 for those three days. And that's what I'm proposing here. I've given you guys some background information but I think that was the general consensus of the commission, but if anybody wants to say otherwise.

Maragos: Is there someone here from Horse Race North Dakota Board?

Ozbun: Yes.

Heinert: I'm Wes Heinert, Vice President of HRND.

Maragos: May I Mr. Chairman? Thank you for coming up Mr. Heinert. I just have a couple of quick questions. Is Horse Race North Dakota audited annually?

Heinert: No.

Maragos: Does Horse Race North Dakota retain an accountant

Heinert: Yes.

Maragos: to do your annual books?

Heinert: Yes.

Maragos: And has, I don't know if you're obligated, if I may just make a statement here. I don't know if you're obligated to give us that information, but it seems to me we had a couple of addendums that showed a different picture of what happened last year on your revenues and expenses.

Heinert: Right.

Maragos: And so two different entities seemed to be speaking to the same issue with different conclusions and

Heinert: Well can I address that quickly and then I'll let you finish. Jad had sent out an original set of numbers that weren't entirely correct. And I had talked this over with Winston and Winston himself told me he agrees with my numbers and agrees we really can't take the risk of two weekends, before the meeting where they voted on going only three days. We're horse people, that's why, we don't get paid for all this abuse we get from everybody, we just work our tails off. We got this track out of debt, we're honest, we're fair with everybody. All we're trying to do is help the industry be more viable in this state. With that being said we would like three weekends if possible if we could even pull off two weekends we would have done it with any, without a blink of an eye, because we want more racing opportunities for everybody that has a horse in this state. The more money they're already in training they're already out working we want every dollar they can make because after here most a lot of these horses are done so the more opportunities we have the better it is for everybody involved. Okay, that being said we need, we even based the three days of racing upon the full hundred and sixty some thousand dollars that was available. Now if we have a rainout, something bad happens, we still need five thousand a month to get to the end of the year. I believe we have, I don't have the latest statement with me, I believe we have around eighty thousand in our checkbook. We are going to use roughly forty to sixty thousand of that to put back into the meet to make ends meet, with the eighty in Promotion and eighty-something from Purse. Without the additional twenty thousand dollars in funds we will be at severe risk running the three day meet. Now you guys said couldn't we do a better job previously about getting everything done sooner. Here we are working on a three day meet and now you guys are talking about yanking some money away from us. Now we're all really at risk. We've been advertising this three day meet. I just would like to know why and what is the reason why Gunner would recommend taking that additional twenty thousand away from us when we need it just to make that three day work.

Maragos: If I may continue, Mr. Chairman?

Ozbun: Go ahead.

Maragos: Okay. I appreciate your comments Mr. Heinert. And I think everybody here has those same best interests. And I hope that in no way anything I said could be viewed as abusing you or being very negative about you. As I see our responsibilities, we need to take the facts and the data and make a decision on how we're going to finance it. Can

you tell me how much money or what changed from last year's financing from the commission to this year's financing of the commission or are you saying we lost money, as successful as the meet was and it was and we're very proud of that and we hope to build on that. But are you saying that the funds we gave last year for the four days were insufficient, and see without even an audit or without an accounting, how are we to understand and to know that when we get some competing (indiscernible)

Heinert: Okay folks there is no competing. The numbers I have are the numbers and I can get a copy made and Chris can get them sent out to each and every one of you people on the board. One of the things is last year our revenue was \$246,188.69. Now that includes everything from selling a visor to the money we made off of beer and nachos to, I mean everything, that's the money we received from Avatar, that's the money we received from Lien Games that includes everything including the money received from you guys.

Maragos: Roughly two hundred and fifty

Heinert: Roughly two fifty. Our total expenses for running that four day meet was \$315,679.94. Now that again includes every single thing. There isn't a thing in there that isn't included. You know, so the difference was paid by Horse Race North Dakota, sixty some thousand I believe it was, when we're fortunate to have it in our checkbook. We had, we had roughly eighty some thousand in our checkbook so and then we had to limp along to the end of the year. We have to plan ahead. It takes us roughly five thousand a month to operate. That makes our employee payments, our taxes, that pays our rent for our office, we need about five thousand a month to get to the end of a year. So once we're in August, we still have to have about forty thousand dollars to get to the end of the year. Because Avatar's payments are done. We get, Avatar's payments are front loaded. I believe we get \$72,000 a year from then and then they meet their cut off date their cut off line for taxes due. So they pay us roughly fifteen twenty thousand a month at the beginning of the year and then they're gone. So and that's the majority of the income we make a year besides some of the other guys that we make five thousand here twenty thousand there. So with that being said we have a very limited amount of dollars to make it to the end of the year once the race meet is over. And we certainly have obligations and do not want to end up like it was when it had the trouble in 2009 when they couldn't even pay the local purveyors and suppliers. We do not want that to ever happen again. We take it as our personal responsibility to not risk getting this thing in the hole again because there won't be another chance. Yes.

Maragos: Thank you Mr. Heinert. I appreciate that. And I understand you have ongoing fiscal responsibilities when there is not a race meet so I suppose what would help me and I can't speak for the rest of the board members, is I'm still trying to figure out, aside from the additional monies that you need to operate all year round, operating the race meet itself, those costs that are one time costs for the race meet and how that matched up with all the revenue you had, because obviously when the race meet is not on there is no revenue except like you say maybe from Avatar or what it is, could we get a presentation that way of what the actual cost of the daily meet was for that meet all the costs that have to go into it, even if they're spent a month in advance or a month after I don't know.

Heinert: Well we would just basically have to take 315,679 divided by 4 and you'd come up with the daily amount. I don't know if I have that on here or not.

Maragos: Well 315, that would be eighty thousand a day for four days.

Heinert: That's 82,888, is that, or something similar to that.

Maragos: And then we only had what, roughly

Heinert: That includes purses and everything.

Maragos: Well was the Purse Fund included in that two hundred and fifty thousand?

Heinert: Yes.

Maragos: All the monies from all the funds.

Heinert: Yes there was nothing missed.

Maragos: Okay, so that means we had a deficit of twenty thousand a day then, roughly.

Heinert: Yep. It's actually closer to eighteen but right in that range. And in order for us to make up that difference you know as we get to the end, you know you guys were just talking about the success of the Belcourt meet. You know I, from what I've heard and read on line you know, their daily attendance was somewhere between four and five hundred and maybe a thousand people, you know the daily handle is between five and eight thousand dollars. On the other hand, last year can be a perfect example, we averaged twenty five hundred people a day and a handle of fifty to sixty thousand a day. So we're doing something right and we've got, we're in the right place the right location. Without this extra twenty thousand dollars, it's going to jeopardize us being able to even make a three day meet work. And it's going to be a very very strong situation for us to discuss and a lot of heated arguments about whether or not we put ourselves at risk without that additional twenty thousand dollars.

Maragos: Well thank you. If you wish to continue making a statement Mr. Heinert, fine, because I have some questions I want to direct to the Executive Director then.

Heinert: If anybody has any more questions

Ozbun: Any more questions?

Gunner: I have a question. What did you base it on when you voted for those three days before the award of the eighteen three sixteen when you only had sixty one six eighty four coming from the Promotion Fund.

Heinert: What that was based on was previous conversations at the commission and with Winston about giving us the additional funds of the chance of additional funds coming because they did not know how much we were going to get because they were waiting until June to find out how much was in the fund because we are actually robbing Peter to pay Paul so that we had some money for this meet. That's how we based that upon. It could have been forty thousand or it could have been eighteen thousand, we didn't know how much it would be until the June cutoff date. That's how we based our assumption on that.

Gunner: And I just want to address one other comment you said that you had gotten Horse Race North Dakota out of debt?

Heinert: Yes.

Gunner: That goes against everything I have been shown or told.

Heinert: You know I love that this is the pet project of this and I've actually made many, many copies of everything. What is very disconcerting to most of us working on this project is every single time even after last year's successful meet, whenever somebody is talking to anybody the first thing they always say is the debt, the track that's in debt. You know as a track and I've discussed this before you were previously here we have not seen a TIF bill. The debt you're talking about.

Gunner: So you're not in debt because you didn't get a bill?

Heinert: Hey I'm just saying, I'm not, all I mentioned was we have not seen a bill and would be happy to take it on. What you guys are saying is ours, is not ours as much as you think it is. I've got paperwork from the very beginning when this was put together when none of you guys were here where it was saying that the Sheyenne Corporation agreed to no more than a half million dollars TIF responsibility to the track. So, there's a lot of things to discuss as we go down the road. And as I mentioned before we're not afraid of any of that debt. The bills I was referring to were the local people the hundred some thousand that that thing was in the hole, roughly a hundred sixty thousand, which is totally paid for now. And we'll get back to the Economic Development (indiscernible). Those people, we've talked with them several times. We're more than happy to start paying the bill, but as long as we're operating bringing tax dollars into the city that's the major reason we're not being saddled with that payment schedule yet because as long as we are bringing having tax dollars and (indiscernible) in people's businesses in that town I think they're fairly comfortable with leaving that

Gunner: Have you gotten that in writing that they're

Heinert: No I have not, but as soon as they're interested in having us pay them, we'll be happy to start paying them. Have not seen a bill yet.

Ozbun: How about the hundred thousand dollars that you borrowed to get out of debt in the first place?

Heinert: That's down to eighty seven thousand right now. Making monthly payments on it. So from a hundred sixty it's down to eighty seven whatever. We're moving right along making things happen every month goes by we're actually our income level increases and we're hoping in a couple years we'll have our own two three hundred thousand to sit down at the meet and you guys don't have to worry about robbing into next year to help us out. We obviously want to have whatever support we can get but we're working on being as self-sufficient as possible so we don't have to make sure he's happy with fifteen percent on our concession rate or whatever it is that he looks at when we turn all those forms over to him. We are hoping to some day to be as self-sufficient as possible and run a quality top notch meet.

Gunner: Would you agree that you have gotten about ninety thousand dollars in contributions from the ADWs this year?

Heinert: I would assume that's fair to say yes.

Gunner: Okay. And did you bring the information on your guys' trust account your gambling

Heinert: I sure did but I would like to ask you, what would you, what, why would you need to see that?

Gunner: Because we have a responsibility when we are giving out taxpayer or this money that's coming in from these ADWs before we give it out to you, we have to understand what your financial situation is

Heinert: Now is that

Gunner: so we know exactly how much

Heinert: I've got it and I'm more than happy to give it to you. Now is that something you do to the other track located in the state? Do you do the very same thing to them as you do to us?

Gunner: As far as I know (indiscernible)

Heinert: Have you sat down with Belcourt and done what you're doing, have you done the very same thing you

Gunner: I wasn't here before Belcourt started

Heinert: Well while it was continuing on you were here.

Gunner: We had given them the money (indiscernible)

Maragos: I'd like to ask a question. Gunner, what precipitated your interest in their gaming funds?

Gunner: Because they said they would make thirteen thousand dollars available out of their gambling account.

Maragos: Okay.

Gunner: And it came to our attention that that account possibly has quite a bit more in it and the only use for that gambling account is for charitable purpose which is to basically put on these horse races.

Unknown: The gambling account has nothing to do with taxpayer money that's the part you don't understand.

Gunner: (indiscernible) money based on what you guys have to provide.

Maragos: But by the same token those are funds that we don't have direct control over. If we need to react to that, that's fine. I don't remember ever asking them about their gaming account

and their resources. They took sixty thousand dollars of resources that they had in order to pay the bills from last year.

Gunner: So we're not supposed to inquire into their ability to make payments to fund this race meet before we decide a level of payment to give them? That's what I'm trying to get at is what resources do they have to put on the meet and then how much do we have to make up. That's why I asked about the charitable gambling account because the charitable gambling account the direct purpose of that is to pay for things like this.

Heinert: Okay so your purpose is to make sure, what?

Maragos: I'm not quite done yet. If that money in their account is can only be spent to promote racing, what's the problem?

Gunner: We want to know if it's being (indiscernible)

Maragos: Do you want them to spend it down to zero, is that the idea?

Gunner: No they don't necessarily have to but I mean if they have more funds available than they're telling us (indiscernible)

Heinert: You just said you want to make sure that we're using it to promote racing, what are you inferring?

Gunner: If you tell me you have that you're going to use thirteen thousand dollars and I'm getting documentation from the gaming commission that there is possibly a lot more than that in there I'm interested to know why you guys aren't going to use any of that charitable gambling account money.

Maragos: Did we request that information?

Gunner: I requested in an email that they bring the information, yes.

Maragos: Okay the other point is if they spend it down to nothing and then they come up with a shortfall at the end of the meet, what should they do? Why is it bad to have that money in the account?

Gunner: I'm not saying that they have to spend it down to nothing I'm just saying

Maragos: You just want to know about it?

Gunner: I'm just saying I want to understand what their financial situation is before we start doling out money.

Heinert: I'd like you to quick look say it out loud what's in each account and then you reference to us you know you need to make sure you have forty percent in a trust. You know we have Dean Kautzman, who is our accountant in Mandan, who is probably the top charitable gaming accountant in the state. He's an ex-IRS agent, he runs everything totally by the book. He drives us actually crazy because he is doing such a thorough job because we're not used to following up quite as thorough, and we're really amazed how things are

operating and we took taken our own initiative to make this happen. Were quite happy with what's going on and we plan on tripling this in the next year.

Maragos: I have a, may I?

Ozbun: Go ahead.

Maragos: If you had an accountant do an annual accounting of Horse Race North Dakota would that information be in your assets or your balance sheet?

Heinert: Yes.

Maragos: And have you ever presented that accounting to the commission?

Heinert: No.

Maragos: Do you think that would be a good idea Mr. Heinert?

Heinert: We certainly could.

Maragos: Okay as long as the information is available some where, but still

Cichy: May I make a statement? Mike Cichy I was at this I think far too long. The current accountant was the former Fair Circuit accountant, Pat Knoll at Global Development. He does the regular accounting. That is readily available for the asking. He does it monthly he does an annual review this is thirteen twelve eleven, eleven or something in there. I know he did a complete forensic audit over the last disaster. There was no question that Knoll and Global Development's accounting procedures were correct and proper. There were some other problems but it had nothing to do with the accountant. Knoll is still doing the accounting. Within a space of ten minutes, you could call him and he could put it on the internet and

Heinert: We'd make sure that would happen if that's what you guys would like.

Senftner: So you're required to keep forty percent in that account?

Heinert: Right. There's a trust account that's required by state law to be in an account to be only used for stated charitable purposes. And so there's two accounts in that accounting. There's also a list of every

Senftner: One is for operations?

Heinert: One is the mother account and the other is the trust account. The mother account holds the sixty percent. The trust account holds the forty percent. Now it depends on it gets shifted at certain periods of the year as required by law. Sometimes it might show there's twenty thousand in one of the accounts that he might have looked at but we hadn't passed the other money into the other trust account at that time yet. So depending on what time of the year you look at it, it could be skewed it's because there's only, it's kind of a messed up situation, but I think every half of year you have to load your trust account or something similar to that.

Senftner: So when you write a check out of the trust account it has to go towards horse racing?

Heinert: Anything to do with operating our track right.

Senftner: But then you have another account for operations?

Heinert: That's for running the gaming operation.

Maragos: That's the gaming.

Senftner: Okay.

Heinert: That's for paying our accountant, paying our runners, paying for the machines paying, that's what the mother operating account is for. And each, one second, and in each single bar we have up to twenty five hundred dollars of our own cash on hand in the bar. You know so you can understand it costs us ten fifteen thousand dollars per account sometimes until that's why we are going to start profiting now because we have been at this a little over a year and we are to the point where that stuff's all paid for now.

Maragos: You've only been operating for just a year?

Heinert: A little over a year April, you know maybe fifteen sixteen months.

Maragos: Mr. Chairman? When the gaming account, are you, first off, in gaming are you required to be audited by the Attorney General's Gaming Division? I mean do they require you to do an audit?

Heinert: You know what? I would, I'm not, I don't have the knowledge to explain that because we hired Kautzman and Associates as a turn key operation. All I do is get monthly and quarterly reports like are sitting in front of Gunner right now that I peruse over and make sure everything is correct and in order. They run everything else. They follow up and file all the forms, whatever is required by law they take care of it. I get a call and say you need to come down and sign something then that's what I do.

Maragos: Okay, then I'd like you to just explain to me for my own understanding. When your gaming writes a check to racing, who do you write it to?

Heinert: HRND.

Maragos: So what is the name of your

Heinert: Or to pay the bill a specific bill we have done that before

Maragos: Okay so that's a legitimate use of the money evidently otherwise the Attorney General

Heinert: Yes and all of the checks from the last quarter I've even got copies of all the checks included in there for you guys to look at.

Maragos: So the check goes from HRND gaming to HRND

Heinert: HRND charitable gaming to pay off a specific bill or, which we haven't done yet, we could just put it into the account I guess. But we use it specifically for, it's much better for us to pay if we needed to buy new batteries for the water truck that ran away last year. It sure would be easy for us to write a check to Interstate Batteries and write on the bottom horse race water truck. Everything is, we need to, we're not playing games with anybody we're talking the Attorney General's office for the state of North Dakota

Maragos: I understand.

Heinert: Everything has to be followed to a tee or it jeopardizes, puts us at risk not only financially but legally.

Senftner: Are there any salaries paid out of that, out of that charity?

Heinert: Yes. We pay Chris' salary whoever it is over there out of that.

Ozbun: So all of Chris' time is going towards the racing?

Heinert: Yes.

Ozbun: Horse racing?

Heinert: Yes. Every minute of his time is towards horse racing or working for the gaming account.

Ozbun: But if he's working for the gaming account then that's not horse racing.

Heinert: Yes it is, in that sense it is because anything with gaming pays for horse racing

Ozbun: That's for charitable purposes.

Heinert: Come on. We'll close it up tomorrow then if that's what you're interested in.

Ozbun: No, no, no.

Senftner: I'm just curious I'm just asking

(0:54:00)

Unknown: I'm sorry. (indiscernible) and I mean I got to, it's tight. The gaming, the AG's gaming commission operates it and if what he's doing is charitable purposes of Horse Race North Dakota it's legal but if it's not then (indiscernible)

Heinert: We had Mr. Kautzman check with the Attorney General's Office whether or not it was allowable before we ever did it. Mr. Kautzman puts his name on those checks. He's certainly not going to risk his operation for our, for what we do if it's not legal. We're not doing anything that isn't legal.

Ozbun: The more information we have the better we can understand. That's the reason we're asking for the information so we have a better feeling for it and I'm curious as to why you are reluctant to share the information.

Heinert: I'm not reluctant, there it sits.

Ozbun: Ya but we've asked for it several times

Heinert: No, no, I've never been asked previously. I've never been asked and I'd love for you to prove that you've asked me for that.

Ozbun: Okay. Yes?

Helen: Excuse me. Wes, I think what the Chairman's referring to and if you look in the past minutes we've asked numerous times to have Horse Race North Dakota Board to come with reports and the minutes will show the meeting was scheduled and no reports came and you need to provide the copies well up in advance

Heinert: I've got the full book. I was never under the assumption we were asked to do that or I would have.

Helen: Not particular these (indiscernible)

Heinert: (indiscernible) and we'll also have Pat Knoll get a hold of Gunner directly today and get him every single thing he wants from the last ten years. We don't care. We don't care about being transparent. What do we care? We just don't want you guys to see we got twenty-two thousand dollars here, now you don't have to give me the twenty thousand dollars and we're not going to be able to operate then. That's what we're afraid of. Because there's two separate rules you guys are running by (Cichy whispering to Heinert "I'm going to call Knoll." Heinert replies "Yep thank you.") There's two separate rules and I think you guys will understand this if you take a look at what you require Belcourt to do and what you're requiring us to do. And I would like to get it all on a level playing field because it certainly isn't fair and we're just, like I said, we don't get paid to do this what do you think we are doing this for, we are doing this for the best interest of the horse industry.

Helen: Wes please don't assume that you are being treated differently because Belcourt came in with all the requirements that the commission asked for. They're in, they're on file. We have very little that has come in for Horse Race North Dakota.

Heinert: All I'm saying is I just want it to be on a level playing field. We are getting everything we can back to these guys

Ozbun: We're trying to get you up to the level playing field

Heinert: All right. Well I just told you what our meet numbers were that's more than level. We just want to run a good meet.

Gunner: I'm not going to ask you guys next year when this comes around I'm not going to ask Chippewa Downs for anything that I'm not asking you for.

Heinert: And that's reasonable. I was under the assumption that that wasn't the case this year.

Helen: No

Gunner: I was just, the point of this was to understand all the funds available to run this meet (indiscernible)

Heinert: And so we could, Pat Knoll is going to get you, Mike went to get Pat Knoll the numbers right now, currently what is sitting in our account.

Gunner: And I don't need to know every single piece of this. What I need is, probably a better way to do it would be, I know that you guys have a report coming up to the gaming commission. You submit a report like this every quarter to the gaming commission and that gives me the summary, shows me the (indiscernible)

Heinert: I'll put you on the list as he puts the summary together I'll put you on the list so you get cc'd as it goes out to the Attorney General and to myself I will put you have you included on the list.

Unknown: (indiscernible)

Heinert: That's what I'm inferring. And then once that gets put out to you and we'll have Pat Knoll do the same. On a monthly basis I get the numbers sent to my computer. And on a monthly, quarterly, and yearly basis, we'll just put you on the mailing list so we don't have to go through all this pain and agony.

Ozbun: That would be fantastic.

Senftner: Mr. Chairman, if I can reel this back to the start of this what did we give you per race Promotion?

Heinert: We only had a total of eighteen thousand dollars.

Senftner: For two, per day?

Unknown: Four days.

Heinert: We had a grand total of eighteen thousand dollars.

Helen: Eighteen thousand dollars from the Promotion Fund and

Heinert: A hundred and twenty-three I believe

Helen: and eighty-nine thousand from the Purse Fund.

Senftner: So the Purse that's not as big of a concern as putting on the race.

Heinert: We're basically fifty some thousand dollars short this year what we had last year in sponsor

Senftner: Promotion

Heinert: from sponsors, outside sponsors.

Ozbun: Why is that?

Heinert: They're not interested or the money, the money, some of the money we got last year got divided up when Winston talked at one of the last commission meetings I was not at when they gave the money to Grass Roots, to the Thoroughbred Association, to Belcourt where they divided some of that money up into checks. Last year that money went directly to our track.

Senftner: Okay. What are we giving them this year? Out of the Promotion.

Heinert: We're looking at eighty, eighty-eight five?

Senftner: Eighty-eight five?

Ozbun: No. Eighty something.

Gunner: I think it was probably eighty thousand dollars from Promotion, eighty-five from Purse.

Senftner: We're giving almost more than sixty thousand more than we did last year for Promotion. How is that not enough? I don't understand.

Maragos: Well, whoa, whoa, whoa, back up here.

Ozbun: Go ahead Andy.

Maragos: Well I just want to understand. We're talking first the Promotion Fund

Senftner: Correct.

Maragos: and not the Purse Fund?

Senftner: not the Purse.

Maragos: Okay and how much did they get last year?

(1:00:00)

Senftner: Eighteen thousand

Maragos: and this year?

Senftner: About eighty thousand roughly

Maragos: Okay.

Senftner: Correct Wes? Is that right?

Heinert: Right.

Ozbun: And that was intended for a four day race.

Helen: Right.

Senftner: So

Heinert: Okay let me explain it to you a little bit. What happens with what we had as promotion from sponsor dollars last year basically washes with the sixty thousand additional we're expecting from you this year at eighty. If we get eighty thousand from you this year, with what we get from you and the sponsor dollars we didn't have last year, we're basically a wash, okay. Now you're still wondering why couldn't you still go two weekends because that's what you last year, because I can see that's what going through your mind.

Senftner: No I'm just thinking sixty thousand, you had about sixty thousand in promotion last year then?

Heinert: No we had eighteen thousand

Senftner: the sponsorships?

Heinert: Yep.

Senftner: And you're not getting any of that this year?

Heinert: No none of it, not a penny of it.

Senftner: How's that?

Heinert: It's just an unfortunate situation

Senftner: After the success we had last year no one wants to sponsor it?

Heinert: Right.

Maragos: Do we remember where that sixty thousand came from?

Heinert: Yes.

Maragos: Was there a couple corporate sponsors?

Heinert: Yes there was a couple of corporate sponsors, there was also some, and that also includes some of the dollars that went into some race sponsor dollars. This year we weren't really sure what was happening. We are in a unique situation again. We just want to get one year to the point where we sit down in January and go this is our dates and this is our money.

Senftner: For sure.

Heinert: You know what, once that happens we are going to be in a situation we're going to get forty to a hundred thousand in sponsor dollars again plus the money you bring to the table. Unfortunately for us this year that's not the case. And, okay so the sponsor dollars versus the additional dollars we are expecting this year to give us the eighty, you know, we had eighteen last, that's all basically a wash. We have about thirty thousand dollars less in our checkbook this year than we did last year at this time, okay? So when you look at that all, if we had the hundred thousand in our checkbook we had last year, we would have still taken a run at that second weekend. Because we still have some dollars coming from our charitable gaming and we think we can get to the end because Winston had mentioned that we were going to start seeing a little bit more maybe fifteen to twenty-five hundred a month from one of the other, Watch and Wager or somebody else that's coming along quite nicely so you know we can't count on it until it's in the checkbook but it puts us in a unique situation with having a few extra dollars down, no sponsor dollars per se, that's why we need all that sixty thousand just to get through the three day meet. I mean it's all here in black and white.

Senftner: Wes, I've got a little heartburn with this sixty thousand dollar sponsorship. You know beings you guys didn't get that, and I don't know why you didn't get it. I assume you went and talked to the vendors

Heinert: Well let me, I

Senftner: Let me just finish. So the fact that you guys didn't get that sixty thousand now it all comes on our shoulders and if we don't provide that sixty thousand, we're at fault.

Heinert: Okay. I can understand that completely. Again we're back to the how does it work up there versus out where we are. Do you guys require, you know last year we were required to come up with all that money and we were kicking rocks and looking

Senftner: And you did a great job

Heinert: Hey, we had to or it wouldn't have opened.

Senftner: Ya.

Heinert: Now this year we were in a unique situation because like I had mentioned the Lien Games dollars that went to us last year for example, Winston had gone to those guys ahead of time and those checks were written out to different organizations this year instead of directly to our track.

Schmitz: It's not so much, it's not so much the corporate sponsors like Pepsi and Titan. Those deals are replicated, it's

Heinert: You know we still have the usual stuff, we just don't have, we don't have the big fifteen twenty

Maragos: Wasn't there a twenty-five or a thirty-five thousand dollar investment?

Heinert: Ya we had quite a few sponsors and a couple big chunks last year that helped us

Maragos: Ya, as I recollect.

Heinert: and this year that just wasn't available and the ones that still contributed. And we're not saying that's bad, I'm just saying those dollars they're still in horse racing we don't care. They wrote checks to the Grass Roots association. Great, horse racing's still getting contributed. We just don't see the direct end result of that, you know what I'm saying?

Senftner: So those dollars are going to the Purse

Heinert: They still went to racing in North Dakota. Horse Race North Dakota just didn't get to put them on our books and use them this year and that is a big difference as well. And you know to stretch it out we got a little less Purse money I believe you know this year than last year so we're

Senftner: I would say more.

Hartman: What did we give them for Purse money last year?

Gunner: Eighty-nine.

Helen: Eighty-nine.

Heinert: But we also came up with an additional twenty-some thousand dollars in purse sponsor dollars that were not available this year as well. You know up and down the line from your guys' angle it makes perfect sense where why in the heck couldn't you guys go two weekends and I can understand completely why you guys thought that I'm not you know if you just but when you understand when you go into it deeper and you understand where we had twenty three thousand less dollars in our Purse account than last year. We ended up fifty some thousand less in sponsor dollars than last year. That all adds up. And we have thirty thousand dollars less in our checkbook than we did last year. So when all that rolls into one, we're just being fiscally responsible with the taxpayers' dollars and hoping to keep that Fargo track. One weekend is still going to keep us viable and hopefully next year we can get the three weekends we are looking for and everybody's happy.

Ozbun: I wish that I had evidence that you had really been out looking out for those sponsorships that you lost from last year.

Heinert: All right. Let's have Chris come up and explain. That was his job. Also, now we're back to where we always end up. You know, are you guys requesting and expecting the other guys to come up with sixty thousand in sponsor dollars? Do you?

Ozbun: We do.

Heinert: You do? Yep. Okay, that's all I ask. That's why we hired him. He's held on the carpet. His job is on the line for not coming up with those sponsor dollars so let's hear from this guy and explain what happened.

Ozbun: Thanks Wes.

Heinert: You bet.

McConnell: Our initial idea was to expand as many sponsorship dollars and these could be started with the larger corporations like big oil and big ag companies. We contacted those via letters trying to ask for sponsorships ranging from a thousand dollars up to fifty thousand dollars for named races. Out of 86 letters that I sent out just to that one group, the big oil and big ag companies, I received one response back and it was no thank you, okay. Part of the local push back that I got was because that we were only running one weekend, whether or not it was viable enough. It was like a catch 22. I need your money to run two weekends that kind of stuff, okay. And Wes is right, that was what I was brought in to do, okay and I've sold before but it was just because of having one weekend I found it very difficult. Even for local sponsorships of two hundred fifty dollars for this and it's well what's the benefit?

Senftner: When did you start pushing on this?

McConnell: Probably by the end of February I started the campaign.

Senftner: So for, so you were telling them you were running one weekend when the decision hadn't been made?

McConnell: No. In February I started asking for donations. I didn't tell them we were running one weekend.

Senftner: Okay.

McConnell: But the local, once we got the dates that we had locally because then we knew what we were working with going out at that time initially there was a lot of going back to people and contact getting in front of the right decision maker. But a lot of it was I don't want to spend fifteen hundred or two thousand dollars for one weekend, right? And it was well we can give you this exposure we can give you regular sponsor, we were just trying to front load anything to get that individual, what would it take.

Ozbun: Seems rather curious to me that last year without you they were able to generate sixty thousand dollars of sponsors and this year they hired somebody special to do it and they don't get anything.

McConnell: Well I, I don't know like I said the report I have on corporate sponsorship was twenty-three thousand dollars.

Schmitz: I'm going to step in and explain the difference of what happened this year from last year. A lot of that sponsorship stuff was all stuff that Lien just gave the money I don't remember the two other companies but there were some of those service providers that donated that money okay. There is still a deal with Titan. We did a major deal with them to trade to get tractors. We did a major deal to trade with Bobcat to get a Bobcat machine. So all stuff, I come from, my background is sports marketing so not spending cash is king whatever you can do for these guys in trade is huge. I did a deal this year to get 18 hotel rooms traded from one property. On top of that I did a deal which I've given to all the organizations for a horsemen's rate. If you look at hotel rooms right now in Fargo for that weekend, even if you looked about three or four weeks ago, you're looking at a hundred twenty-five bucks.

We worked out a deal to make it easier for the horsemen. So is that going to come to our bottom line, no, but it makes it easier for horsemen to come down, right. Days Inn that's the partnership there. You know there is cash deals, there is trade for other things that we didn't have so, it's not from, it's not so much, I think it's a skewed thing from what Tom is seeing is we have this straight sponsorship cash, but a lot of those deals were Lien Games and some of the other providers who just straight out provided that money right away. So to say that you know I don't know if I'm hitting that bone but it's there still a ton of sponsorship deals, I did those trade deals to get us probably three grand in just radio advertising traded. I mean so a lot of that stuff is replicated.

Ozbun: So who's doing

Schmitz: I'm a volunteer.

Ozbun: Ya I meant who's requesting money, are you doing it or is Chris doing it?

McConnell: We're both doing it. We're both doing it.

Ozbun: Are you working together as a team?

Schmitz: Yep.

McConnell: Yep. But I get paid.

Ozbun: I understand.

Maragos: Mr. Chairman?

Ozbun: Yes.

Maragos: Somebody try to refresh my memory because Winston is not here and he has all the institutional memory. Weren't there a couple of entities in Fargo that were interested in starting an ADW that gave a sizeable chunk of money to that race last year? Like twenty-five or thirty-five thousand?

Schmitz: I don't, I don't, don't put me on record but I think maybe that IBN or some of those (indiscernible because several people are talking at once) so that's I mean that's just like almost a gift

Maragos: So this year that's not forthcoming and I think that the gentleman who has an ADW, go ahead, if you can help us

Heinert: I can help you solve that. IBN has not been up and running as of yet so this year they will not they are working on finally opening later this summer or later into the fall because I've been in steady contact with them. And, and they're not in a position until they get up and running to help or contribute in any further financial manner.

Maragos: But they did last year give a sizeable portion?

Heinert: That was a pledge yes.

Maragos: Did they pay the pledge?

Ozbun: You did never get it did you?

Heinert: No, no. They gave me, or not me, but they gave us a pledge that if we would have run negatively they were going to cover us.

Maragos: And you did run negatively?

Heinert: We did not run, no, if we could not have covered it with our checkbook,

Maragos: Oh.

Heinert: That was the understanding, that way, because we were at some risk anyway.

Maragos: So that wasn't part of the sixty thousand?

Heinert: No, no that wasn't factored in anything at all of the money we are down. But and like you guys are all, everybody's not understanding the whole picture. There's thirty or forty thousand of it in the big chunks that got divided up or however they did it earlier this year to the other entities that race in the state.

Maragos: But that's money that we didn't, that wasn't part of that sixty thousand dollars?

Heinert: Oh ya that's why we're so short this year.

Maragos: Oh. You included money that we gave you in that sixty thousand then?

Heinert: Money from Lien Games

Helen: Avatar was the big sponsor

Heinert: Avatar, you know

Maragos: Are they sponsoring you again this year?

Heinert: They are going to help out but they're not the sponsor because they contributed to the fund when Winston had them write the checks out directly to, so if you guys can understand that that's where the majority of this money, these guys are still out making the usual trades in sponsor deals you know Barrel of Fun, and Bobcat and Titan Machinery, and Pepsi and whoever else they can round up you know but we don't have the big fund guns in our pocket anymore because that was divided up earlier. And we're not saying it's bad. We're not even complaining about it. I'm saying because it went to horse racing anyway we have zero complaints. It's just to explain where some of those dollars went and I want you guys to fully understand because otherwise it leaves a sour taste in your mouth and I don't want that I want it to be fully understood. These guys are still doing a hell of a good job out there making things happen. We wish there was a ten thousand dollar contributor and a fifteen thousand dollar contributor and once this meet ends we're going to be working on our dates for next year and once we get our dates solid

you can count on that I'm going to be whoever is out getting sponsors they're going to have to answer to me because we're going to expect it not ask about it. We're going to have sponsor dollars last year and we're not going to sit here and have to go well why didn't we have it this year.

Ozbun: Any other questions?

Heinert: Any other questions on the commission?

Ozbun: Yes, Helen.

Helen: Wes what you keep referring to is the previous director having money that you thought was sponsorship of the sixty thousand last year but this year went directly for associations. Was John Ford in that sixty thousand dollars?

Heinert: Yes he was, he was in eighteen thousand of it ma'm.

Helen: And this year it's fifteen thousand I think.

Heinert: Right, well we would have had the fifteen had that gone directly to us. We didn't get a penny of that.

Helen: And that went to Quarter Horse, Thoroughbred, TOBA, and ORDA. I think that's correct that fifteen thousand. But the other is David Bernsen,

Maragos: Ya that's the gentleman I'm trying to think of.

Helen: But the other one was David Bernson, was he in that sixty thousand?

Heinert: No.

Helen: No he wasn't.

Heinert: But we're not arguing that point.

Helen: No, no, but I'm explaining, I'm explaining what the money was given by the director for this year directly.

Heinert: We said we had no problem with it. We didn't get any of that money by the way for Horse Race North Dakota. See that's my point. We're not complaining about that I've said that five times now. We are happy it's gone to horse racing. We don't care if it goes to Belcourt, to the Thoroughbreds, to the Quarter Horse, we don't care that's why we're here so horsemen can make a few extra dollars that's why we do all this nonsense so horsemen is so that horse guys can make a couple extra dollars and hopefully race one or two more horses next year that's what this is all about. Any other questions on that sponsor dollars or money so we can move forward?

Ozbun: Any questions? Andy, anything else?

Maragos: No thank you Mr. Chairman.

Unknown: Can I make one comment?

Ozbun: Sure.

Unknown: Never mind.

Heinert: Thank you.

Ozbun: Okay anything else that we need to address relative to the additional day of racing in Fargo, not additional day, but approving the 19th as part of the three day race?

(1:17:00)

Senftner: I make a motion to approve the 19th.

Ozbun: We have a motion to approve the 19th as a racing date. Do we have a second?

Hartman: I'll second.

Ozbun: We have a second. Any further discussion? If not, Helen will you call the roll please.

Helen: Commissioner Senftner? Senftner: Yes.

Helen: Commissioner Hartman? Hartman: Yes.

Helen: Commissioner Maragos? Maragos: Yes.

Helen: Chairman Ozbun? Ozbun: Yes.

Helen: Commissioner Trottier? Trottier: Yes.

Ozbun: Okay we approved the additional racing day. Appreciate you guys' discussion and comments and sorry that it irritated you a little bit.

Schmitz: No that it's just that a lot of people are busting their asses, like me, not just me, but for nothing, so

Heinert: Now did you guys approve the funding and the date is that correct?

Ozbun: We just approved the date. The funding is coming up next.

Heinert: All right sir.

Senftner: Do you need the funding?

Heinert: Yes.

Ozbun: It was made quite clear I think at the previous meeting that the additional eighteen thousand was based on having funds available for four days racing. And that's where the

bind is coming to the commission members now because that was what our assumption was, that's what we approved the additional eighteen thousand, and we assumed that that was going to be able to do that, so now we are going to have to reconsider.

Heinert: Okay, that's reasonable. I'm only just going to mention one more thing. Can you tell me how many less races we're actually running which is not a lot.

McConnell: We're going to be running a total of twenty-eight races over three days versus thirty-two

Heinert: Thirty-two, so we're only a few races down I just wanted you guys to

Hartman: How many, thirty-two last year?

Heinert: Versus twenty-eight this year

Hartman: (indiscernible) mention four already.

Heinert: Right, so I wanted you guys to be well aware of that as you're making your discussion amongst yourselves.

Senftner: Does that include the mascot race?

Heinert: Then we're only three short if we include that.

Ozbun: I should also say that when Winston and I met with Chris oh when was that

McConnell in May, May 15.

Ozbun: in May we made it fairly clear then to him that that additional money was based on having two weekend races because that was the view of the commission at that time. So the next item on the agenda is Promotion and Purse Funds for Horse Race North Dakota.

Maragos: Mr. Chairman?

Ozbun: Yes Andy.

(1:19:34)

Maragos: Mr. Chairman, in view of what has transpired here, I move that we allow them to keep the money for the fourth day in order to ensure that they can cover their expenses for the three day races.

Ozbun: So that brings up their Promotion fund to \$80,000 and the Purse Fund to \$89,000.

Maragos: I thought we had already approved the \$18,000 even though it was for four days. Is that correct?

Ozbun: When we transcribed the minutes that wasn't really very clear in the minutes, in the transcript that we, and that's one of the reasons.

Maragos: Well I thought I heard somebody say that the \$18,000 was being withheld because of the fact they weren't running four days. I thought I heard that statement made.

Gunner: No. No that was not, the \$18,316 there was no motion made at the last meeting and it's actually an amendment to the minutes that we have to make because neither that money nor the Purse Fund money was awarded at the last meeting. The minutes have to be amended. I transcribed the minutes and provided them to you in the packet so that you could see where the discussion went. Basically it moved from dollars to the dates and the dates got approved but no one ever went back and approved the dollars.

Ozbun: Okay so Andy has a motion now to authorize, to approve, \$80,000 for Purse and eighty-nine or eighty, what is it?

Gunner: Why don't you do the Purse separate.

Ozbun: You want to do the Purse separate?

Gunner: Ya, I want to talk about it.

Ozbun: Okay, do we have a second to Andy's motion?

Senftner: I'll second it.

Ozbun: We got a motion and a second to authorize approval of \$80,000 for Promotion Fund for Fargo races. Any discussion?

Gunner: I'll tell you the only thing the reason that I brought up the \$18,316 was because when I went through the minutes and transcribed them it was apparent to me that was the basis for the extra weekend. Now if you guys are okay with moving forward with that then that obviously changes it, but that was the basis on which I was making that recommendation.

Maragos: Okay, very good.

Ozbun: Okay, any other discussion? Steve, okay.

Hartman: So what we're granting them Horse Race North Dakota is \$80,000 from the Promotion Fund?

Ozbun: Yes that's what we're talking about.

Hartman: And eighty-eight thousand five

Ozbun: That's going to be a separate motion. We just got the Promotion Fund.

Hartman: All right, good enough.

Ozbun: Any other comments? We've got a motion and a second. Any other comments? Helen will you please call the roll?

Helen: Commissioner Maragos? Maragos: Yes.

Helen: Commissioner Senftner? Senftner: Yes.

Helen: Commissioner Hartman? Hartman: Yes.

Helen: Commissioner Trottier? Trottier: Yes.

Helen: Chairman Ozbun? Ozbun: Yes

Ozbun: Okay so now we have approved the \$80,000 for Purse Fund, we have eighty-eight whatever it is for, I'm sorry, for Promotion Fund, we've got eighty-eight something for

Gunner: eighty-eight five forty

(1:22:56)

Ozbun: Eighty-eight five forty for Purse. And that also was not very clear in the minutes of the last meeting so could we have a motion relative to Purse Fund allocation. Before we do that

Gunner: I wanted to make maybe a small change to a motion if you guys think this is okay. Basically we award Purse Funds to both, well this year we had independent entities award Purse Funds in lieu of ourselves, but determinations were made about the level of purse funding to various associations of the state. Then these associations go and Horse Race North Dakota or Chippewa Downs assigns purse supplements to their races. Some times these purse supplements are not equal and so one association gets more than another association. And I think to give effect to the commission's award of an amount that we think you know that that association should get based on their contribution to horse racing and their membership we should make it that each association should get an equal amount in aggregate for their races. So if TOBA has two races and Thoroughbred Association has one, in aggregate, those two those races should add up to the same purse supplement because basically they're either using our funds our Purse Funds or they're using their own but placing ours somewhere else. So in a sense this could circumvent our decision as to how much each association should be getting. And I so I recommend as part of this motion we make it to say in aggregate each association should be entitled to the same amount of purse supplements at the races.

Senftner: So let me ask you this if you have

Hartman: (indiscernible) right now I mean we got the condition books and everything is out right? Next year it's something to look at but we're sitting here at the final straw.

Senftner: Let me ask this. We have two thoroughbred associations and one quarter horse. Does the quarter horse get what's equal to the two thoroughbred?

Gunner: I would say it would be just each association because we assign independently each association an amount of money that we think that they should get for putting on their races, and so

Senftner: So basically divide it into three, the pot into three?

Gunner: They can take you know, either race track, either one could come in and apply the Purse Funds unequally across basically going around what we determine. So if we're not going to do it this year I think we should at least do it next year.

Senftner: Fair enough.

Ozbun: I'd agree. Okay, we need a motion to authorize eighty-eight five or whatever it is for Purse Funds for Horse Race North Dakota.

(1:26:10)

Senftner: I'll make that motion, and do I need to address the last minutes, the amendment to the last minutes?

Ozbun: We'll do that as a separate.

Senftner: Okay, I'll make that motion.

Maragos: I second it.

Ozbun: We have a motion and a second. Any discussion? Any comments from Horse Race North Dakota? Okay, Helen will you please call the roll.

Helen: Commissioner Senftner? Senftner: Yes.

Helen: Commissioner Maragos? Maragos: Yes.

Helen: Commissioner Hartman? Hartman: Yes.

Helen: Commission Trottier? Trottier: Yes.

Helen: Chairman Ozbun? Ozbun: Yes.

Ozbun: One of the suggestions that I would put forth for both race tracks but certainly for Horse Race North Dakota because that's the one we're talking about right now, I think it would be really helpful to keep everybody transparent if we could get receipts when you pay bills out of these dollars if you would send us indication of how the dollars were used. Then we would all have the information that we could use in the future and be clear, clean, and transparent. Would that be a possibility for you?

Heinert: Guaranteed. We're all about that.

Cichy: Because I didn't have the proper email address, Pat Knoll is emailing you the financials for this month and then last year's annual financials and that has a pretty detailed synopsis of who paid what and where it went. If you want the actual receipts, we can do that too, but take a look (indiscernible)

Ozbun: All right very good thanks.

Cichy: That will be just a monthly thing.

Ozbun: Yep. Any other discussion on this issue?

Helen: When the office sends out the Promotion Fund money, the checks, it is required that the association send the commission office receipts of what that money was used for in that race meet, that's been done annually.

Heinert: We just agreed upon doing that and we're happy to do that.

Ozbun: Yep. Okay are we ready to move on?

Senftner: Did we already do roll?

Helen: Ya.

Maragos: Ya we did.

(1:28:34)

Ozbun: Investigation into tattooing services provided by Wayne Epstein.

Gunner: Mr. Epstein has asked to speak and he's asked to move this to August.

Epstein: No I've decided to instead to come here because quite honestly I couldn't trust you to take care of it like I asked you. So it didn't get taken care of so I'm here to represent myself.

Senftner: You're Wayne?

Epstein: Yes sir.

Senftner: Okay.

Helen: Speak up please.

Epstein: I have some things I'd like to pass out to the commissioners if that'd be okay so you can follow what's going on here. There's a little more in here

Ozbun: Careful for the wire.

Epstein: I got it, I saw it. There's a little bit more in here than actually meets the eye. First of all, I was accused of losing papers last year and that was the first thing that was brought up. That did not happen. If you look at the first page right there you will see that Jad Breiner took those papers to the post office at Belcourt, I mean Fargo from Belcourt and he actually mailed them, put the postage on them and everything and they got back to the lady after that because they had been replaced, because they were lost in the mail evidently, I don't know. But they were mailed by him. You see this email that he sent to AQHA showing them that this was done and the Paint Horse Association because they were quarter horses and paints, okay. If there is anything that you need to know about that please ask. That's part of the investigation.

Senftner: Who's Becky McDowell?

Epsteen: Becky McDowell is one of the stewards there and she also helps out in the office.

Senftner: So you gave the envelope to her and she gave it to Jad?

Epsteen: I gave the envelope with the tattoos, with the papers in that envelope, and she had it taken by Jad to the Post Office, after sealing it. Okay. Some of this stuff is a little out of order I apologize. I got in a hurry here. The other thing

Senftner: So they got mailed but they never received it.

Epsteen: No they never received it, correct.

Senftner: Is there ever any indication that they would have or wouldn't have received it?

Epsteen: It wasn't received ever. And we don't know what happened to it. It was taken to the Post Office, it was mailed according to his statement right here and it just never got there.

Senftner: So when did you find that out?

Epsteen: Well probably I'm thinking like three months later. (indiscernible) didn't receive their papers and they called me to find out what was going on. There was an accusation made that they were calling me on a daily basis and never got a response and that's not true. I took care of it. I took the initiative of getting it taken care of it because that is my job, okay. I was the racing secretary at Belcourt and Fargo last year. On the third page you'll see a statement that's dated July 1 comes from AQHA.

Ozbun: Sir?

Heinert: This isn't my battle but I was involved partially as president of the track last year and talked to the gal whose papers were lost. And all I did was make a phone call to him in New Mexico or Oklahoma wherever it was that I got a hold of him and said it's your problem get her duplicates made at your own expense and get them to her, and to my understanding that happened. Okay, that's all I have to say.

Epsteen: Thank you. That is my job. Okay. I am the tattooer. I volunteered to come up here last year and do this at the same time as I did the racing secretary's job. I'm a bona fide tattooer of AQHA, Thoroughbred, Paint, Appaloosa, and Arabians, okay. I've got five different companies that I represent in about seven different states. This is one that I was coming up here anyway they were going to send another man up here I said I'm already going to be there it will cost you extra money so I said I'll do it. No big deal. Okay we had a little bit of a problem. I'm going to explain that problem to you. I hope you understand where I'm coming from on this. I'm not making excuses, this is exactly what happened. I took the paperwork home from here when I left Fargo. I had four days to get home, get re-packed, get all my stuff done before I went back to Albuquerque where I work as a steward. In that four day period of time I put all my paperwork into two folders, one to go to the Quarter Horse and one to go to the Thoroughbred. I set them on the counter. My wife works in town and she said she would take care of getting them mailed for me. I don't know how it happened, I'm assuming maybe the cat got up there and knocked them

off the counter down behind the counter. That's where they were found about four months later. She thought I mailed them I thought she mailed them. Nothing ever came about it. We sent them in after the fact with all the money I might add and I've been accused of keeping the money and the (indiscernible) reports and it's not true. If you look at the third letter in there comes from AQHA you will see that they have accounted for every single dime of the money that was sent in.

Senftner: Let me ask you one question.

Epsteen: Sure.

Senftner: When you get paid by the horsemen do they write a check to you?

Epsteen: No.

Senftner: Okay, so you didn't put this money in your account and sit on it?

Epsteen: I did put the cash. They can pay in cash or check.

Senftner: Okay.

Epsteen: If they pay cash I take that cash and put it into my account and either write a check or most recently I've started writing money orders for it, but as you can see in this letter that all that money has been accounted for. The only thing that they asked me to do was replace these checks that have a stale check date of ninety days plus. But everything is the same, okay. Everything's the same. So there's no file on that other than the fact that what happened, like I said, the stuff getting knocked off the back of the counter.

Ozbun: So you had a check in that envelope that was lost?

Epsteen: No sir everything was in that envelope.

Ozbun: That's what I mean, everything was in that envelope that was hidden behind the desk.

Epsteen: Yes, everything.

Ozbun: And those checks are dated?

Epsteen: Yes sir. They were dated and they were stale dated. Anything over ninety days they return it for a new check. And it's kind of a courtesy really because you know if you have a check that's ninety days old you stick it in there

Ozbun: So you had to write a new check?

Epsteen: I didn't.

Ozbun: But for the cash piece.

Epsteen: Mine was money order.

Ozbun: Oh money order, you had to write a new money order.

Epsteen: No. It was good.

Ozbun: So you have a money order that should be dated back when you originally mailed that.

Epsteen: Right, and you can see out here that it says it was originally \$490.

Ozbun: So you have a money order, a receipt of that money order that's dated that date.

Epsteen: I don't have it with me. All I have is this letter and that came directly from the association. This is their copy sent to me and to you I believe you already had that too. There was twelve horses that, I guess from twelve to eighteen horses, the other eight horses or six horses were what I sent in my cash in the money order. I mean everything is on the up and the up. As a matter of fact I have a hundred dollar credit and that credit I don't know I guess I just put more money than I was supposed to. However, I will admit to this too, I did make a mistake on one tattoo which I'm here to correct today as well. I double tattooed a horse of the same number and it was totally my fault, I'm not going to duck it, you know those things happen. As I remember the situation, not that it's any excuse, but we were having a very difficult time tattooing this horse because they didn't want to give it sedation because it had to run and that would have stayed in the system and caused a positive test. So we did it. I mean it was a wrestling match and anybody that's here that's got horses can attest that sometimes you've got to give them sedation. If you've ever done a horse as I'm sure many of you guys have, I've been hurt worse by horses in tattooing the last six years than I did in fourteen years of rodeo. That's just the way it is. I'm almost to the point of retirement. Both shoulders are shot, I can't help it that's just the way it is. Again, it is my fault, I've talked to my association, they told me what to do, this is not the first time this has happened for me or anybody else that's a tattooer. It does happen and we do fix it. And there's no additional cost to the person and we'll take care of it

Ozbun: So how did you decide which horse of the two of them that had the same tattoo number you were going to

Epsteen: I left this horse out of my book. That's what happened.

Hartman: You what?

Epsteen: I left the horse out of my tattoo report book. There's a branding fork used on each horse and I did leave that horse out and I'm going to fix it today.

Hartman: What did the association say to do?

Epsteen: The association tells me and this is what's done most generally in all cases. This number is the exact duplicate of another horse that I believe belongs to Blaine DeCoteau. The number is 206B3. On that horse it will stay the same. On the one I'm going to fix it's going to be 206B3 and a zero on the end. And that's how, I'll send a report into AQHA. We'll probably have to send the papers in and get that fixed at the association as well. We'll take a copy of those papers and leave them in the file which I think North Dakota last year run on a corrected certificate.

Ozbun: So you have to re-tattoo that horse?

Epsteen: I just have to add a zero at the end sir

Ozbun: But you have to do that.

Epsteen: Yes.

Ozbun: And you haven't done it yet

Epsteen: I haven't been to the owner's. I just got here last night.

Gunner: Did you also you have outstanding horses for the TRPB?

Epsteen: No sir everything is taken care of. You should have a letter.

Gunner: No, I mean, did you, but you paid for those seventeen 2013 and you got those reports in a year after?

Epsteen: That is correct. It was paid for when the original envelope was sent in.

Maragos: What is TRPB?

Epsteen: Thoroughbred Racing Protection Bureau.

Gunner: Mr. Gowen has provided us a statement on it, Exhibit J, which talks about him asking Mr. Epsteen after they had done an audit to submit these (indiscernible)

Maragos: What exhibit is that?

Gunner: (indiscernible) and monetary receipts.

Maragos: What exhibit is that?

Gunner: J

Maragos: J

Epsteen: You can call him right now if you want to. You're going to find out that everything has been taken care of.

Gunner: Well I know. That's what he states, (indiscernible) I'm up to date with that.

Epsteen: I have a very hectic lifestyle when I tattoo all over the country and again I'm not offering excuses I'm just telling you how it happened. I should have been more cognizant of it, and those things happen. That's all I can say.

Gunner: And where I really had gone with this is, we had received a complaint from Chippewa Downs so of course I had to investigate. There was, they had presented me with a list of

horses, which is Exhibit G. I called the AQHA who had said that yes they were still, they didn't know they had to get back with me and Trey Buck subsequently sent that letter which is in your supplement packet. But, and that I also received information that two horses that you have branded, marked, with the same tattoo.

Epsteen: And I'm the one that discovered that because nobody knew.

Gunner: And so I contacted the two organizations and they gave me information that Mr. Epsteen had submitted his tattoo reports and his payments nearly a year afterwards and you know we do understand that mistakes do happen, you know the mail and then falling behind the counter, it's a lot, but based on the problems the previous year that I was told about and based on the problems with the tattooing that we had found my only concern was to bring it to the commission and say that based on these documents my, currently my only plan is not to license Mr. Epsteen for this year based on what is Exhibit O which says the commission may deny license if they demonstrate a lack of financial responsibility in transactions related to racing or pari-mutuel wagering that's also in the statute at 53-06.2-14. That was going to be my only movement on this was to let the commission know that that was my plan was to not license him and that if they wanted me to do otherwise they should tell me to do so and if they wanted me to continue with the investigation then they should tell me to do so. And otherwise if there's no action taken, I will consider and matter closed and proceed.

Senftner: So basically you received a complaint, you're required to follow up on that complaint, correct?

Gunner: Yes (indiscernible)

Epsteen: Actually what he's supposed to do is he is supposed to contact the association and have them get back to me so that I can take care of it.

Senftner: I thought that was done.

Gunner: I contacted the associations first thing and they gave me the information.

Epsteen: (indiscernible)

Gunner: I don't know what the associations did but I do know (indiscernible)

Epsteen: Well you don't have the facilities, if you'll excuse me for interrupting you, you don't have the facilities to take care of the problem, I do. I'm the only one that does, in this instance.

Gunner: I'm not, I wasn't taking care of the problem I was investigating the problem.

Epsteen: Well you weren't taking care of the problem because you wanted it fixed. That's taking care of the problem in my book, okay. I'm not trying to be argumentative, I'm trying to explain things to you exactly the way they happened. I've told you (indiscernible)

Gunner: I understand what you're saying but (indiscernible)

Epsteen: Also

Maragos: I have a question.

Ozbun: Go ahead.

Maragos: What are we licensing him for?

Gunner: He was going to be the racing secretary but Carol Sivak has taken that position now.

Maragos: And they need to be licensed?

Gunner: Yes anybody that works at the track has to be licensed.

Maragos: And so the hiring is done by us?

Gunner: No. The hiring is done by Horse Race North Dakota but the licensing is done by us.

Senftner: I don't know if there is a pattern of this. I don't know you, I've never met you. All I, the only thing I know is what's in front of me. I'm not, I'm not the type of person that wants to ruin somebody's career.

Epsteen: Well that's what he's doing sir. That's what he's trying to do.

Senftner: If you made a legitimate mistake

Epsteen: and I'm owning up to it

Senftner: Ya. If there's a pattern of that then that's kind of where I start having a problem.

Gunner: Well, that's, that's where I'm asking if the commission wants to go forward. I've been in touch with Colorado and they said they've also had tattooing problems with Mr. Epstein.

Epsteen: They've had tattooing problems with every tattooer that's out there. That's what you don't understand. These things happen.

Gunner: Well all I'm saying is what I was told.

Epsteen: (indiscernible)

Gunner: I'm not trying to fine Mr. Epstein right now, I'm not trying to do anything. All I'm trying to say is based on his lack of financial responsibility here and failure to do the services that he said he would do for our horsemen, I was not going to license him for this season and (indiscernible)

Epsteen: And that's not a penalty? Cost me about four thousand dollars

Gunner: You, you have to apply for a license and if you (indiscernible)

Epsteen: Then I'm not going to apply for one because you, I'm not going to

Gunner: And he's already agreed not to apply for a license.

Epsteen: No I didn't agree to it, you blackmailed me into it. Because you told me if I'd apply for it you'd deny it, okay.

Gunner: Mmhmm.

Epsteen: That's going to put the rest of my jobs out of commission too.

Gunner: Well at which point you can have an administrative hearing and (indiscernible)

Epsteen: I want an administrative hearing, okay.

Maragos: Is that part of the job that the racing secretary is to do the tattooing?

Several: No.

Erickson: That's a separate license

Maragos: Tattooing is separate license?

Senftner: Somebody just hires you as a contractor.

Epsteen: I work as contract, yes sir I work as contract labor for the Quarter Horse Association, Thoroughbreds, and all the rest of them I was talking about. I'm a contractor to them. I'm employed by them to do this service, okay. It's a service provided by AQHA, not me. I'm their instrument. And that's what I'm trying to get at.

Senftner: So that part doesn't even fall under our jurisdiction?

Epsteen: No sir it doesn't.

Gunner: But he has to be licensed to work on the track (indiscernible)

Unknown: As a steward

Erickson: Anything on the track

Gunner: Anytime he's working on the track he needs to be licensed

Epsteen: There's no license for tattooer.

Gunner: There's an Other or something like that (indiscernible) on the track you have to be licensed.

Epsteen: I was here last year as the racing secretary and steward only and that's the only license I had.

Gunner: Okay, I'm not, you should have had an Other license.

Epsteen: It wasn't required, Winston told me what I needed, that's what I got.

Gunner: Well I don't know what he told you but I mean since you were already licensed under those two things that's probably how he was (indiscernible)

Maragos: Just a little scenario here. If the American Quarter Horse Association recommends him and we don't license him then they have to send somebody else.

Gunner: They'd have recommended him to do tattooing. (indiscernible)

Maragos: But when does that happen?

Gunner: If somebody's asking for tattooing services.

Epsteen: If I may, if I may sir, in this state, it's probably one of the only states in the whole country, that's it not required to tattoo a horse the first time it runs. Now that's another whole can of beans I really don't want to get into. Everywhere else in the country it's required, if you're going to run a horse it has to be tattooed first because there's no way to positively identify without a tattoo.

Maragos: But I'm just separating two separate issues here. Number one if the American Quarter Horse Association sends you to do the tattooing, but we don't license you to be on the track, then the American Quarter Horse Association has to send somebody else, would that be correct?

Epsteen: No sir. It's not required in this state to be licensed as a tattooer.

Maragos: Yes you are, to be on the track.

Erickson: To work at the track.

Epsteen: To work at the track

Maragos: So where would you tattoo, off the track?

Epsteen: No I'm just saying there's no, there's never been anything in your rule book there's nothing

Maragos: Well according to our attorney to be on the track, no matter what your capacity, you have to be licensed. So would you agree if that's what our rule states that you have to be licensed to be on the track or would you do it off track where no license is required?

Epsteen: I have done it off track, yes sir, I have done it.

Plummer: Excuse me, could I say something?

Senftner: What's your name?

Plummer: Doug Plummer, and we have a terrible time getting tattooers up here and I am not a friend of Will, or Wayne, at all but you guys are micromanaging things that are totally out of your

realm and if you need to do something you need to start taking care of some of the fraud activities that we've had in this mess at Fargo. You've had stuff come into your racing office showing these people were getting six percent at these sites. When we got them into court they had a quarter percent. Now we're being blackmailed by the Foundation who's supposed to be helping us. They want half of the funds that Horse Race North Dakota's come up with. So I think we're totally way off here so if you're not going to license him your previous directors let people who were banned from all tracks in the nation go to Fargo and take part in the Fargo race meet. And I can give you the names and everything about it if you want to start taking real action that is within your control. So as tattooers, we pay the bill to get our horses tattooed and we have a terrible time that's why we've come up with giving one race before we get tattooers because we can't get them and then we get some of these tattooers who aren't as good as Wayne come up here and tattoo three year olds to run in two year old futurity. If you need more, I can give you more.

Epsteen: Thank you Mr. Plummer. Thank you for sure. You know guys, here's the deal okay. I told you from the very beginning I made a mistake okay. I'm not going to duck that, it's my fault, and I should have more cognizant of it, okay. However, I came up here to do a service to the horsemen in this state because they hired me to be racing secretary and I brought with me that talent that other job with me, okay. I didn't have to do that. They could have paid somebody else from AQHA. They would have passed that charge on somewhere else down the road. I did it because I wanted to do it. And now I'm taking heat over the mistake that I made, probably somewhat rightfully so, but I think you're going way overboard, way overboard on this thing, you know. I told you from the very beginning that I thought this was the most ridiculous thing I've ever heard of because there's never ever been a case of it happening anywhere else in the whole country. If we make a mistake it happens we fix it. We take care of it with the association we're representing. And that's happened.

Ozbun: Would you, are you through talking now?

Epsteen: I believe I better.

Ozbun: Okay, why don't you sit down then.

Epsteen: Thank you.

Ozbun: Okay, we have an issue that we need to deal with.

Gunner: Unless I mean you know I just want to point out that we have a responsibility to the horsemen that's what I was trying to accomplish just not licensing him for this year was all I was trying to do here and I'm not going to continue the investigation past this unless somebody you know motions it and moves it forward. But otherwise this is a dead issue to me at this point.

Ozbun: Any reaction from the commission?

Senftner: I would just say that as far as the investigation, I think if Gunner gets a complaint he needs to, it's his job to investigate. Like I said before, I'm not in this to ruin somebody's career. If it's a legitimate mistake, correct it, don't do it again.

Maragos: I suppose my comment is since this was the gentleman's first year, we have no reference point to know what other tattooers did and what complaints were brought forth with them. Sometimes a first offense can be looked at a little more leniently, but I know this is going to be your judgment. I would like to know if there were any complaints of him as a steward and a racing secretary along with all the other stuff.

Gunner: If you look in your, where's the second packet Helen? (shuffling through papers) If you look at, it starts with an email, the last three four pages I think. There you go and that shows you its one from former director Winston Satran and if you open that up, that's his report on the 2012 meet. I wasn't going to get into any of those issues.

Senftner: You know what Gunner, if, these complaints, are they coming from horsemen or are they coming from Winston?

Gunner: They're coming from horsemen that Winston has relayed in this report.

Senftner: Okay. I didn't read that. I don't know, if there's something serious than we need to talk about it. As far as I'm concerned if the secretary is making everybody happy he's not doing his job probably. There's going to be complaints and that's with any, a teacher, there's going to be people that complain. So maybe we take that with a grain of salt unless there's something really egregious.

Gunner: But I mean it was the loss of papers there and then the loss of papers again and it's, you know, it's the continually not getting these items in and that is the habitual thing that I'm looking at.

Heinert: Wes Heinert, I was President of HRND last year and responsible for hiring Wayne originally. I would just like to state that what Tom mentioned is so important because the guy has immaculate scruples. The guy runs a complete clean straight meet. He does not waiver on the rules or what's right, I mean, I've never been around, I've been around this game a long time and the guy runs a tight ship when he runs it. I don't know about the tattooing stuff, but I can vouch for Wayne being a racing secretary and you did a wonderful job. Like you said if you're not righting races for a guy he's going to be mad and call the office. If you're not doing your job you're not then, a good racing secretary's going to have plenty of horsemen mad at him and it's not going to be one or two it's going to be quite a few.

Gunner: But losing papers is not part of that job.

Epsteen: What papers did I lose sir?

Gunner: I'm just reading from the report. There is a lady named Betty Uphaus.

Heinert: We handled that earlier when I mentioned I took the phone call and it's not part of the job. That's a mistake, right. That's a big mistake.

Gunner: And I haven't had time to follow up on other things (indiscernible)

Heinert: As far as the job I would like to go on record as saying he did a wonderful job and we were hoping to hire him again this year and would do so again should he get the opportunity to be licensed.

Ozbun: Thanks Wes.

Gunner: And I'm not saying anything about next year. That's wasn't on the paperwork. It was just this year.

Harsche: Hi, Lee Harsche, North Dakota TOBA. As far as him being the racing secretary I don't know him personally but all we got was compliments regarding his handling of the races at Fargo. Trying to get them filled with the very limited number of horses that were, so far as I know everything was complimentary towards him.

Ozbun: Thanks Lee.

Harsche: Thank you.

Ozbun: Leon?

Glasser: Leon Glasser, ND Quarter Horse Racing Association. Just back to the tattooing thing, it's not a big thing but years ago I'm talking in the eighties, I had a horse tattooed and there was another horse tattooed with the same number. It happens, not a lot, but it happens. All AQHA did at that time was send up another number and they didn't change my horse's number they changed the other horse's number they just added a letter to change it. It's nothing that you want to happen all the time but it does happen.

Ozbun: Thanks.

Senftner: Thanks, appreciate it.

Ozbun: You know from my perspective, if there's no, if there's nothing been done wrong then I don't see any reason that we shouldn't continue the investigation so that we can prove that there was nothing wrong. And if there was some things that were done that shouldn't have been done, then we need to know that, so it seems to me like pursuing the investigation would be a responsibility that we have.

Epsteen: I'd invite you to do that sir. I have no objection to that whatsoever. You investigate me all you want to, you won't find anything wrong.

Ozbun: Well that's fine. If that's the case then you should feel good.

Epsteen: I do.

Maragos: If we find no wrongdoing, then what will be the licensing process?

Ozbun: The licensing process for this year is already done.

Maragos: Say you know that, well, what did you say Mr. Chairman?

Ozbun: I said that the licensing for this year has already been completed.

Maragos: Oh it's done?

Gunner: Well it will have been completed by the time we get to any point where we can present evidence.

Ozbun: So that's a non-issue for this year. It would be an issue for future years. If there's nothing wrong, we don't find any problems

Epsteen: Like I said I don't have any problem with you investigating all you want to. However when you say the licensing is done for this year, I've never applied for a license here, okay.

Ozbun: I understand.

Epsteen: And if I did apply for it, I've already been told by him and by Winston that I wouldn't get it, okay. That's a censure, okay. I shouldn't be censured.

Ozbun: Until we finish the investigation that's probably the way it has to be, because we've got complaints.

Epsteen: You've got complaints mainly from the people that were, like he said, mad about the racing.

Ozbun: Maybe that's true.

Epsteen: Okay.

Ozbun: Maybe it isn't true.

Epsteen: Well, and he's trying to say that he's got lost papers. There were papers left at Belcourt, I know there was papers left at Belcourt, I left them there. And they were for, what was that guy's name, I forget

Unknown: Gourneau.

Epsteen: Ya, Dave Gourneau. Three sets of papers They asked me to leave them in the office at Belcourt for him because he was going to pick them up he wasn't coming to Fargo. If he didn't pick them up; I don't know, they were there. I've got papers in the file when I got there from other places. They had been there for a year.

Ozbun: Okay, at any rate, why don't you have your chair.

Epsteen: Okay, well I mean, it's just, it's just, this thing right here means a lot to me.

Ozbun: I understand.

Epsteen: I'm licensed in other states to do a lot of things, you know. I make the rules that he goes by also. I'm one of the people that makes them.

Ozbun: Good.

Gunner: We haven't adopted RCI.

Epsteen: You haven't?

(indiscernible)

Gunner: Are these, are these the RCI rules?

Epsteen: Yes they are.

Gunner: We have the medication rules.

Harsche: They adopted the model rules (indiscernible), they adopted them all.

Gunner: They adopted the whole model rules?

Unknown: Yes.

Gunner: How about the rules that we have are not the model rules.

Unknown: I have no idea (indiscernible – several people talking)

Gunner: Why don't you guys go find where we adopted them and show it to me and I'll start using the RCI rules.

Unknown: Should be in the minutes

Ozbun: Okay this is getting off track. We need to decide whether Gunner should continue pursuing the investigation or not.

Trottier: What is there to investigate?

Ozbun: The complaints that he's gotten.

Trottier: He's already answered them.

Ozbun: Pardon?

Trottier: He already answered them. (indiscernible) What else is there to investigate?

Plummer: If there was any problem the Thoroughbred Association and Quarter Horse Association would not allow him to continue doing it. Why we are wasting our time investigating is a personal deal more than anything else and I think it's time to shut that kind of garbage off. We've had too much of it.

Ozbun: Comments anybody?

- Trottier: Well I guess I don't understand where he said it's a personal deal I mean if we need to investigate, (indiscernible)
- Epsteen: May I? I was told to sit down but may I? I'm going to tell you exactly where the problem is, okay. Guys bear with me. This is the honest to god truth and I'm telling you the way it is. When I came up here last year I'm on all these committees all over the country. I work for the associations that I told you about. I'm also on the stewards advisory committee which you know I mean I'm kind of beating a dead horse there, but I've got all these different things I'm working on, safety committees and rules committees and all these things, because I'm interested in this job. It's not just a job to me it's a life's passion, okay, and I like it, I like making it work, and I don't like cheating okay. I don't like seeing things done adversely to this business because it reflects badly on me and everybody else in it. You all know if you got a bad reputation, not just here, all over the country. Last year when I came here I offered Winston my hand in friendship. I said I've got information if you want it I'm at your service. And he slapped me in the face with it. I don't need your help. He wouldn't listen to anything that I told him. If you look in the little packet that I gave you there's a thing about veterinary responsibility, which I tried to get him to listen to, he would not do it. A vet that works for the state cannot work for the track and cannot administer horse medication to the horses on the track. It's illegal, it's not right, and it's being done here right now.
- Maragos: Whose rule is that?
- Epsteen: It's in that rule book right there, it's in that rule book is what I'm trying to tell you, in the model rules. You can't be a track vet you can't be a commission vet and do the same job it's physically impossible number one. The commission vet has to be in the test barn at all times to keep the chain of custody, okay. If you are not in there you have three problems big time okay. Number one, or not in any particular order, chain of custody is one, taking the test sample is another, and then the other one is messing it up when it goes in to have the test done okay. Those things are what he's responsible for doing. The track vet is supposed to be out in the paddock when the horses are being saddled watching to make sure that one of the horses is not lame in which case it should be scratched. He's supposed to watch the horses go to the track. He's supposed to go to the gate and be at the gate during the race. He's supposed to be out there at the track until all the horses have left the track. Now how for a person that's doing the test barn be able to do that in 18 minutes? It's not possible. That's why it's a separate situation. It's addressed in that thing I gave you guys to look at. Last year we had a problem with a person that got a positive lab on bute. Now I'm not saying this happened because I have no proof but it's a possibility you have to take into consideration. If the vet that's also the commission vet and the track vet is out medicating horses in the barn area, they're not going to wear gloves like they're supposed to wear when they're in the test barn, okay. So they could get that residue on their hands and it could be transferred to the mucous membranes of the horse and cause a positive test. Now I realize that's kind of a far stretch. The point that I'm trying to make is the people that are doing the medicating of the horses are supposed to be licensed veterinarians, okay. He is a licensed veterinarian and the commission vet. You can't do that; you can't mix them, it's not legal.
- (2:04:24)
- Ozbun: This all sounds extraneous to our discussion.

Epsteen: No, it's coming up, okay, I see what you're saying, let me get to the point. The point is last year when I offered this to Winston he slapped me in the face with it, so I said okay. I had all kinds of information I wanted to give him and help him and help this program up here and he wouldn't do it and he got mad at me because he had a situation come up where there was a positive lab on one of the horses that Mr. Glasser had, and this horse he did come up with a positive lab on bute okay, an overage I should say, okay. He didn't have a split sample to send in because it was already sent in by Winston to be re-examined, okay, so there was no possible defense in the matter. You already know that. He did not give him his due process, he didn't have a hearing for him, he didn't have anything he was supposed to do and these are the things I work on the stewards advisory committee because that's against the law also, okay. And this is the kind of stuff, I asked him about it, I tried to point it out to him, again, he threw it in my face. You can only get hit in the face so many times before you're going to have a problem. As it turned out he had to drop the case because of exactly what I said. I think you can attest to that also right sir?

Erickson: Not really, I wasn't working with the commission at that time.

Epsteen: Oh, I'm sorry, I thought you were. Anyway that's the case. I think this is a vindictive move on his part, that's what I'm trying to get at.

Ozbun: Andy?

Maragos: Okay let me ask you this then.

Epsteen: Certainly.

Maragos: If you were not licensed this year in North Dakota, what is the ramification of that?

Epsteen: Probably nothing at this point. But the fact of the matter that they're going to deny me the opportunity to apply for a license or threaten me with denial of license if I did apply, you know, that could lose me all the rest of my jobs, you know

Maragos: That could?

Epsteen: Yes, absolutely.

Unknown: If he's denied in one state most states follow.

Epsteen: It's a reciprocal agreement that's made between the states to follow up on. So if I say okay ya I want to apply for a license and they say for whatever reason okay we're not going to give it to you. They have to have a reason and they just can't say we're not going to license you. Then I'm screwed in every other state. If they want to pick up the reciprocal on it, they can say well if you're not licensable there then you're not licensable here. I happen to be one of the stewards at Albuquerque this year at the Downs of Albuquerque meet. I was a steward at Farmington and I'm going to be again, you know, and this could cost me my job. It's already cost me my job here because they won't license me and that's about four thousand dollars I've got out of you know from what I do here.

- Maragos: Well Mr. Erickson, what kind of options do we have without ruining this guy's career. You know I suppose we could continue to investigate and see if he's had these same complaints with all the other states where he's been licensed. But he's been here one year and we've gotten I'd say fairly equanimous response from both sides, the side that says he's done a good job and the side that's had a complaint and that to me is not, not a good situation for us to be in.
- Erickson: Ultimately the board could take a look at the information and decide what it might want to do going forward. You're going to have a situation where, well first of all I need to look and see if there's something you can do other than denial. You could look at the situation say he's been out one year in North Dakota and on the next racing season look at it as anew. I think it would be fair to continue the investigation, come to a determination so the board could look at this prior to an application being made next season. Then you'd have the full complete information. At that point I'd like to have a chance to look through your statutes. A lot of licensing boards have authority to do something other than strictly an admission or denial. You can look at what the level of the problem is and put a claim for correction in there for example. However, I didn't look at this before the meeting in terms of that answer.
- Maragos: Question then, I don't quite understand process. What happens if you have three people apply to be licensed, and you can only pick one is that right so if you deny the other two, what's that, what, how does this work?
- Gunner: No, I mean you could, I guess it would be in the case of the stewards, you'd be thinking of, I don't know why anybody other than the three stewards that were be working the meet would apply for license because those are the only three stewards who'd been hired.
- Erickson: You can license more people, but, well it's like take well my profession, an attorney. People get license as an attorney can go out and practice law, that doesn't give them any clients. If you have no clients, why would you get licensed? This field being so much narrower where you have the (indiscernible) are known there are two different locations so people will tend to get hired and then apply for their license.
- Maragos: What I'm driving it is that he says the mere application if it's denied then ruins him in the other states. That is, you know, I mean, and if
- Erickson: I think I could address that too. Now depending on the laws of other states, other states might state a denial of the license is going to be treated the same as a revocation of a license for cause. I don't know that we have that in our law, but certainly when you have an applicant come before you and you do an investigation you find out that they have been denied licensure by another state for a reason, I think looking at this as you would in terms of whether to grant the license in North Dakota, wouldn't you take that into consideration and say well why would we give you a license when we have this other person with a clean record?
- Maragos: So, but that still begs the question if there is more than one person that puts in an application only one, two have to be denied.
- Erickson: No, you can license all of them.

Senftner: You can license all three of them and then the track decides.

Erickson: Ya and then the track decides who they hire.

Maragos: So it's a broad licensing, it doesn't necessarily mean that he would be hired.

Erickson: Exactly.

Maragos: He would just request to be licensed and then if you deny it that causes a problem.

Erickson: Ya.

Epsteen: You also can have the situation where people that apply for the job are not qualified for one reason or another and they would be denied a license on that basis as well. And now that I think about it you have that situation right now here. You have two stewards that are working in this state and have worked in this state for two years as the state steward that don't qualify. They are not certified and currently certified.

Maragos: Has anybody complained about that?

Epsteen: I did.

Maragos: And?

Epsteen: It was denied. Part of the problem I'm having right now okay, when I addressed that situation, it was part of the problem. In order to be hired by this state as a state steward you have to be current on your certification and they're not. I know both of them and they are two years behind. I can prove it to you in two seconds on the computer. And I am, I am currently certified all over the country, and I couldn't even get (indiscernible) for some reason. I'm not complaining about that, that's their choice. But if you have people that are not qualified to do the job how do you hire them over somebody that is, just like you asked.

(2:12:55)

Trottier: Can I ask a question, I'm just curious. I can understand if you didn't want to let him have a license as a racing secretary, what's, why couldn't he have a license as a steward if it has nothing to do with what the investigation has to do. Do you just automatically (indiscernible) any kind of a license, because that's what he's saying.

Gunner: The rule says that we may deny it if he hasn't you know met his financial obligations. And being a steward is the same type of level as a racing secretary you want somebody that hasn't had history of all these problems. We have documentation right here.

Trottier: But you're denying him of something where he couldn't be a teller, he couldn't take tickets because he can't get a license

Gunner: If he wants to be a teller and the commission here wants to go ahead and license him to be a teller than I'll license him as a teller.

Epsteen: What are you saying as far as my financial responsibilities? There are no financial responsibilities in what you're trying to get me pulled on.

Gunner: The tattooings

Epsteen: The tattooings are paid

Gunner: The loss of papers, I mean, it's just a constant

Epsteen: The loss of papers I explained was not my fault.

Ozbun: Okay I think we need to settle down. I'm going to ask you sit down again and the commission needs to make a decision are we going to continue the investigation or not continue the investigation. Mr. Epsteen says I'm happy to be investigated. I think we should continue the investigation and get it cleared up and so we don't have this problem in the future.

Maragos: Okay

Trottier: If you continue him on investigation does that mean he can't get a license?

Ozbun: He's not even going to apply for a license we've already gotten that taken care of so. Yes, go ahead Andy.

(2:14:36)

Maragos: In order to get this moved forward I'm going to propose a motion if I can and I'll, I know I'll hear from Mr. Erickson, so, I move that we proceed with the investigation. At the same time not deny his a license for this season, if he applies, and that we can revisit this after this season and change our, and review it, and this is for one season only. Does that seem like an ordinate motion Mr. Erickson?

Erickson: It seems to make sense.

Maragos: Then I so move.

Ozbun: Do we have a second?

Trottier: What is the motion again?

Hartman: This is more, this is an investigation into tattooing services. I think he's proven beyond a reasonable doubt that he's taken care of, like you said, his financial responsibilities to AQHA, Thoroughbred Association Protective Bureau or whatever, and I think the tattooing, I think it's kind of null and void myself. He's proven himself that he's taken care of everything. I don't know what we need to investigate any further.

Senftner: I tend to agree with that.

Gunner: It was just, it was just the matter of you know whether there had been a history of this or not. That was the only thing left to be

Senftner: As far as North Dakota is concerned, he's taken care of all his obligations, but, I'm not going to say on probation, but you need to tighten it up a little bit (indiscernible) moving forward.

Maragos: Mr. Chairman?

Ozbun: Yes.

Maragos: Having heard those comments, what action needs to be taken now then? Do we, I mean, is the licensing done by the Executive Director or do we have to take a motion to license?

Senftner: He hasn't applied for license.

Maragos: If he did, if he applied for the license, do we have to act on it or is that simply the purview of the Executive Director?

Erickson: It should work where the Executive Director can grant or deny and then it can be appealed to the board or to the commission.

(2:17:32)

Maragos: Well I'm going to let my motion stand and if it dies for a lack of second then I'll repeat the motion. We'll go ahead and let Gunner investigate. If there's more to be brought forward that we're not aware of that's fine, if not, I move that we allow this man to be licensed for this season.

Ozbun: Do we have a second?

Trottier: Okay, I mean what can he get licensed for?

Maragos: Whatever he applies for.

Hartman: He can be a steward, he can be anything.

Maragos: Doesn't mean he's going to get hired, just means he's going to be licensed.

Ozbun: If he applies. Do we have a second?

Senftner: I'll second it.

Ozbun: We have a second. Any discussion? So as I understand the motion we will ask Gunner to continue his investigation but in the mean time if Wayne were to apply for a license we would consider giving him a license, is that the way you understand it Gunner?

Helen: for this season.

Ozbun: for this season.

Gunner: I would put (indiscernible)

Maragos: It's not consider it would be

Helen: allowed

Maragos: It would be approved.

Erickson: Unless there is other information not present.

Maragos: Remember this is for this year only. In the investigation, if we get other information we can always do it for the next season. We're only talking about three days here now I guess.

Erickson: Ya it's just that there's a page full of things that can make a person ineligible. So he'd have to meet the general eligibility requirements would be the understanding.

Maragos: Okay well he has to this point obviously to this point because he's been licensed so that's the eligibility

Erickson: Ya, we're talking about relative to these complaints.

Maragos: okay, and who's the final adjudicator on that?

Erickson: It would ultimately come back to the board. Well and then ultimately theoretically go to the Supreme Court, but that wasn't the answer you were looking for.

Maragos: Thank you.

Ozbun: Okay, any other questions?

Trottier: I have a couple, I mean a question. Okay so he hasn't applied for a license so we're going to give him a license but we don't even know what he's applying for so I mean

Erickson: Well he'd have to apply.

Maragos: He won't get a license if he doesn't apply Ray.

Trottier: Okay.

Erickson: By the way as long as we're here I did make a mistake in a statement earlier. We do have a provision saying that if he's not eligible to participate in racing in another state or racing jurisdiction who is reciprocal with us then that is grounds for denial. So we do have that actually as part of our law.

Maragos: But we don't know if he's been denied in any other state.

Erickson: I don't believe that's the case, he is not.

Maragos: So he's okay here at least

Erickson: Ya.

Maragos: From the other side

Epsteen: I'm currently a steward in New Mexico so

Ozbun: Okay, anything else? Steve, you okay?

Hartman: Ya I'm fine.

Ozbun: Ray? Tom? Helen will you please call the roll.

Helen: Commissioner Maragos? Maragos: Yes.

Helen: Commissioner Senftner? Senftner: Yes.

Helen: Commissioner Hartman? Hartman: Nay.

Helen: Commissioner Trottier? Trottier: No.

Helen: Chairman Ozbun? Ozbun: Yes.

(2:21:24)

Ozbun: Okay, let's move on to number 4. Do we have that already taken care of?

Gunner: Ya we talked about that, they're still working on it. It's actually Ken Pawluk has been the problem there so they just gotta' get together and (indiscernible). I'm letting them handle it, I'm just passing information along.

McConnell: Ya I'm determined to get Glen Thompson, he's in town at least, he represents (indiscernible)

Gunner: Since we're on the Foundation that track maintenance and safety you guys had discussed. I can't remember who was talking about it, but the Foundation is putting about two thousand dollars, I've got the estimates and receipts, they're putting about two thousand dollars into rail repair and track repairs so I was going to suggest that we award them two thousand dollars from the Promotion Fund for those repairs because they are critical to the safety of the riders and horses.

McConnell: I viewed the one rail, the one's support needs to be replaced it is a safety issue and Glen is going to be the person that

Gunner: Ya they sent me the estimates.

McConnell: I just wanted to say that I personally saw where the rail was damaged it needs to be (indiscernible) in two places.

Ozbun: Okay, so we're all through with that item?

Gunner: Well you have to make a motion.

Senftner: For two thousand?

Gunner: Two thousand bucks ya

Maragos: Go ahead Tom.

(2:23:57)

Senftner: I make that motion. It's coming out of the Promotion?

Gunner: Ya, it's one thousand seven hundred fifty approximately for the repair of the track itself. That's to put in some kind of wooden beam. The track's washing off in one part, they need to put in a wooden piece there to hold it up and then to put more track down on it and then the rail repair is about three hundred fifty dollars.

Senftner: I'll make that motion.

Ozbun: We have a motion to provide funding from the Promotion Fund to cover those costs. Do we have a second?

Hartman: I'll second it.

Ozbun: Steve seconds. Any further discussion? Helen please call the roll.

Helen: Commissioner Senftner? Senftner: Yes.

Helen: Commissioner Hartman? Hartman: Yes.

Helen: Commissioner Maragos? Maragos: Yes.

Helen: Commissioner Trottier? Trottier: Yes.

Helen: Chairman Ozbun? Ozbun: Yes.

(2:23:45)

Ozbun: Okay item number 5 Modification of Licensing Rules.

Gunner: We're having some issues with the licensing because our like provisions for legal entities is very cumbersome for those people to get the right documentation in to meet all the requirements you have to start much in advance of time in order to get everything in that was required. It's pretty onerous requirements and I think they are just a little too much for the horse racing right now especially if we want to promote people coming in from out of state. The RCI rules have done, they take the best parts of our rule so ensuring ownership interests are identified, applying for a license issued by the commission, they take the best parts of that and really cut it down in the necessary steps. So, for example, there's a number of filing and disclosures they need to make under our rules, which people coming from out of state might not be aware of, and it'd make it very difficult for, and I'm talking about legal entities, LLC's, general partnerships, corporations that own horses, to come in and just show up and get licenses like everybody else does. The other

part is that, so the RCI rules take care of that kind of onerous requirement and we can adopt those in the best interest of horse racing under rule 69.5-01-02-01. The other part of it is we've had a couple of times, we don't know if, Edward Erickson and I have had a discussion about this, we're not sure if a general partnership because they can be informal in North Dakota is created by so me and a friend or me and a family member go and buy a horse together and we split costs and we split you know the winnings and so forth. We don't know if that creates a general partnership. For some reason under our general partnership rules you have to pay a hundred dollars a person instead of fifty dollars a person. There's really, we haven't been able to discern a real purpose for that extra fifty dollars a person, but I'm worried that you know there's people coming in they both own part of the horse and we should be charging them two hundred dollars for their one horse and some guy that's got five horses comes in and he owns them all himself and he pays fifty dollars. So, it really creates this kind of inequity, inequity between the horsemen. I really hate to have the guy in front of him say I paid fifty bucks and we had, as an example, we had three family members own one horse. That would have been, if it was a general partnership, it would have been three hundred dollars to race that one horse and it would have been one hundred fifty dollars if it's not a general partnership, so we're not even clear on that. What the RCI rules do is just talk about multiple ownerships, so there's none of this determination whether there's a general partnership, or if it's a corporation, or any of that. It just says that each person has to get licensed if they have five percent or greater interest which is essentially what our rules say. The other thing I was going to do was, if the commission likes, I wrote some, in the handout packet, I created some language that basically tied, so if you have multiple owners of several horses, it would tie your payments for those horses to the number of horses that you have running that year in North Dakota. So for example if you had three people that owned a single horse and it's the only horse they are going to run in North Dakota, they'd pay fifty dollars that year. If those same three people had two horses they intend to run in North Dakota, a hundred dollars. If those same three people had three horses or more, it's capped at a hundred fifty so fifty bucks for each person. And that way we don't get into situations where somebody's coming from out of state, they don't know, they show up with their one horse maybe two horses, they've got a group of friends that own it and they end up having to pay a hundred two hundred three hundred dollars just to get their one horse or two horses entered, whereas you know another guy owns it all himself and he's got ten horses that he races. So I thought in the best interest of the horsemen, I don't think we're going to be losing a whole lot of money doing this, we don't make that much off of licensing in the long run, so I think it would go over well with horsemen obviously. I think anybody that comes from out of state it would help them (indiscernible) and that obviously carries to out of state that we didn't charge them three hundred dollars or something. That was my suggestion, was to adopt the RCI rules to adopt the language tying the language tying their payments to the number of horses they intend to race in that season

Ozbun: Comments from the commission?

Senftner: I'd like to entertain any comments from the horsemen on that.

Ozbun: Any by the commission on anything? Okay comments from you guys. Wayne you had some comments.

Epsteen: Yes sir. The easiest way to do that is to kind of like you're saying Gunner you can do that with a reciprocal agreement. You honor a license from another state and you just put the

same kind of license into your program and it's typed out the same way. The fees that you talk about usually, now I'm using New Mexico because I'm current on that one, you have two or more people who own the same horse, they have an equal amount of ownership in that horse, you charge them both the same. Over three you can do it by the person. You don't ever do it by the horse just by the person, okay, so that way you can do that. But the easiest way to do it is just take the out of state license that is current and valid and use that and use that in your program. That's the fastest way to do it. It will eliminate all the problems that's hard to get done by another state. Also I don't know, do we require fingerprints here too?

Gunner: There is a fingerprint requirement.

Epsteen: If they've had fingerprints taken within the last I think it's five years or three years in New Mexico you don't have to get them again, but if you don't, you have to have everybody that's a partner get them and have their fingerprints on file. They have to do that down there and most states do that.

Ozbun: Thanks Wayne. Any other comments from horsemen?

Trottier: I guess I'm with Wayne. I don't know why you would tie it with the number of horses.

Hartman: Ya

Trottier: I don't understand that.

Gunner: I mean we could just do the RCI rules and then if a group of people, like say five people own a single horse and they wanted to race that horse those five people would have to pay fifty bucks a piece.

Trottier: That's what we did (indiscernible)

Gunner: I was just trying to make it better for the horsemen that if you only wanted to race a single horse and come in you have five people that own it you'd only have to pay fifty bucks to race that one horse, not fifty bucks a piece to race that one horse, that's two hundred fifty bucks.

Trottier: I don't think you should tie it to the number of horses.

Gunner: I mean this is just for this year. This is just trying to take care of a problem that I saw cropping up with people paying a lot and a lot of money just to come in here from out of state and run one or two horses.

(indiscernible)

Gunner: Well ya if I had known this before it started and I'd been here I would have done it, but you know I'm kinda' stuck and now obviously it's only going to be able to do it in Fargo but I was just trying to help some of the horsemen out as much as I could, since we're stuck in the middle. I just wanted to make sure that we weren't charging them a ridiculous amount for people to come in and race a single horse or something like that.

(people talking – indiscernible)

Ozbun: Wayne you got another comment, and be brief please.

(people talking – indiscernible)

Epsteen: If you use RCI rules on here that's going to be your best bet. I mean they've been thought out (indiscernible)

Gunner: Ya, the only reason I did the additional language was because there was it still required everybody five percent or more pay fifty dollars a piece and so I kind of saw that as a little much.

Epsteen: Even on the applications down there we have (indiscernible) has to be five percent or more because they had a lot of kids (indiscernible).

Gunner: And that's what our rule is currently five percent or more, I was just trying to you know people that were coming in, it was really the people that were coming in with one horse or two maybe had multiple ownerships I saw that as kind of inequitable that they had to pay so much to race and somebody that owned ten horses and was a single owner.

Epsteen: That'll get you to streamline your licensing program.

Ozbun: Okay, are we ready? Yes.

Maragos: Well Gunner, would you just draw up a proposal then that can go out to everybody so they can review it. I know it's probably too late for this one, but for the future I agree with you if it makes it better for the horsemen.

Gunner: Well as we move down the RCI rules, which is as soon as the season is over, we'll just start working on the rules.

Maragos: You want to do that? Okay, all right.

Gunner: The basis for this is part of the rules. The only addition I had to that was trying to reduce that fee a little bit.

Maragos: Well I think that's good.

Gunner: And so for you, this would only apply though basically Fargo and it would be over and we'd have to take the model rules and when we're implementing them decide if we want to add or subtract or just keep them the way they are.

Ozbun: What Gunner is trying to do is to clear it up at least on a temporary basis for the Fargo race and then get it into the rules for the long run. Is that correct Gunner?

Gunner: Ya. And we can go out to the horsemen and see about this, this money issue the part that I added in but I just thought for this meet so we could kind of promote people coming in to reduce the fees might be a benefit to that and something that people could take away

from here and go back to their state and say well North Dakota's not so bad it didn't cost me an arm and a leg to race but so it's up to you guys. That was my intent at least.

Maragos: Well Mr. Chairman

Ozbun: Yes.

(2:34:50)

Maragos: I move we adopt his proposal.

Ozbun: We have a motion to adopt the proposal that's been offered by Gunner,

Maragos: For this race year only.

Ozbun: For this race. Do we have a second?

Trottier: I'll second.

Ozbun: We have a second. Any further discussion? Any other comments from out in the audience? Helen would you please call the roll.

Helen: Commissioner Maragos? Maragos: Yes

Helen: Commissioner Hartman? Hartman: Yes

Helen: Commission Senftner? Senftner: Yes

Helen: Commissioner Trottier? Trottier: Yes

Helen: Chairman Ozbun? Ozbun: Yes.

Ozbun: Okay now as we've already discussed, there are some issues with the minutes of the previous meeting and Gunner has some suggested wording that we might modify those meeting minutes before we approve the minutes.

(2:35:40)

Gunner: Ya before the minutes are approved we just have to note that there was no award of Promotion Funds or Purse Funds to Horse Race North Dakota. That was done at this meeting. Mr. David Bernsen's Purse supplements were provided for a total of \$12,500 and they were provided as \$5,000 to ORDA for Thoroughbred races which is not \$7,500 as currently listed; \$2,500 to ORDA for Grassroots races, and \$5,000 to the North Dakota Thoroughbred Association, and the final change is that the North Dakota Thoroughbred Owners and Breeders Association was awarded \$1,000, not twenty-five hundred dollars from the Promotion Fund.

Ozbun: Okay, we have those corrections to the minutes as presented. Yes?

Erickson: I'd like to make one additional suggestion. On the last page the commission went into executive session then it's recorded a motion was made. It should note specifically that the motion was made after ending the executive session and returning to the public.

Ozbun: Okay, now we have

Maragos: Do we need to move the correction?

Ozbun: We have to move the correction.

Maragos: I so move the correction Mr. Chairman.

Ozbun: Yes. Do we have a second?

Senftner: I'll second.

Ozbun: Okay Helen call the roll on that.

Helen: Commissioner Maragos? Maragos: Yes.

Helen: Commissioner Senftner? Senftner: Yes.

Helen: Commissioner Hartman? Hartman: Yes.

Helen: Commissioner Trottier? Trottier: Yes.

Helen: Chairman Ozbun? Ozbun: Yes.

Ozbun: Okay so we have the corrections for the minutes from the previous time. Could we have a motion to approve the minutes as corrected for the May meeting?

(2:37:30)

Senftner: I'll make that motion.

Ozbun: We have a motion. Do we have a second?

Trottier: Second.

Ozbun: Any further discussion? Helen call the roll.

Helen: Commissioner Senftner? Senftner: Yes.

Helen: Commissioner Trottier? Trottier: Yes.

Helen: Commissioner Maragos? Maragos: Yes.

Helen: Commissioner Hartman? Hartman: Yes.

Helen: Chairman Ozbun? Ozbun: Yes.

Ozbun: Okay that covers our agenda for the day. Next meeting date is tentatively set for August 29.

Gunner: Ya I was going to try for August 29. I don't know if you guys know what your schedules are right now.

Maragos: Not good but the rest of you can certainly do it, but I will not be able to make the August 29 meeting.

Gunner: When would you, is there a time you would be available?

Maragos: Anytime a little before or anytime a little after but I have to go to a wedding that weekend that I can't miss.

Ozbun: Are you getting married?

Gunner: Okay, maybe the next week or the week before. I'll send it out and try to get it scheduled. We have an ADW license (indiscernible).

(people talking – indiscernible)

Maragos: Mr. Chairman?

Ozbun: Yes.

Maragos: Before we wind up I'd like to make a request of the Executive Director. If he has the charter for Horse Race North Dakota, its corporate charter, and for the Horse Park Foundation, I'd like to get a copy of them just to look and see how that structure was set up, what their interaction is, what it's been, what it's supposed to be. I would just like to review it for my own edification.

Gunner: Ya.

Ozbun: Very good, thanks. Scott you had something you were going to comment on.

Horst: Scott Horst, North Dakota Thoroughbred Association. On behalf of the North Dakota Thoroughbred Association, I have to bring up something just for record okay, and I'll just leave it there as is. According to the Fargo condition book we are having two ten thousand dollar races with no added money from the North Dakota Purse Fund. That's all I wanted, thank you.

Maragos: Well Scott.

Horst: Well what?

Maragos: If I may, and I don't know if this is an appropriate question, but you consider that a problem?

Horst: Yes sir.

Maragos: And what would be a good solution?

Horst: Just equal it out fairly. Whatever purse distribution amongst the same as other associations. My understanding is I'm feeling this, people saying that we've already received five thousand from Dave Bernsen, we've already received five thousand from Ford. Back in probably February or January I sent them corporation letters and many other ones asking for donations. They gave us two donations. That was their doings, not the Racing Commission's doings. They gave us five thousand dollars each for our race. We're a dying breed just like everybody else, just like the quarter horses, everybody else. So we're running our race in Fargo and we appreciate running our race in Fargo. We do. It brings, people talk about the race, there are articles about the derby, (indiscernible), that's great. I just wanted to bring it on the record because my guys call me and say hey here's the condition book why all these other races got money added from the North Dakota Purse Fund.

Senftner: So what you're saying is it wasn't distributed equally from the track, set aside the money that you got.

Hartman: I haven't even seen a condition book.

Unknown: Here's one.

Senftner: I haven't either. I was under the impression that we had to approve the condition book.

Gunner: We approved the North Dakota Bred Program in the condition book. That's already been approved.

Maragos: When did we do that Gunner?

Gunner: Originally when I got it and I made some modifications to the North Dakota bred program and then that was approved too. (indiscernible) It was per my request to make the modification. But as far as the distribution of the Purse Funds I would need you guys to give me authorization to approve or disapprove or modify.

Senftner: For next year. There's nothing we can do about this. I agree. If you go out and seek it's no different than holding a stallion auction and you make twenty thousand and somebody else makes ten thousand, that's based off the work that you've done. So I tend to agree with that and I think we should correct it.

Horst: I just wanted to bring it to your attention. I'm not trying to

(indiscernible)

Maragos: That's what we like, information.

Ozbun: But that's what we sort of agreed to earlier that we should have equal distribution.

Horst: I talked to Wes in the back here a little bit in the back here and he said he's going to see what he does at tomorrow's meeting. If there's something I'll definitely tell you guys. We ain't asking for much, anything helps.

Senftner: The money that we distribute should be balanced equally.

Horst: Thank you.

Ozbun: You bet.

Maragos: Thank you.

Ozbun: Leon did you come up to make a comment?

Harsche: Ya I was just going to say, I represent North Dakota TOBA, Lee Harsche. We've run at Fargo longer than any other thoroughbred association in the state. Maybe we get a little perk, usually we don't. I sent the same letters out everybody else did. Some people get it, some people don't. Sometimes you think that there's a little bit more arm-twisting from people higher above that they got more money than us. That's the game, we move on, we don't complain. Real horse people move on.

Senftner: So are you saying that you don't think it should be distributed equally? Taxpayer money or whatever that we distribute?

Harsche: It's the horse people's money. Once you gave the money to the track I don't believe in my judgment I've heard a number of issues up here not limited to this one I think that's out of your realm. I think that's up to the tracks themselves.

Unknown: Last year you actually gave the money to the track and we distributed it. This year you gave the money to each association and told them how much they got. That's how we based our races (indiscernible)

Harsche: That's my point. It has to do with relationships with tracks and longstanding relationships.
(indiscernible)

Ozbun: These are issues it looks like we'll need to pay attention to in the future. Ah any other comments? Anything else for the good of the cause? Are we ready to adjourn? Somebody move that we adjourn.

Hartman: I so move.

Ozbun: Can I have a second?
(indiscernible)

Ozbun: All in favor signify by saying aye.

All: Aye.

Ozbun: Thank you. Thank you all for coming.

(2:44:37) Meeting adjourned.