

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, February 9, 2010 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. Due to Commission Chairwoman Alkire's presence via teleconference, Commission Vice-Chairman Jack Pretti called the meeting to order at 9:33 a.m.

Members Present

Marilyn Alkire, Chairwoman (present via teleconference)
Jack Pretti, Vice-Chairman (Acting Chair)
Charles Vail, DVM, Member
Mary Sharon Wells, Member
Daniel J. Kester, Member

Staff Present

Dan Hartman, Director, Division of Racing Events
Pam Kilgore, Division Auditor
Mark Brown, Division Enforcement Coordinator
Michelle Bauman, Licensing Supervisor
Kit Spalding, Senior Assistant Attorney General (serving as Conflicts Counsel during Executive Session)
Tina Bowman, Assistant Attorney General
Sherry Gunnell, Assistant to the Director

Also Present

An attendance sheet is attached hereto and made a part of these minutes.

Approval of Minutes of November 9, 2009

A motion was made by Commissioner Wells, seconded by Commissioner Vail and unanimously carried to approve the minutes of November 9, 2009 as submitted.

The Commission stated that it would reconvene this meeting after conducting an Executive Session.

Recess of Regular Meeting/Convening of Executive Session

At 9:34 a.m., a motion was duly made by Commissioner Vail, seconded by Commissioner Wells and unanimously carried to recess the regular meeting of the Commission for the purpose of meeting in Executive Session to discuss with counsel and conflicts counsel pending court action and, also, to receive legal advice on specific legal questions in the matter of Wafer vs. Colorado Racing Commission.

Adjournment of Executive Session

At 10:15 a.m., the Commission adjourned the Executive Session and reconvened the regular business meeting.

Following discussion and deliberation, the Commission stated for the record that its final decision is to refer the aforementioned findings of the Court of Appeals to a hearing officer within the Department of Revenue for the conduct of an evidentiary hearing in order to obtain responses to certain questions set forth in the findings of the Court of Appeals and, subsequent to receiving the hearing officer's response, it would be the Commission's expectation that the matter would be referred to the Commission for its review.

Continuation of Scheduled Hearings – In the Matters of Andres Flores and Salvador Romero Nava -- Case No. 09-667 (Horse “Triffle”); Case No. 09-668 (Horse “Metalocalypse”) and Case No. 09-669 (Horse “Purely Prada”)

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that he had received a formal written request from Mr. Michael J. Norton, Attorney at Law, serving as legal counsel for Mr. Andres Flores and Mr. Salvador Romero Nava, to grant continuances of the scheduled hearings in the matters of Case Nos. 09-667, 09-668 and 09-669 until the Commission’s April meeting.

Based upon Mr. Hartman’s recommendation for approval, a motion was made by Commissioner Vail, seconded by Commissioner Wells and unanimously carried to continue the hearings in the aforementioned cases until the April 20, 2010 Commission meeting.

Scheduled Hearing – In the Matter of MARIA GONZALEZ

Acting Chairman Pretti convened the scheduled hearing in the matter of Owner Maria Gonzalez at 10:20 a.m. Ms. Gonzalez was not present and was not represented by legal counsel.

Mr. Dan Hartman, Director of the Colorado Division of Racing Events, advised the Commission that Ms. Gonzalez had been duly and properly notified of today’s hearing. He provided the following background information relating to this matter:

- 1) That, on December 3, 2009, the Colorado Division of Racing Events and Trainer Ramon Gerardo Marquez-Gonzalez stipulated to the facts concerning the horse “First to Blurr”, which placed third in the eighth race of the Arapahoe Park Speed Challenge on August 7, 2009, with the unauthorized medication, Clenbuterol, in its system. The horse in question was owned by Ms. Gonzalez;
- 2) That the stipulation stated that the horse, “First to Blurr”, shall be disqualified from its original third-place finish in the eighth race on August 7, 2009 at Arapahoe Park and declared unplaced due to the presence of an unauthorized medication in the system of the horse for every purpose, in the Arapahoe Park Speed Challenge, except pari-mutuel wagering;
- 3) That, pursuant to Colorado Racing Commission Rule No. 5.502, Ms. Gonzalez, the owner of the Horse, “First to Blurr”, shall not be allowed to participate in the purse distribution of any races associated with the Arapahoe Park Speed Challenge and a redistribution of the purse shall be ordered; and
- 4) That, at the time of the running of the Arapahoe Park Speed Challenge, Ms. Maria Gonzalez was duly licensed as an Owner by the Colorado Division of Racing Events.

Due to the fact that she had not received documentation relating to this matter, Commissioner Alkire recused herself from participation in the deliberation of the case.

Following review and deliberation of the issues reflected in the Division’s Notice of Hearing and Purse Redistribution (Case No. 09-706), a motion was made by Commissioner Vail, seconded by Commissioner Kester and unanimously carried to disqualify the horse, “First to Blurr” from its third place finish in the eighth race, the Arapahoe Park Speed Challenge, conducted on August 7, 2009 and declare the horse unplaced; and to notify Owner Maria Gonzalez that she is to return the amount that she received for the third-place finish of the horse “First to Blurr” and to notify Jockey Noe Garcia, the rider of the horse “First to Blurr” in the subject race, that he is to return the amount that he received for his third-place finish and is only able to be paid the minimum jockey mount fee. The Commission directed that an Order be issued to Ms. Gonzalez reflecting this decision and that Mr. Garcia be appropriately notified of today’s action.

The hearing concluded at 10:29 a.m.

Ms. Angela Smith, Court Reporter, recorded stenographically the above proceeding. A tape recording of the proceeding is on file in the Division's Lakewood office.

Closure of Regular Business Meeting

At 10:30 a.m., Commissioner Pretti closed the regular business meeting for the purpose of convening the continued Rule-Making Hearing.

Scheduled Rule-Making Hearing

Pursuant to the published Notice of Rule-Making Hearing, Acting Chairman Pretti convened the scheduled Rule-Making Hearing at 10:30 a.m.

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission and attendees that the Division of Racing Events had complied with all preliminary rule-filing requirements, including submission of all rule proposals to the Office of the Secretary of State and the Department of Regulatory Agencies and publication of the Notice of Rule-Making Hearing in the Colorado Registry, whereupon he presented the packet of rules for Commission review. Mr. Hartman apprised attendees that copies of the rules were available both in written form and on the Division's website. He stated that two rule review workshops open to all interested parties had been conducted to allow industry participation in the initial phase of the rule consideration process and that rule proposals had been solicited and accepted from industry representatives for presentation during this Hearing.

At this time, it was acknowledged by the Division that an annual review of its entire rulebook is undertaken in order to: 1) ensure that its existing rules meet all statutory requirements; 2) determine whether the rules presently in effect accord with current industry practices; 3) correct any errors or deficiencies in the rules; and 4) consider new rule proposals and proposals to amend or repeal certain rules.

Mr. Hartman observed that the packet of rules to be considered at this time contains two proposed new definitions, proposed new rules and certain rules proposed for amendment.

During the course of this Rule-Making Hearing, the Commission entertained views and opinions from industry representatives and other interested parties. All attendees were afforded an opportunity to present arguments for and against adoption of each rule under consideration.

Thereupon, Mr. Hartman presented the following rules for individual consideration and Commission action:

- Consideration of Proposed New Definition "Associated Person": Mr. Hartman presented the proposed new definition of "Associated Person", and reviewed its text. Following Commission review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Wells, seconded by Commissioner Kester and unanimously carried to adopt the new definition of "Associated Person" on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the definition. A copy of the subject definition is attached hereto and made a part of these minutes.
- Consideration of Proposed New Definition "Traction Device": Mr. Hartman presented the proposed new definition of "Traction Device", and reviewed its text. Discussion ensued during which certain concerns were expressed regarding whether adoption of this proposed definition should be deferred until the Commission would also be able to review and consider amending its existing rule regarding the use of toe grabs. Mr. Hartman explained that the current definition

does not affect the height of toe grabs. He observed that discussions have been conducted at the national level regarding whether to modify the Association of Racing Commissioners International (ARCI) Model Rule relating to the use of toe grabs and, once a decision regarding what course of action to take is made, the Commission could consider amending its current toe grab rule. Following Commission review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Wells, seconded by Commissioner Vail and unanimously carried to adopt the new definition of "Traction Device" on a permanent basis and to incorporate an amendment proposed by Commissioner Vail to include the proviso that the Commission desires to revisit its toe grab rule in the future in order to bring its rule into conformity with any changes made to the ARCI Model Rule. As part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the definition. A copy of the subject definition is attached hereto and made a part of these minutes.

The Commission entertained comments from Mr. Vaughn Cook, a member of the Arapahoe Park horse racing community, relating to horses being scratched in the saddling paddock based upon the height of their toe grabs. The Commission emphasized that, prior to saddling a horse, it is important for the toe grabs to be checked to ensure that they are the proper height.

- Consideration of Proposed Amended Rule 3.402: Mr. Hartman reviewed the text of proposed amended rule 3.402. Mr. Hartman stated that the version of the rule being presented is a nationally approved Model Rule and has also been endorsed by the Jockey Guild. Discussion ensued during which Ms. Polly Robson, a jockey licensed to ride in Colorado, voiced her concerns regarding the stringency with which the amended rule would be enforced. The Commission and Mr. Hartman assured her that every effort would be made to employ a sensible and reasonable approach in determining whether a jockey's gear met the required safety standards. Following review and discussion and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Wells, seconded by Commissioner Vail and unanimously carried to adopt amended rule 3.402 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed New Rule 3.508: Mr. Hartman reviewed the content of proposed new rule 3.508. Discussion ensued during which some members of the horse racing community questioned the rationale for implementing a continuing education requirement as a condition for licensure. Mr. Hartman explained that the rule as proposed is a nationally approved Model Rule and has also been endorsed by the Jockey Guild, although it has not yet been adopted by all racing jurisdictions. It was the Commission's view that, should other racing jurisdictions decline to adopt the same or a similar rule, the Colorado Racing Commission could revisit the rule at a later time. Following review and discussion and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Wells, seconded by Commissioner Kester and unanimously carried to adopt new rule 3.508 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Amended Rule 3.638: Mr. Hartman reviewed the content of proposed amended rule 3.638. After taking into consideration the comments of Ms. Polly Robson, a jockey licensed to ride in Colorado, and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Wells, seconded by Commissioner Kester and unanimously carried to adopt amended rule 3.638 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the

Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.

- Consideration of Proposed Amended Rule 5.317: Mr. Hartman reviewed the content of proposed amended rule 5.317. After taking into consideration the comments of Mr. Bruce Seymore, Director of Racing Operations for Mile High Racing and Entertainment, and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Vail, seconded by Commissioner Wells and unanimously carried to adopt amended rule 5.317 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Amended Rule 5.502: Mr. Hartman reviewed the content of proposed amended rule 5.502. Discussion ensued during which members of the Commission and industry representatives presented views, opinions and arguments regarding the text of the proposed rule and recommended that additional amendments be made to the rule proposal. Following review and after incorporating additional amendments into the proposed amended rule and finding that there were no objections to formal action being taken at this time, a motion was made by Commissioner Wells, seconded by Commissioner Kester and unanimously carried to adopt amended rule 5.502 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed New Header: Mr. Hartman explained that it would be desirable to insert a new header designated “Penalties” to identify the subsection of new rules under “Trainer Responsibility”. Following review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Wells, seconded by Commissioner Vail and unanimously carried to adopt the new header “Penalties” on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the header. A copy of the subject header is attached hereto and made a part of these minutes.
- Consideration of Proposed New Rule 5.503: Mr. Hartman reviewed the content of proposed new rule 5.503 and the accompanying tables reflecting penalty categories “A”, “B” and “C” and their related schedules for trainers and owners. Mr. Hartman discussed with the Commission the recommended penalty sanctions for use of unauthorized medications, noting that the rule as proposed is a nationally approved Model Rule. Mr. Hartman observed that the rule proposal is designed to give the Commission, Board of Stewards and/or a Hearing Officer greater discretion in determining what sanction(s) to impose for medication violations and should enable whichever authority to make more consistent and uniform decisions regarding penalty assessments than previously possible. Following review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Vail, seconded by Commissioner Wells and unanimously carried to adopt new rule 5.503 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Amended Rule 5.612: Mr. Hartman presented the proposed amended rule 5.612 and reviewed its text. Following Commission review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Kester, seconded by Commissioner Wells and unanimously carried to adopt amended rule 5.612 on a permanent basis and, as part of the motion to adopt, the Commission incorporated

the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.

- Consideration of Proposed Amended Rules 6.704 and 6.706: Mr. Hartman recommended that the Commission consider proposed amended rules 6.704 and 6.706 simultaneously since these rules are similar in content. Following review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Wells, seconded by Commissioner Vail and unanimously carried to adopt the amended rules 6.704 and 6.706 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into each of the rules. A copy of the subject rules is attached hereto and made a part of these minutes.
- Consideration of Proposed New Rule 7.108: Mr. Hartman reviewed the text of proposed new rule 7.108. Discussion ensued during which members of the Commission and industry representatives presented views and opinions regarding the text of the proposed rule and recommended that additional amendments be made to the rule proposal. Following review and after incorporating additional amendments into the proposed new rule and finding that there were no objections to formal action being taken at this time, a motion was thereupon made by Commissioner Wells, seconded by Commissioner Kester and unanimously carried to adopt new rule 7.108 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.

(At approximately 12:05 p.m., Commissioner Alkire concluded the teleconference call and left the meeting.)

As an addendum to the formal Rule-Making Hearing and in light of the adoption of new rule 7.108, Mr. Mark McGregor, President of the Colorado Horse-Racing Association, updated the Commission on the establishment of the task force to examine all testing procedures and the process by which samples are taken. He reported on visiting Industrial Laboratories in order to become acquainted with the protocols and methodology involved in sampling and testing racing animals. Mr. McGregor acknowledged that, because of the necessity for complying with due process requirements, timely adjudication of medication violations might not always be possible. He assured the Commission that all of the Colorado breed organizations desire to prevent persons who have had positive drug/medication tests from entering their horses. He urged the Director Hartman to facilitate proactive communications between the Division staff, the Board of Stewards and the members of the backside horseracing colony by posting notices, reports of rule review sessions and other updates in the Racing Office on a regular and timely basis. Ms. Gail Meisner requested and the Division agreed that, once the rules as adopted at this meeting were in effect, they would be forwarded to the Colorado Horse-Racing Association website for posting.

There being no further rules to consider the Rule-Making Hearing was adjourned at 12:15 p.m.

Re-Opening of Regular Business Meeting

At 12:16 p.m., Commissioner Pretti re-opened the regular business meeting.

Presentation Regarding Distribution of Owners/Breeders Awards and Supplemental Purse Fund Monies for Calendar Year 2009 and Introduction of Newly Appointed Division Auditor, Ms. Pamela Kilgore – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, introduced Ms. Pamela Kilgore, newly appointed Division Auditor, to the Commission. He observed that Ms. Kilgore had previously served as the Chief Budget Officer for the Department of Revenue's Enforcement Line of Business and had recently transferred to the Division of Racing Events from another section within the Department. Mr. Hartman stated that Mr. Greg Lamb, former Auditor for the Division, had been and would continue to be available to instruct and/or assist Ms. Kilgore in the performance of her new duties via teleconferences. He observed that Ms. Kilgore has already proved to be and would certainly continue to be a great addition to the Division staff. The Commission congratulated Ms. Kilgore on her new position and welcomed her to the Division.

Ms. Kilgore informed the Commission that she had prepared a final accounting of the Owners/Breeders Awards and Supplemental Purse Fund monies for distribution to the various breed organizations for calendar year 2009. The Commission observed that, this past year, the fund had again sustained an appreciable loss of revenue due to reduced interest rates and unsettled economic conditions. After acknowledging that the general economic climate remains precarious, the Commission observed that the fund would most likely continue to be negatively affected in calendar year 2010. Mr. Hartman explained that the law requires that the Owners/Breeders Awards and Supplemental Purse Fund accruals be retained as United States Treasury bills.

Ms. Kilgore reported that: 1) the total earnings from wagering in 2009 amounted to \$810,843.81; 2) that the total earned from 2008 uncashed tickets on both live and simulcast races was \$336,034.17; 3) that the interest earned in 2009 was \$108.14 and, after subtracting the bank fee of \$3,500.00, the total Owners'/Breeders' Awards and Supplemental Purse Fund accrual for 2009 was \$1,143,486.12.

Mr. Hartman explained that, in 2008, the Commission released the funds in the Appaloosa escrow account to the Colorado Appaloosa Racing Association based upon its compliance with the by-law requirement for disbursement of its accrual. Also, in 2008 and 2009, Arapahoe Park accepted Mule races from California and, thus, an escrow account was established and will be maintained for that breed until such time as a Mule Breed organization in Colorado is recognized by the Commission to receive those funds. The difference between the total amount of the accrual and the total amount to be distributed/retained in escrow (\$157,329.23) reflects the \$123,000 advance that was approved by the Commission in April 2009 for release to the Colorado Thoroughbred Breeder's Association in July 2009 and a distribution of \$172,000 that was made to Arapahoe Park from the escrowed Colorado harness racing accrual.

Ms. Kilgore read into the record the following individual totals to be disbursed to each breed organization:

After considering Ms. Kilgore's final accounting of the Owners/Breeders Awards and Supplemental Purse Fund monies for distribution to the various breed organizations for calendar year 2009, a motion was made by Commissioner Vail, seconded by Commissioner Kester and unanimously carried to grant approval to the Division to request issuance of State warrants for disbursement of the reported fund accruals pursuant to statute.

Colorado Thoroughbred Breeder's Association	\$791,788.90
Rocky Mountain Quarter Horse Association	157,954.64
Colorado Owners and Breeders of Racing Arabians	50,818.90
Rocky Mountain Paint Racing Club	3,632.07
Colorado Appaloosa Racing Association	800.44

A balance of \$15,121.54 remains from the escrowed harness purse monies. Additionally, the amount of \$369.63 accrued from Mule races will be retained in an escrow account pending notification of whether a Mule racing organization exists and, if so, whether it has by-laws in effect for the purpose of distributing funds.

The Commission recommended that Director Hartman attempt to renegotiate the bank fees applied to this account due to the minimal amount of interest that the account accrued this calendar year.

Status Report on Legislation – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, apprised the Commission that two measures have been introduced, one in the Senate (Senate Bill 10-037) and one in the House of Representatives (House Bill 10-1134). He explained that, Senate Bill 10-037 would allow Colorado horse breeder associations to increase the administrative fee cap for registering and maintaining breeding records from five percent (5%) to ten percent (10%). Mr. Hartman observed that the initiative passed out of the Senate Agriculture and Natural Resources Committee and, by unanimous vote, has passed first and second readings in the Senate.

Further, Mr. Hartman advised that House Bill 10-1134 is intended to prevent illegal interstate pari-mutuel wagering on racing by authorizing Colorado to enter into interstate compacts governing racing and the collection of source market fees from out-of-state simulcast activity. He reported that this measure passed out of the House Agriculture, Livestock and Natural Resources Committee by unanimous vote and has since passed first and second readings in the House of Representatives. Mr. Hartman assured the Commission and attendees that he would continue to monitor and report on the status of both of these initiatives.

Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 12:45 p.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Tuesday, April 20, 2010** at **Red and Jerry's**, located at **1840 West Oxford Avenue, Sheridan, Colorado**.

The undersigned hereby approve the foregoing Minutes.

(PRESENT via TELECONFERENCE) _____
MARILYN ALKIRE, CHAIRWOMAN

JACK PRETTI, VICE-CHAIRMAN

CHARLES VAIL, DVM, MEMBER

MARY SHARON WELLS, MEMBER

DANIEL KESTER, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, April 20, 2010 at Red & Jerry's, 1840 West Oxford Avenue, Sheridan, Colorado. Chairwoman Alkire called the meeting to order at 9:35 a.m.

Members Present

Marilyn Alkire, Chairwoman
Jack Pretti, Vice-Chairman (present via teleconference)
Charles Vail, DVM, Member
Mary Sharon Wells, Member

Commission Member Daniel J. Kester was excused from the meeting.

Staff Present

Dan Hartman, Director, Division of Racing Events
Robert "Duke" Mann, Division Horse Racing Coordinator
Pam Kilgore, Division Auditor
Mark Brown, Division Enforcement Coordinator
Michelle Bauman, Licensing Supervisor
Tina Bowman, Assistant Attorney General
Sherry Gunnell, Assistant to the Director

Also Present

An attendance sheet is attached hereto and made a part of these minutes.

Approval of Minutes of February 9, 2010

A motion was made by Commissioner Wells, seconded by Commissioner Vail and unanimously carried to approve the minutes of February 9, 2010 as submitted.

Recognition of Division Director Dan Hartman's Appointment to Chair the Association of Racing Commissioners International

Mr. Matt Cook, Executive Director of the Enforcement Business Group in the Department of Revenue, congratulated Division Director Dan Hartman on his appointment to serve as Chairman of the Association of Racing Commissioners International for 2010-2011. Mr. Cook informed the Commission that he was honored and privileged to acknowledge this remarkable achievement and noted that he had been pleased to be able to attend Mr. Hartman's installation ceremony in Lexington, Kentucky on April 14, 2010. The Commission recognized Mr. Hartman for his lengthy service and notable contributions to the racing industry, both locally and nationally.

Continuation of Scheduled Hearings – In the Matters of Andres Flores and Salvador Romero Nava -- Case No. 09-667 (Horse "Triffle"); Case No. 09-668 (Horse "Metalocalypse") and Case No. 09-669 (Horse "Purely Prada")

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that he and Mr. Michael J. Norton, Attorney at Law, serving as legal counsel for Mr. Andres Flores and Mr. Salvador Romero Nava, were requesting that the Commission grant continuances of the scheduled hearings in the matters of Case Nos. 09-667, 09-668 and 09-669 until the Commission's May 11, 2010 meeting.

Based upon Mr. Hartman's recommendation for approval, a motion was made by Commissioner Wells, seconded by Commissioner Vail and unanimously carried to continue the hearings in the aforementioned cases until the May 11, 2010 Commission meeting.

Scheduled Rule-Making Hearing

Pursuant to the published Notice of Rule-Making Hearing, Chairman Alkire convened the scheduled Rule-Making Hearing at 9:40 a.m.

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission and attendees that, subsequent to the February 9, 2010 Rule-Making Hearing, the rules had been submitted to the Office of the Attorney General for comment and analysis. Mr. Hartman explained that, during this review process, certain questions had been raised regarding the adoption of modified rule 3.402 and new rule 5.503 based upon the unavailability of pertinent documents in support of the adoptions. The query relating to the adoption of modified rule 3.402 pertained to the unavailability of the European, Australian and United States/Canadian versions of the ASTM Helmet and Vest Standards during the Commission's February Rule-Making Hearing. The query concerning new rule 5.503 related to the absence of the medication guidelines for foreign substances. Mr. Hartman advised the Commission that the material in question is available at this time and, therefore, he would recommend that the Commission proceed to affirm its adoption of these rules in conjunction with its review of the additional rules in today's rule-making packet.

Mr. Hartman stated that the Division of Racing Events had complied with all preliminary rule-filing requirements, including submission of all rule proposals to the Office of the Secretary of State and the Department of Regulatory Agencies and publication of the Notice of Rule-Making Hearing in the Colorado Registry, whereupon he presented the packet of rules for Commission review. Mr. Hartman apprised attendees that copies of the rules were available both in written form and on the Division's website. He stated that the rules in question had undergone extensive public review, had been made available to all interested parties for consideration and that rule proposals had been solicited and accepted from industry representatives for presentation during this Hearing.

At this time, it was acknowledged that the Division undertakes not only an annual review of its entire rulebook, but any additional reviews as deemed necessary in order to: 1) ensure that its existing rules meet all statutory requirements; 2) determine whether the rules presently in effect accord with current industry practices and the Association of Racing Commissioners International Model Rules; 3) correct any errors or deficiencies in the rules; and 4) consider new rule proposals and proposals to amend or repeal certain rules. Mr. Hartman observed that the packet of rules to be considered at this time contains a proposed new definition, a proposed new rule and two proposed modified rules.

During the course of this Rule-Making Hearing, the Commission entertained views and opinions from industry representatives and other interested parties. All attendees were afforded an opportunity to present arguments for and against adoption of each rule under consideration.

Thereupon, Mr. Hartman presented the following rules for individual consideration and Commission action:

- Consideration of Proposed Modified Rule 3.402: Mr. Hartman reviewed the text of proposed modified rule 3.402, noting that this rule in its existing form had been previously adopted by the Commission. After ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Vail, seconded by Commissioner Wells and unanimously carried to re-adopt modified rule 3.402 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed New Rule 5.503: Mr. Hartman reviewed the content of proposed new rule 5.503 and the accompanying tables reflecting penalty categories "A", "B" and "C" and their related schedules for trainers and owners, noting that this rule in its existing form had been previously adopted by the Commission. After ascertaining that there were no objections to formal action being taken at this

time, a motion was made by Commissioner Vail, seconded by Commissioner Wells and unanimously carried to re-adopt new rule 5.503 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.

- Consideration of Proposed New Definition “Inactive Person”: Mr. Hartman presented the proposed new definition of “Inactive Person”, and reviewed its text. Mr. Hartman informed the Commission that the term “inactive person” appears in previously adopted rules and regulations and, therefore, a definition of the term should be adopted for purposes of clarification. Following Commission review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Vail, seconded by Commissioner Wells and unanimously carried to adopt the new definition of “Inactive Person” on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the definition. A copy of the subject definition is attached hereto and made a part of these minutes.
- Consideration of Proposed Modified Rule 7.608: Mr. Hartman reviewed the content of and explained the purpose for recommending adoption of proposed modified rule 7.608. He stated that the version of the subject rule would afford the Commission the opportunity to establish the size of toe grabs to ensure conformity with the health and safety standards set by the Association of Racing Commissioners International (ARCI) Model Rules. Mr. Hartman explained that, in the event that the Commission adopted the modified version of the rule, it would not become effective until August 2010 and, therefore, it would be appropriate and desirable for the Commission to waive and suspend existing rule 7.608 for the 2010 Arapahoe Park race meet. Additionally, Mr. Hartman stated that, in light of the controversy and conflicting viewpoints relating to toe grabs, he would anticipate that, before definitive decisions are made regarding their height and/or use, further research studies and analysis would be needed. He observed that discussions have been conducted at the national level regarding whether to modify the Association of Racing Commissioners International (ARCI) Model Rule relating to the use of toe grabs and, once a decision regarding what course of action to take is made, the Commission could consider whether amendments would need to be made to the modified toe grab rule.

Discussion ensued during which the Commission entertained views, opinions and comments from Mr. Vaughn Cook, a representative of the Colorado Horse-Racing Association, Mr. John Hammes, a trainer and member of the Arapahoe Park horse racing community, and Ms. Polly Robson, a jockey at Arapahoe Park. Mr. Cook voiced his opposition to the use of toe grabs based upon articles and research provided by Dr. C. Wayne McIlwraith, Director of Orthopaedic Research and a distinguished professor at the Colorado State University School of Veterinary Medicine. Mr. Hammes expressed his belief that a horse’s trainer should be allowed to decide whether or not his horse should race with toe grabs. Ms. Robson voiced her support for the use of toe grabs and her belief that they were a valuable piece of equipment for a jockey.

Mr. Hartman observed that his recommendation would be for the Commission to adopt proposed modified rule 7.608 and to suspend current rule 7.608 until such time as the modified version becomes effective, thus, enabling the Commission to limit the height of toe grabs for any breed racing at Arapahoe Park. Following Commission review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Vail and seconded by Commissioner Wells to suspend existing rule 7.608 until such time as modified rule 7.608 becomes effective. Commissioner Pretti amended the motion to clarify that the Commission is suspending the height of toe grabs for the 2010 live racing season at Arapahoe Park. The motion as amended was unanimously carried and modified rule 7.608 was adopted on a permanent basis. As part of the motion to adopt, the Commission incorporated the Statement of Statutory

Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.

There being no further rules to consider the Rule-Making Hearing was adjourned at 10:25 a.m.

Consideration of Request for Early Distribution of Portion of Owners/Breeders Awards Funds and Supplemental Purse Fund Monies – Colorado Thoroughbred Breeders' Association

Ms. Pam Kilgore, Division Auditor, informed the Commission that, in accordance with and as permitted by statute, the Colorado Thoroughbred Breeder's Association had submitted a formal written request for early release of \$137,000, a portion of their Owners/Breeders Awards and Supplemental Purse Fund accrual for the purpose of supplementing the Colorado Bred Stakes schedule at Arapahoe Park in 2010. Mr. Mark McGregor, President of the Colorado Thoroughbred Breeders' Association, appeared on behalf of his organization.

Ms. Kilgore explained that, by statute, no breed organization could request more than 80% (eighty percent) of its total accrual. She stated that she had itemized the amounts accrued by the Colorado Thoroughbred Breeders' Association during the period of January through March 2010 and had prepared a report reflecting her projections. Ms. Kilgore stated that she was confident that sufficient funds would be available for the requested amount of \$137,000 to be distributed to the Colorado Thoroughbred Breeder's Association. Ms. Kilgore stated that she would perform another audit of the purse fund monies in order to confirm that the requested amount would be available for distribution by July 1, 2010.

A motion was made by Commissioner Vail, seconded by Commissioner Wells and unanimously carried to authorize early distribution of \$137,000 to the Colorado Thoroughbred Breeder's Association by July 1, 2010 conditioned upon confirmation of the availability of funds.

Consideration of Assignment of Two Additional Off-Track Wagering Facilities to Arapahoe Park – Bruce Seymore/Dan Hartman

Mr. Bruce Seymore, Executive Director of Colorado Racing Operations for Mile High Racing & Entertainment, advised the Commission that he has received numerous inquiries and expressions of interest from parties seeking to learn about opening and operating off-track betting facilities at various locations in Colorado. Therefore, Mr. Seymore requested the ability to have two (2) additional off-track betting facility licenses assigned to Arapahoe Park. Mr. Dan Hartman, Director of the Division of Racing Events, explained that, because Colorado has only one operating racetrack at the present time, all off-track betting facilities, those that are active and those that may be opened, could only be assigned to Arapahoe Park. Mr. Hartman recommended approval of Mr. Seymore's request, noting that Arapahoe Park would now be assigned eight (8) off-track betting facility licenses with a total of five (5) potential off-track betting facility licenses being left unattached.

Discussion ensued during which Mr. Seymore advised that he would anticipate that new off-track betting facilities would be opened in Durango and Trinidad in the near future. Mr. Hartman informed the Commission that those desiring to open and operate off-track betting facilities would be required to undergo thorough background checks and meet all criteria to obtain a Major Business License from the Division of Racing Events.

Mr. Hartman observed that it would appear from Mr. Seymore's comments that potential off-track betting facility license-holders would be opening and tapping into new markets and developing new money streams. Mr. Seymore stated that two relatively new facilities were currently in operation, Southern Colorado Gaming and Event Center in Pueblo and Bank 8 Billiards in Grand Junction. He noted that the facility in Pueblo is prospering and the one in Grand Junction is slowly improving its handle. Following discussion, a motion was made by Commissioner Vail, seconded by Commissioner Wells

and unanimously carried to accept the recommendation of Division Director Hartman and authorize to assign two (2) additional off-track betting facility licenses to Arapahoe Park, totaling eight (8) off-track wagering facility licenses thus assigned; and to acknowledge that five (5) potential off-track betting facility licenses are also being held in abeyance and are not attached to any racetrack.

Scheduling of 2011 Race Dates Hearing – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, advised that he would ensure that those locations that had not requested race dates in recent years would be given notice of the 2011 Race Dates Hearing in the event that they wished to apply to resume live racing.

A motion was made by Commissioner Wells, seconded by Commissioner Vail and unanimously carried to schedule the 2011 Race Dates Hearing on Tuesday, July 13, 2010 in conjunction with the Commission's regular July meeting. The location of both of these sessions will be Arapahoe Park, 26000 East Quincy Avenue, Aurora, Colorado.

Consideration of Conditional Approval of Arapahoe Park's Proposed 2010/11 Simulcast Schedule – Robert "Duke" Mann

Mr. Robert "Duke" Mann, Investigator and Horse-Racing Coordinator for the Division of Racing Events, stated that it would be appropriate and allowable for the Commission to consider granting conditional approval of Arapahoe Park's 2010/2011 proposed simulcast schedule for the period of April 21, 2010 through April 20, 2011 because Arapahoe Park has complied with the requirement that its renewal application to conduct a live race meet in 2010 be received by the Division of Racing Events sixty days prior to the planned opening of the meet. Mr. Mann reported that, on February 9, 2010, the Division of Racing Events had received a signed and notarized renewal application from Racing Associates of Colorado d.b.a. Arapahoe Park to commence live racing on May 29, 2010 through August 22, 2010 for a total of thirty-nine (39) race days. Mr. William Powers, Director of Racing and Plant Manager for Arapahoe Park, appeared on behalf of the Association.

The Commission took notice that Arapahoe Park is requesting permission to: 1) conduct thirty-nine (39) days of live and simulcast racing as well as greyhound and horse simulcasting throughout the entire year; and 2) that, in conjunction with its live meet, Arapahoe Park will provide horse simulcasting on its non-live days.

Mr. Hartman observed that Arapahoe Park's request for approval of its simulcast schedule includes an open letter asking for blanket approval to send and receive interstate wagers and simulcasts from the following sources subject to contract and Division approval, excluding specific listing of racecourses and simulcast dates:

- All racetracks representing the United States and Canada;
- All racetracks in the International jurisdiction;
- All affiliated off-track wagering venues;
- Nevada pari-mutuel books; and
- Common pooling

Further, Mr. Mann stated that the Division recommends that the Commission grant conditional approval for the range of dates and for the simulcasting proposal submitted by Arapahoe Park. The Commission acknowledged that the Division had received copies of two approval letters from the Colorado Horse-Racing Association, the organization representing a majority of the horse racing community at Arapahoe Park, signed by President Mark McGregor on July 30, 2009, one supporting the sending out of the live signal from Arapahoe Park and the second supporting the simulcast calendar and schedule for the period of April 21, 2010 through April 20, 2013. Mr. Mann, observed that a Simulcast Calendar indicating the simulcast race days, including live racing days, has yet to be submitted to the Division of Racing Events, but will be provided to the Division in the near future.

Additionally, the Commission took notice that unforeseen circumstances might necessitate that modifications be made to prospective simulcast dates and/or racing schedules and, therefore, the Division Director or his designee has been delegated authority to approve such changes. Mr. Hartman assured the Commission that final approval for simulcasting from any racecourse would not be given unless the Division had received both a racing schedule and a simulcast contract. He noted that the Division would apprise the Commission of the racing dates and schedules, as they are made available.

Following its review and after acknowledging that the Division of Racing Events has recommended conditional acceptance of Arapahoe Park's proposed simulcast wagering schedule as presented, a motion was made by Commissioner Vail, seconded by Commissioner Wells and unanimously carried to approve Arapahoe Park's request on a conditional basis to commence simulcast wagering on April 21, 2010 and to continue simulcast wagering through April 20, 2011 subject to the following terms and conditions:

- 1) That Arapahoe Park will submit its proposed Simulcast Calendar reflecting the simulcast race days, including the live racing days, to the Division of Racing Events as soon as possible.
- 2) That Arapahoe Park will inform the Division at least ten (10) days prior to adding a new track to its schedule. This will be followed by all required contracts.
- 3) That fully executed signed contracts and agreements for each racetrack from which broadcasts are to be received are provided to the Division no later than forty-eight (48) hours prior to the commencement of simulcasting from that site;
- 4) That adequate advance notice of the actual dates and simulcasting schedules for any and all venues to be made part of Arapahoe Park's 2010/2011 roster be provided to the Division of Racing Events prior to the start of racing from that site;
- 5) That the Division of Racing Events may, in its discretion, 1) require any totalisator link that has not been tested to be tested prior to the date of operation; and 2) approve the telephone lines to be used;
- 6) That Arapahoe Park comply with all terms and conditions contained in the Interstate Horse Racing Act with regard to receipt of simulcast signals, presentation of approved simulcasts and broadcasting of its races to out-of-state venues; and
- 7) That the Commission delegate authority to the Director or his designee to approve schedules for pre-approved tracks when a specified envelope is determined and to approve any adjustments or amendments to the simulcast schedules as needed.

The Commission directed that the Division monitor compliance with these requirements and ensure receipt of all necessary contracts prior to commencement of simulcasting from any racetrack.

Consideration of 2010 Renewal Application – Arapahoe Park – Robert “Duke” Mann

Mr. Robert “Duke” Mann, Horse Racing Coordinator, presented his report concerning Arapahoe Park's 2010 renewal application. Mr. Bruce Seymore, Executive Director of Colorado Operations for Mile High Racing & Entertainment and General Manager of Arapahoe Park, and Mr. William Powers, Arapahoe Park's Property Facility Manager/Director of Racing, appeared on behalf of the Racing Association.

Mr. Mann advised the Commission that Arapahoe Park intends to conduct a thirty-nine (39) day live race meet beginning on Saturday, May 29, 2010 and concluding on Sunday, August 22, 2010, with live performances to be offered on Friday, Saturday and

Sunday throughout the meet, including a special program to be conducted on Monday, May 31, 2010 (Memorial Day). Additionally, the Commission noted that Arapahoe Park intends to offer nine races per day as well as full simulcast race cards from numerous venues throughout the season. Mr. Mann stated that Arapahoe Park proposes to offer diverse racing programs composed of Thoroughbred, Quarterhorse, Appaloosa, Paint and Arabian races.

Mr. Mann advised the Commission that a copy of Arapahoe Park's proposed wagering format had been submitted. He stated that Arapahoe Park's proposed take-out rates would be the same as they were in 2009: 18.5% on Win, Place and Show wagers; 23.0% on Daily Double, Exacta and Quiniela wagers and 24.0% on Trifecta, Superfecta and Pick 3 wagers.

Mr. Mann mentioned that Arapahoe Park would be sending its live signal out-of-state. He stated that contracts with out-of-state associations and simulcast providers are in the process of being negotiated. Mr. Mann advised the Commission that Arapahoe Park would need to notify the Division and seek approval of any future export contracts and agreements with out-of-state associations and simulcast providers forty-eight (48) hours prior to sending/receiving a simulcast signal.

Mr. Mann advised the Commission that the Division had received a copy of the agreement from the Colorado Horse-Racing Association endorsing both Arapahoe Park's request to send its signal out-of-state. Notice was taken that Arapahoe Park intends to simulcast out-of-state horse races into Colorado seven (7) days a week on both its live and non-live race days. Notice was also taken that a copy of the agreement between the Colorado Horse-Racing Association and Arapahoe Park giving approval for and support of Arapahoe Park's intention to send its signal to out-of-state locations was provided with the renewal application, as was a copy of the purse structure.

Mr. Mann reported that a copy of the Horsemen's Contract between the Colorado Horse-Racing Association and Arapahoe Park, effective through April 20, 2013, was provided with the application.

The Commission reviewed the list of racing officials for Arapahoe Park's upcoming meet. Mr. Mann apprised the Commission that Mr. Randy Blaseg, former Director of Racing for the North Dakota Racing Commission and an accredited Steward in Texas, Kansas, Alabama and Nebraska, would serve as the Senior State Steward; that Mr. George Slender, the Association Steward at Wyoming Downs in 2009 and accredited as a State Steward at all major California racetracks, would serve as the Presiding State Steward; and that Mr. Hank Demoney was the newly appointed Association Steward/Placing Judge. Mr. Mann reported on the backgrounds and experience of persons who are either working at Arapahoe Park for the first time or are new to their current positions. He observed that persons new to their positions this season are: Mr. Blaseg, Mr. Slender and Mr. Demoney, the aforementioned Stewards; Ms. Stephanie Bishop, who will be the Director of Security; Ms. Stacy Stamper, who will be one of the Outriders; and Ms. Susan Z. Rich, who will serve as the Horsemen's Bookkeeper. Mr. Mann commented that the Division is in receipt of resumes and has performed initial background checks on these officials and recommends that they be approved to serve at the 2010 Arapahoe Park live meet.

Mr. Mann apprised the Commission that Ms. Stephanie Bishop, a former police officer with the Thornton Police Department as well as a former firefighter, would be accepting and providing training for the security staff from the Division's enforcement personnel and other sources that Association management may deem necessary to enforce the Colorado Racing Commission Rules and policies relating to the admittance of horses into the stable area and to provide a safe environment for licensees and patrons. Further, Mr. Mann reported that the Division of Racing Events is providing a Compliance Investigator, Mr. Eric Seymore, a former employee of the Thornton Police Department, to assist in the intake of horses and the preparation of associated paperwork to facilitate access to the restricted stable area. Notice was taken that Arapahoe Park would continue to employ an off-duty sheriff's deputy on live race days. Mr. Powers informed the Commission that three members of Arapahoe Park's security staff are bi-lingual.

Notice was also taken by the Commission that, since the horse racing community at Arapahoe Park had not requested the issuance of a surety bond to cover the Horsemen's Bookkeeper, none would be in effect for the 2010 race meet. Mr. Mann commented that, the Division would release purse funds from the Escrow Account throughout the race meet upon the Association's request in order to satisfy the purse money owed and, in the event that any derogatory actions are subsequently brought against the Horsemen's Bookkeeper, the Commission would have the ability to reinstate the bond requirement on the Horsemen's Bookkeeper Account.

Mr. Mann stated that former Commissioner David Lynn Hoffman; current Commissioner Daniel Kester and Division Auditor Pam Kilgore had completed a preliminary review of Arapahoe Park's most recent financial statements. Ms. Kilgore offered some observations regarding Arapahoe Park's financial status. She affirmed that the financial statements are in order and that the Association is in a sufficiently sound financial position to proceed with the conduct of the 2010 live race meet.

Mr. Mann reported that Arapahoe Park submitted copies of its certified health/sanitation inspection and fire inspection reports for the racetrack and its affiliated simulcast venues, except for the Southern Colorado Gaming and Events Center in Pueblo. These reports for that facility are to be submitted to the Division no later than five (5) days prior to the commencement of the live race meet.

The Commission took notice that the insurance binder for on-track accident coverage for the Jockeys has not yet been submitted, but must be on file with the Division no later than five (5) days prior to the opening of the meet. Mr. Mann recommended that this be included as a condition for relicensure. Additionally, Mr. Mann informed the Commission that Arapahoe Park's public liability insurance policy, which was provided with the renewal application, expires on July 1, 2010 and a Certificate of Insurance will need to be provided to the Division upon issuance. Mr. Powers stated that the renewal insurance binder was signed on April 19, 2010 and would be forwarded to the Division in the immediate future.

Mr. Mann advised the Commission that the Association would be scheduling a pre-meet meeting with the members of the Board of Stewards, Arapahoe Park management and the video operators to address the needs and expectations of the Board for their race review.

With regard to the soil sampling and depth measurement of the racing surface, Mr. Seymore advised that Soil & Plant Laboratory, Inc. had performed a favorable soil analysis of the track surface on February 4, 2010. The Commission expressed its desire for Arapahoe Park to continue to perform these functions as it has previously done. It was agreed that the Association should continue to ensure that soil sampling is performed and depth measurements are taken at regular intervals as deemed necessary.

Mr. Mann stated that, as in the past, all horses entering the grounds at Arapahoe Park will need to have a current health certificate signed by a Veterinarian as well as a current Coggins Test (within the previous twelve ((12)) months) no matter whether the horse(s) is/are from within or outside of Colorado. Additionally, all horses coming to Arapahoe Park for the meet will need to be tested and obtain negative test results for equine piroplasmiasis within thirty (30) days prior to entry onto the grounds of Arapahoe Park. The tests to be administered need to be for both types of protozoa, Theileria equi and Babesia caballi. Negative test results are to be attached to the health certificate, along with the Coggins test results and any other required documentation, and these must accompany the foal certificates when they are submitted to the Racing Office.

Mr. Mann stated that Arapahoe Park submitted most of the required exhibits with its renewal application and, therefore, he would recommend that the Commission grant conditional approval of Arapahoe Park's 2010 renewal application.

Mr. Mann reviewed the list of recommendations set forth in Arapahoe Park's 2009 end of meet report, noting that Arapahoe Park had complied with or is in the process of addressing each of them.

Following review and discussion, a motion was made by Commissioner Vail, seconded by Commissioner Wells and carried by a majority vote with one abstention from Commissioner Pretti, to approve Arapahoe Park's 2010 renewal application to operate as a Class B racetrack during the period specified in the application, to approve the take-out rates as specified in Arapahoe Park's renewal application and to make this approval contingent upon satisfaction of the following conditions:

- 1) That Arapahoe Park will submit to a full and complete pre-meet facility inspection by the Division of Racing Events. If it is determined via the inspection that there are areas of concerns or matters to be addressed, specific time frames for compliance will be imposed.
- 2) That Arapahoe Park will submit a copy of its insurance binder to the Division no later than five (5) days prior to the commencement of the race meet.
- 3) That, in the event that a vacancy occurs among the Racing Officials for longer than one racing day, the Association shall fill the vacancy with an official approved by the Division and shall notify the Division in writing of the substitution prior to making the change.
- 4) That Arapahoe Park will ensure that its public liability insurance policy is in effect and will provide a copy of the renewed Certificate of Insurance to the Division on or before its July 1, 2010 expiration date.
- 5) That Arapahoe Park will provide copies of all intrastate simulcast contracts and/or agreements entered into by the applicant to the Division no later than five (5) days prior to receipt of the simulcast signal.
- 6) That Arapahoe Park will submit copies of its current certified health/sanitation inspection and fire inspection reports for the Southern Colorado Gaming and Events Center and for any additional simulcast or track facilities no later than five (5) days prior to the commencement of the meet.
- 7) That Arapahoe Park will provide copies of all new service contracts not presently on file with the Division no later than five days prior to the commencement of the meet.
- 8) That the Commission may determine, in its discretion, to impose additional conditions at any time prior to or during Arapahoe Park's live meet.

The Notice of Issuance of Meet License with Conditions will be provided to Arapahoe Park in accordance with the Commission's motion.

Consideration of Applications for Release of Monies from the Greyhound Purse, Welfare, Adoption and Greyhound Racing Promotion Fund – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, explained that, as a result of the enactment of Senate Bill 09-174, a Greyhound Purse, Welfare, Adoption and Greyhound Racing Promotion Fund had been created. He observed that funds generated by the simulcasting of greyhound races, which would have originally been deposited in the Colorado State University Equine Research Fund, were now being diverted to the Greyhound Purse, Welfare, Adoption and Greyhound Racing Promotion Fund.

Mr. Hartman advised that, to date, the Division of Racing Events has received three applications for the release of money from the Greyhound Purse, Welfare, Adoption and Greyhound Racing Promotion Fund, which he had forwarded to the Commission for its consideration. He stated that the subject applications were submitted by the following organizations: 1) Recycled Racers, Inc.; 2) The Greyhound Hall of Fame in Abilene, Kansas; and 3) the Colorado Greyhound Breeders' Association. Mr. Hartman noted that, on April 7, 2010, he and Commissioner Dan Kester had reviewed these applications. Additionally, he reported that, at this time, approximately \$50,000 has accrued in the Fund.

Mr. Hartman voiced his opinion that the request from the Colorado Greyhound Breeders' Association did not meet the standards set forth in the Colorado Racing Commission Rules relating to qualifications to receive fund money. He advised that there was no back-up material, information or documentation provided with the application to support the organization's request. Additionally, Mr. Hartman informed the Commission that the Colorado Greyhound Breeders' Association was asking to be given 75% of the total accumulated funds to redistribute to welfare groups at its own discretion. Mr. Hartman stated that, in his accompanying letter to the organization, he had presented these observations and had requested that, in the event that any members of the Colorado Greyhound Breeders' Association knew of any organizations in need of funds that fit the application criteria, they instruct someone in that organization to contact the Division of Racing Events based upon the Commission's responsibility to determine how the money from this Fund is to be allotted.

Mr. Hartman commented that the other applications meet the criteria set forth in the Commission's rule, noting that in their applications, Recycled Racers, Inc. requested \$30,000 and The Greyhound Hall of Fame in Kansas requested \$20,000. He explained that, in the early stages of the program, the Division had received inquiries from other groups that may apply for the release of funds at some future time. Also, Mr. Hartman stated that he would anticipate that the Colorado Greyhound Breeders' Association would be submitting a modified application. He observed that, at this time, the Division would not recommend disbursement of the entire accrual in the Greyhound Promotion and Welfare Fund in light of the probability of additional requests for funds. Mr. Hartman recommended that the Commission approve the release of \$10,000 to the Greyhound Hall of Fame and the release of \$15,000 to Recycled Racers.

Discussion ensued during which Mr. Melvin Johnson, a member of the Colorado Greyhound Breeders' Association, and other interested parties were afforded the opportunity to discuss the applicable terms and conditions relating to approval of fund disbursements. The Commission addressed various issues and matters of concern relating to its authority to determine whether an organization applying for the release of funds would meet the criteria specified in the Commission's rule, would fulfill the intent of Senate Bill 09-174 and, therefore, would be eligible to receive an allotment from the Greyhound Purse, Welfare, Adoption and Greyhound Racing Promotion Fund. The Commission explained to Mr. Johnson the reasons why the application from the Colorado Greyhound Breeders' Association did not meet the established criteria. Mr. Johnson declared that further discussion and "debate" of issues relating to the qualifications for receipt of funds needed to be conducted. Mr. Bruce Seymore, Executive Director of Colorado Operations for Mile High Racing & Entertainment and promulgator of Senate Bill 09-174, asserted that the portion of the measure relating to the Greyhound Purse, Welfare, Adoption and Greyhound Racing Promotion Fund was not intended to create a "welfare fund" to provide money to individual members of the greyhound racing community, but to provide modest financial assistance to existing greyhound-related programs and organizations.

Prior to rendering its final decision, the Commission stipulated that all fund recipients would be required to submit the following information/documentation to the offices of the Division of Racing Events for subsequent Commission review: 1) a preliminary report specifying how the organization intends to utilize the subject funds; and 2) subsequent to expending the funds, a follow-up accounting that reflects how the money allotted to the organization was used.

After ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Vail, seconded by Commissioner Wells and unanimously carried to release \$10,000 to The Greyhound Hall of Fame and to release \$15,000 to Recycled Racers, Inc with the proviso that both organizations are to provide preliminary and follow-up reports relating to the use of the subject funds.

Consideration of Request to Debate Legislative Issues – Melvin Johnson

Mr. Dan Hartman, Director of the Division of Racing Events, addressed the Commission regarding the formal written request submitted by Mr. Melvin Johnson, member of the Colorado greyhound community and representative of the Colorado Greyhound Breeders' Association. Mr. Hartman advised that Mr. Johnson was requesting that the Commission schedule a meeting with the Colorado greyhound breeders to discuss and "debate" some of their issues and concerns. Mr. Hartman stated that, because the Colorado Racing Commission, was prohibited by law from conducting closed sessions, it would be necessary for the proposed meeting to be open to anyone wishing to attend. Mr. Johnson did not object to the conduct of an open meeting. Additionally, Mr. Hartman explained that, should the Commission decide to grant Mr. Johnson's request, the subject meeting could be held either in conjunction with or separate from a regular Commission meeting.

The Commission advised that, prior to scheduling a meeting, it would be appropriate for Mr. Johnson to provide additional information detailing and specifying what issues he would like to raise. The Commission stated that, since Mr. Johnson has made similar observations and comments at previous meetings, it would be desirable for him to offer some ideas and recommendations that could conceivably be developed into a legislative proposal. No action was taken at this time.

Final Status Report on Legislation – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, apprised the Commission that Governor Ritter had signed into law both Senate Bill 10-037 and House Bill 10-1134 and, therefore, they have become effective. He explained that Senate Bill 10-037 permits Colorado horse breeder associations to increase the administrative fee cap for registering and maintaining breeding records from five percent (5%) to ten percent (10%). Mr. Hartman advised that House Bill 10-1134 is intended to prevent illegal interstate pari-mutuel wagering on racing by authorizing Colorado to enter into interstate compacts governing racing and the collection of source market fees from out-of-state simulcast activity.

Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 11:55 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Tuesday, May 11, 2010** in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

MARILYN ALKIRE, CHAIRWOMAN

(PRESENT via TELECONFERENCE)

JACK PRETTI, VICE-CHAIRMAN

CHARLES VAIL, DVM, MEMBER

MARY SHARON WELLS, MEMBER

(EXCUSED)

DANIEL KESTER, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, May 11, 2010 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. Chairwoman Alkire called the meeting to order at 9:35 a.m.

Members Present

Marilyn Alkire, Chairwoman
Jack Pretti, Vice-Chairman
Charles Vail, DVM, Member
Mary Sharon Wells, Member
Daniel J. Kester, Member

Staff Present

Dan Hartman, Director, Division of Racing Events
Robert "Duke" Mann, Division Horse Racing Coordinator
Pam Kilgore, Division Auditor
Mark Brown, Division Enforcement Coordinator
Tina Bowman, Assistant Attorney General
Sherry Gunnell, Assistant to the Director

Also Present

An attendance sheet is attached hereto and made a part of these minutes.

Approval of Minutes of April 20, 2010

A motion was made by Commissioner Wells, seconded by Commissioner Pretti and unanimously carried to approve the minutes of April 20, 2010 as amended.

Continued Hearings – In the Matters of Licensee Andres Flores and Licensee Salvador Romero Nava -- Case No. 09-667 (Horse "Triffle"); Case No. 09-668 (Horse "Metalocalypse") and Case No. 09-669 (Horse "Purely Prada")

At 9:33 a.m., Commission Chair Marilyn Alkire convened the subject hearings. Both of the Respondents, Mr. Andres Flores and Mr. Salvador Romero Nava, were present. Ms. Jennifer Osgood, Attorney at Law for the firm of Burns, Figa and Will, P.C., entered her appearance on behalf of her clients, Mr. Andres Flores and Mr. Salvador Nava. Ms. Tina Bowman, Assistant Attorney General, entered her appearance on behalf of the Colorado Racing Commission and the Division of Racing Events. Mr. John Roberts, Assistant Attorney General, served as Conflicts Counsel during the hearings. Mr. Jorge M. Espinosa, Certified Spanish Interpreter, provided simultaneous translation of the hearings.

As a preliminary matter, Mr. Dan Hartman, Director of the Division of Racing Events, distributed copies of Colorado Racing Commission Rule #5.502 in the version in effect at the time of races in question.

Ms. Bowman explained that there were five hearings to be presented, two of which concern the horse, "Triffle", that raced in the Mile High Futurity Trials and Finals (Case No. 09-667), one of which involves the horse, "Metalocalypse", that raced in the Mile High Futurity Trials (Case No. 09-668), both owned by Mr. Andres Flores and trained by Mr. Ramon Marquez, and two of which concern the horse, "Purely Prada", that raced in the Mile High Derby Trials and Finals (Case No. 09-669), owned by Mr. Salvador Romero Nava and trained by Mr. Ramon Marquez.

The Commission took notice of the following observations made by Ms. Bowman and Ms. Osgood during their opening statements:

- 1) That the horse, "Triffle", ran and won the sixth (6th) race of the Mile High Futurity Trials on July 24, 2009, following which the unauthorized medication, "Clenbuterol", was detected in the system of the horse, "Triffle", in violation of Colorado Racing Commission Rules #5.502, #5.301 and #5.304. Subsequent to detection of the unauthorized medication in the horse, "Triffle", the horse was disqualified and declared unplaced for every purpose of the Mile High Futurity Trials, except for pari-mutuel wagering, and, therefore, the owner of the horse, "Triffle", was ineligible to participate in the purse distribution of the Mile High Futurity Trials, and a re-distribution of the purse was ordered. The purse money for the subject race is currently being held by the Arapahoe Park Horseman's Bookkeeper and has not been distributed due to the medication violation and the Commission will make the final determination regarding the distribution.

Further, pursuant to Colorado Racing Commission Rule #5.502, the owner of the horse, "Triffle" shall not participate in the purse distribution of the Mile High Futurity Finals, held on August 9, 2009, due to the presence of the unauthorized medication, "Clenbuterol", in the system of the horse during the running of the Mile High Futurity Trials on July 24, 2009, therefore, rendering the horse ineligible to participate in the Mile High Futurity Finals. The purse money for this race is currently being held by the Arapahoe Park Horseman's Bookkeeper and has not been distributed due to the medication violation in the Mile High Futurity Trials and the Commission will make the final determination regarding the distribution.

- 2) That the horse, "Metalocalypse", ran and won the eighth (8th) race of the Mile High Futurity Trials on July 24, 2009, following which the unauthorized medication, "Clenbuterol", was detected in the system of the horse, "Metalocalypse", in violation of Colorado Racing Commission Rules #5.502, #5.301 and #5.304. Subsequent to detection of the unauthorized medication in the horse, "Metalocalypse", the horse was disqualified and declared unplaced for every purpose of the Mile High Futurity Trials, except for pari-mutuel wagering, and, therefore, the owner of the horse, "Metalocalypse", was ineligible to participate in the purse distribution of the Mile High Futurity Trials, and a re-distribution of the purse was ordered. The purse money for the subject race is currently being held by the Arapahoe Park Horseman's Bookkeeper and has not been distributed due to the medication violation and the Commission will make the final determination regarding the distribution.

- 3) That the horse, "Purely Prada", ran and won the fifth (5th) race of the Mile High Derby Trials on July 25, 2009, following which the unauthorized medication, "Clenbuterol", was detected in the system of the horse, "Purely Prada", in violation of Colorado Racing Commission Rules #5.502, #5.301 and #5.304. Subsequent to detection of the unauthorized medication in the horse, "Purely Prada", the horse was disqualified and declared unplaced for every purpose of the Mile High Derby Trials, except for pari-mutuel wagering, and, therefore, the owner of the horse, "Purely Prada", was ineligible to participate in the purse distribution of the Mile High Derby Trials, and a re-distribution of the purse was ordered. The purse money for the subject race is currently being held by the Arapahoe Park Horseman's Bookkeeper and has not been distributed due to the medication violation and the Commission will make the final determination regarding the distribution.

Further, pursuant to Colorado Racing Commission Rule #5.502, the owner of the horse, "Purely Prada" shall not participate in the purse distribution of the Mile High Derby Finals, held on August 9, 2009, due to the presence of the unauthorized medication, "Clenbuterol", in the system of the horse during the running of the Mile High Derby Trials on July 25, 2009, therefore, rendering the horse ineligible to participate in the Mile

High Derby Finals. The purse money for this race is currently being held by the Arapahoe Park Horseman's Bookkeeper and has not been distributed due to the medication violation in the Mile High Derby Trials and the Commission will make the final determination regarding the distribution.

- 4) That split sample independent testing requested by Trainer Ramon Marquez and performed at the Center for Tox Services confirmed the presence of "Clenbuterol" in the systems of the horses "Triffle", "Metalocalypse" and "Purely Prada". The Division of Racing Events received the split sample test results on August 27, 2009.
- 5) That Trainer Ramon Marquez was duly and properly notified of hearings to be conducted by the Colorado Department of Revenue Hearings Division.
- 6) That, on December 3, 2009, a Settlement Stipulation was signed by Trainer Ramon Marquez stipulating to the rule violations and penalties, and Division Director Dan Hartman and Department of Revenue Hearing Officer Elizabeth McKendree accepting the document on behalf of the Division of Racing Events.

Ms. Osgood advised the Commission that neither Mr. Flores nor Mr. Nava would be making any claim to the purses won by "Triffle", "Metalocalypse", or "Purely Prada" during either the Mile High Futurity Trials on July 24, 2009 and July 25, 2009 or the Mile High Derby Trials on July 25, 2009. However, Ms. Osgood stated that both Mr. Flores and Mr. Nava would dispute that any penalty or disciplinary action should be taken against them based upon the test results following the trials. Ms. Osgood contended that, based upon both the factual and legal allegations contained within the notices of hearing and purse redistributions, the only issues before the Commission at this time are whether the detection of "Clenbuterol" in Mr. Nava's horse, "Purely Prada" following the Mile High Derby Trials and Mr. Flores' horse, "Triffle" following the Mile High Futurity Trials, should preclude them from receiving the purses from their horses' victories in the Mile High Futurity and Mile High Derby Finals. Commissioner Alkire requested that Ms. Osgood clarify whether it was correct that her clients were not contesting the purse redistributions for any of the Futurity or Derby Trials. Ms. Osgood affirmed that this was correct with respect to the matter of the purse redistributions for the trial races and the Commission noted that the Respondents were not contesting the purse redistributions in the three cases involving trial races. However, Ms. Osgood stated that the cases involving trial races would be in dispute with respect to the extent that the Division of Racing Events would want to impose any type of penalty or fine against Mr. Flores or Mr. Nava. Commissioner Alkire inquired of Mr. Hartman whether it was accurate that the only matter to be determined by the Commission was the actual purse redistributions and not any additional penalties or fines. Mr. Hartman stated that the Division of Racing Events would only be asking for the redistribution of the purse monies in these cases.

Ms. Osgood voiced her objection to the Division's long-established, broad interpretation and application of Colorado Racing Commission Rule 5.502. She asserted that, although the rule could be re-written to apply to additional races, its current language was only applicable to a single race and, therefore, it would be arbitrary and capricious for the Division to deny the purse money from the Mile High Futurity Finals to Mr. Flores and purse money from the Mile High Derby Finals to Mr. Nava. Additionally, Ms. Osgood informed the Commission that neither Mr. Flores nor Mr. Nava were notified at any time that they might not be awarded the purse monies from the subject final races and, if they had known that their ability to share in their horses' purse money might have been jeopardized, they could have decided to forego having their horses race in the finals and putting both their horses and jockeys at risk.

In light of the Commission's understanding that the purse redistribution for the Mile High Futurity Trials and the Mile High Derby Trials in the case of the horses "Triffle", "Metalocalypse" and "Purely Prada", Case Numbers 09-667, 09-668 and 09-

669, are not in dispute, a motion was thereupon made by Commissioner Vail, seconded by Commissioner Pretti and unanimously carried to order the redistribution of the purses from the following races: 1) the sixth (6th) race, a Mile High Futurity Trial, run on July 24, 2009, originally won by the horse, "Triffle", which was later disqualified and declared unplaced; 2) the eighth (8th) race, a Mile High Futurity Trial, run on July 24, 2009, originally won by the horse, "Metalocalypse", which was later disqualified and declared unplaced; and 3) the fifth (5th) race on July 25, 2009, a Mile High Derby Trial, won by the horse, "Purely Prada", which was later disqualified and declared unplaced.

The Commission proceeded to entertain the presentation of testimony and evidence. For purposes of clarification, the Commission requested that Ms. Bowman provide an appropriate interpretation of Colorado Racing Commission Rule 5.502, both at the time of the subject rule violations and after subsequent modifications were made to the rule during the Division's 2010 Rule-Making Hearing. Ms. Bowman stated that, at the time of the rule violations, the language of Colorado Racing Commission Rule 5.502 was interpreted to mean that the trainer of a horse would be responsible for and the absolute insurer of the condition of the horse(s) in his/her stable and that, in the event of a disqualification of a horse for the presence of an unauthorized medication or drug, the owner of the horse would not participate in the distribution of the purse, a redistribution of the purse would be ordered and the horse would be declared unplaced for every purpose, except for pari-mutuel wagering, and, that the language, "for every purpose" was interpreted by the Division of Racing Events to be applicable to both trial and final races. Ms. Bowman observed that, due to the length of time necessary for the split sample testing to be conducted and the test results to be provided, the Mile High Futurity Finals and the Mile High Derby Finals had already been run while the test results were still pending.

Mr. Bowman called Mr. Dan Hartman, Director of the Division of Racing Events, to give sworn testimony regarding the interpretation of Colorado Racing Commission Rule 5.502 at the time of the running of the Mile High Futurity and Mile High Derby Finals. Mr. Hartman attested that it had been the longstanding interpretation of Colorado Racing Commission Rule 5.502 by the Division of Racing Events and the Colorado Racing Commission that positive test results in trial races result in a horse being disqualified and declared unplaced not only for the trial race, but for the final race. He explained that, because of the prior positive test result, the horse would be precluded from participating in the final race. Further, Mr. Hartman advised that, since Mr. Marquez, the trainer of record for both "Triffle" and "Purely Prada", had requested that split sample testing be performed on both horses and the results had not been available until after the running of the finals of both the Mile High Futurity and Derby, Mr. Marquez was entitled to be afforded his right of due process. Mr. Hartman advised that the reason for modifying Colorado Racing Commission Rule 5.502 during the 2010 Rule-Making Hearing was to provide additional clarification of the phrase "for every purpose".

Further discussion ensued during which Ms. Osgood continued to object to the position represented by Ms. Bowman and Mr. Hartman regarding the interpretation of Colorado Racing Commission Rule 5.502. She stated that, despite their views, the plain language of the rule at the time of the violations in question was unambiguous and did not support such an interpretation. Ms. Osgood proposed that the Division had other options with respect to the handling of these cases, including but not limited to the suspension of the license of Trainer Ramon Marquez pursuant to Colorado Racing Commission Rule 5.436 and the withdrawal of "Triffle" and "Purely Prada" from their respective Futurity and Derby Finals. She queried Mr. Hartman regarding whether he or any Division staff member had attempted to contact and notify Mr. Flores and/or Mr. Nava of the presence of "Clenbuterol" in their horses' systems to which Mr. Hartman replied that, to the best of his knowledge, he had not done so. He observed that it was the responsibility of a horse's owner and its trainer, the agent of the owner, to communicate with each other, not the responsibility of the Division, and that it is the practice of the Division to notify the trainer of a positive test result. Mr. Hartman explained that the Class 3 medication violations in question did not involve a dangerous drug and, therefore, did not warrant the imposition of an emergency summary suspension against Trainer Marquez; and, further, that the situations did not compromise the health, safety and welfare of the wagering public or threaten the well-being of other competing horses in the

aces. Additionally, Mr. Hartman commented that the trainer would most likely have sought to obtain a temporary restraining order to preclude any action being taken by the Division to prevent the horses from running in the final races.

Following the presentation of evidence and testimony, the hearings were opened for Commission comments and questions. Ms. Bowman tendered the following exhibits to the Commission and Ms. Osgood for their review:

In the Matter of the Horse “Triffle”:

- Exhibit A – Original 2009 Arapahoe Park Board of Stewards Notice of Hearing packet for the Unauthorized Medication Clenbuterol found in the horse “TRIFFLE”, Trainer Ramon Marquez (Mile High Futurity Trials, July 24, 2009);
- Exhibit B – Request for Split Sample form (Signed by Trainer Ramon Marquez) and packet and Continuance of Hearing;
- Exhibit C – Colorado Division of Racing Events Internal Document (Sample Tag Report) for the horse “TRIFFLE” (Mile High Futurity Trials, July 24, 2009);
- Exhibit D – Copy of Sample Tag #E126452;
- Exhibit E – Copy of Affidavit from Industrial Laboratories confirming the unauthorized medication Clenbuterol in Sample #E126452;
- Exhibit F – Copy of Split Lab Affidavit from Center for Tox Services confirming the unauthorized medication Clenbuterol in Sample #E126452;
- Exhibit G – Stipulation and Agreement Document dated December 3, 2009 signed by Trainer Ramon Marquez stipulating to the rule violations and penalties, and Division Director Dan Hartman and Department of Revenue Hearing Officer Elizabeth McKendree accepting the document for the Division;
- Exhibit H – Notice of Hearing and Purse Redistribution (Mile High Futurity Trials) in the matter of Horse Owner Andres Flores, DBA Juniors Quarter Horses, Inc.;
- Exhibit I – Notice of Hearing and Purse Redistribution (Mile High Futurity Finals) in the matter of the Horse Owner Andres Flores, DBA Juniors Quarter Horses, Inc.;
- Exhibit J – Order Re: Continuance of Hearing to April 20, 2010;
- Exhibit K – Order Re: Continuance of Hearing to May 11, 2010; and
- Exhibit L – Arapahoe Park Race Program

In the Matter of the Horse “Purely Prada”:

- Exhibit A – Original 2009 Arapahoe Park Board of Stewards Notice of Hearing packet for the Unauthorized Medication Clenbuterol found in the horse “PURELY PRADA”, Trainer Ramon Marquez (Mile High Derby Trials, July 25, 2009);
- Exhibit B – Request for Split Sample form (Signed by Trainer Ramon Marquez) and packet and Continuance of Hearing;
- Exhibit C – Colorado Division of Racing Events Internal Document (Sample Tag Report) for the horse “PURELY PRADA” (Mile High Derby Trials, July 25, 2009);
- Exhibit D – Copy of Sample Tag #E126467;
- Exhibit E – Copy of Affidavit from Industrial Laboratories confirming the unauthorized medication Clenbuterol in Sample #E126467;
- Exhibit F – Copy of Split Lab Affidavit from Center for Tox Services confirming the unauthorized medication Clenbuterol in Sample #E126467;
- Exhibit G – Stipulation and Agreement Document dated December 3, 2009 signed by Trainer Ramon Marquez stipulating to the rule violations and penalties, and Division Director Dan Hartman and Department of Revenue Hearing Officer Elizabeth McKendree accepting the document for the Division;
- Exhibit H – Notice of Hearing and Purse Redistribution (Mile High Derby Trials) in the matter of Horse Owner Salvador Romero Nava;

- Exhibit I – Notice of Hearing and Purse Redistribution (Mile High Derby Finals) in the matter of the Horse Owner Salvador Romero Nava;
- Exhibit J – Order Re: Continuance of Hearing to April 20, 2010;
- Exhibit K – Order Re: Continuance of Hearing to May 11, 2010; and
- Exhibit L – Arapahoe Park Race Program

Commissioner Alkire observed that: “the owners are held accountable to understand what the rules of the Commission are and Rule 5.502 does hold the trainer responsible and the absolute insurer of the condition of the animal. She stated that this appears to be a case where the trainer failed to disclose to the owners the positive drug result that came forward and that is unfortunate. The Commission, however, is not responsible for the actions of the trainer. The trainer is the agent of the owners and this Commission, which I have now served on for eight years, has always interpreted this rule, notwithstanding your [Ms. Osgood’s] argument that the reference is to that race and that purse, the additional phrase that the animal shall be declared unplaced for every purpose to reference any subsequent race because if the animal is unplaced and declared unplaced for every purpose, the horse could not run in the finals, so it would be my sense that the Commission should order the redistribution of the Finals purse[s] relative to the horses, “Purely Prada” and “Triffle” from the Mile High Futurity [and the Mile High Derby]. A motion was thereupon made by Commissioner Pretti, seconded by Commissioner Vail and unanimously carried that the purses for the Mile High Futurity finals and the Mile High Derby Finals for the horses, “Triffle, and “Purely Prada” shall be redistributed. The Commission directed that Orders be issued in accordance with its decisions.

Ms. Osgood stated for the record that there are only two relevant sets of exhibits to be considered, those relating to cases involving the horses, “Purely Prada” and “Triffle”. Ms. Osgood objected to the inclusion of the Settlement Stipulation signed by Trainer Ramon Marquez, which is Exhibit G in both sets of exhibits, based upon the fact that Mr. Marquez is not present for cross examination and that the Settlement Stipulation is beyond the matters relevant for the purposes of today’s hearings. Ms. Bowman argued that the Stipulation in question is relevant to both of the subject cases in that it represents an agreement between the Division of Racing Events and the trainer of record, Mr. Marquez, and given that the arguments represented that the trainer is the absolute insurer and the responsible party for the administration of an unauthorized drug and the resulting medication violations, it is a relevant fact to these cases and, therefore, should be made part of the record.

Mr. John Roberts, Assistant Attorney General serving as Conflicts Counsel for the hearings, addressed the Commission regarding its authority to render a decision with respect to the proffered exhibits. He stated that the rules of evidence do permit hearing officers, commissions, boards and courts to admit documents into evidence that are part of an agency’s public record and, therefore, the Colorado Racing Commission is entitled to accept such documents into evidence and is not required to have the stipulated parties be present if the subject exhibits are offered for admission by one of the parties.

The Commission expressed its view that, for the purpose of establishing the record in these cases, the exhibits presented by Ms. Bowman relative to the horses “Triffle” and “Purely Prada” have been stipulated to be admitted, said exhibits being A through L, with the exception of exhibit G which has been contested. Following consideration during which the Commission determined that, based upon the advice of the Commission’s legal counsel, it has the ability to add the contested exhibit to those that are not being contested, a motion was made by Commissioner Pretti, seconded by Commissioner Kester and unanimously carried to include all exhibits, including exhibit G, as presented and to declare that all exhibits will be included in the formal record.

The hearing concluded at 10:42 a.m.

Ms. Teri Chaplin, Court Reporter, recorded stenographically the above proceedings. A tape recording of the proceedings is on file in the Division’s Lakewood office.

Consideration of Contents of Horse Information Packet: A) Proposed Stewards' Guidelines and Groundrules; B) Medication Guidelines and Veterinary Practices; C) Split Sample Policy; D) Stable Roster; E) CRC Rule 11.544; F) Stable Inspection Procedures; G) Stable Inspection Report; H) 2010 New Rules (effective May 1, 2010 and June 1, 2010); and I) Determination of whether a change in the number of live races per day should be allowed during Arapahoe Park's 2010 live race meet – Robert "Duke" Mann

Mr. Robert "Duke" Mann, Horse Racing Coordinator, presented and identified each of the following documents contained in the Horse Information Packet. He stated that, upon Commission acceptance, the Horse Information Packet would be made available at the Arapahoe Park Division office for trainers and other interested parties participating in the upcoming Arapahoe Park race meet and placed on the Division's website for access by interested owners:

- 1) Stewards' Guidelines and Groundrules: The Commission reviewed the proposed Stewards' Guidelines and Groundrules for 2010. Mr. Mann observed that this document, which is informational in nature, is intended to provide all track license-holders with generic instructions regarding conduct, restrictions and prohibitions. He stated that the current edition is unchanged from last year's version. Those in attendance were afforded an opportunity to comment on the document and offer views and opinions relating to it. No objections were raised to acceptance of this document as presented.
- 2) Horse Racing Medication Guidelines and Veterinary Practices: Mr. Mann explained that, prior to each live horse racing season, the Division staff veterinarian(s) prepare an informational bulletin designed to provide updated information to all horse owners, trainers and practicing veterinarians concerning medication rules, regulations, policies and procedures of the Colorado Racing Commission. Mr. Mann called attention to the modified version of Colorado Racing Commission Rule 5.317 that contains the protocol to be followed for a horse to participate in a race while being given Furosemide (Lasix) as well as the conditions for its administration and withdrawal. He explained that, once a horse is registered to run with Furosemide (Lasix) in its system, it must have Furosemide (Lasix) in its system and no shifting of use will be allowed. Further, in order for the administration of Furosemide (Lasix) to be discontinued, the trainer must fill out a form for this purpose. The Division veterinarian and the Board of Stewards shall be monitoring the usage and discontinuance of the administration of Furosemide (Lasix) during the Arapahoe Park meet for all non-bleeders.

Discussion ensued regarding the protocol to be used for the conduct of post mortem examinations. The Commission urged that members of the horse racing community be able to obtain clarification regarding the post mortem protocol and, for purposes of insurance coverage, be permitted to select the facility at which the post mortem examination would be performed, whether at Colorado State University or at another facility. Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, inquired whether, at Colorado State University, a complete post mortem evaluation, including organ examination and analyses for the presence of drugs, is performed. Mr. Mann and Division Director Dan Hartman advised that the Division works with and supports the research being conducted at Colorado State University by means of the post mortem examination. The Commission expressed its desire for complete post mortem examinations to be performed in light of the potential risk of disease transmission among horse populations and other hazards that could result in catastrophic breakdowns of racehorses. Mr. Mann suggested that Dr. Torrance Nett, Associate Dean for Research and Graduate Education at the Colorado State University College of Veterinary Medicine and Biomedical Sciences, be requested to provide information regarding the extent of the post mortem evaluation performed at Colorado State University during his annual presentation to the Commission. Additionally, Mr. Mann advised the Commission that he would contact Dr.

Nett regarding the post mortem examination protocol and report back on it at the Commission's July meeting. Mr. Mann stated that he would revise his comments relating to post mortem examinations in light of the issues and recommendations brought forward during this discussion.

- 3) Split Sample Policy: The Commission reviewed the proposed Split Sample Policy for 2010. Mr. Mann explained the protocol associated with the handling of a request for split sample testing. Division Director Dan Hartman explained that, should the Division receive advance notification of a positive test result in a trial race, this would be sufficient to prevent a horse from racing in the finals. He noted that most of the breed organizations have stringent requirements for nomination and entry of horses into special races, such as stakes races.

Mr. Hartman advised that the Division has included owners as recipients of notices of hearing/medication violations in order to prevent communications lapses between owners and trainers. After considering Mr. Mann's comments, the Commission found the document to be acceptable as presented.

- 4) Stable Roster: Following its review and after making a minor correction, the Commission found this document to be acceptable.
- 5) Colorado Racing Commission Rule #11.544 Pertaining to Stable Inspections: The Commission reviewed the text of Rule #11.544 and took notice of its inclusion in the Horsemen's Information Packet.
- 6) Stable Inspection Procedures: Mr. Mann stated that the current edition is unchanged from last year's version. Those in attendance were afforded an opportunity to comment on the document and offer views and opinions relating to it. No objections were raised to acceptance of this document as presented.
- 7) Stable Inspection Report: The Commission took notice of the inclusion of this document in the Horsemen's Information Packet.
- 8) Copies of New Rules (Effective May 1, 2010 and June 1, 2010): The Commission took notice of the inclusion of these documents in the Horsemen's Information Packet.

Mr. Mann concluded his presentation by recommending that the Commission approve the aforementioned documents. A motion was thereupon made by Commissioner Pretti, seconded by Commissioner Vail and unanimously carried to accept the aforementioned documents, rules and pertinent supplementary material contained in the 2010 Horsemen's Information Packet with the proviso that the portion of the text relating to post mortem examinations of racehorses on the track, which is contained in the Horse Racing Medication Guidelines and Veterinary Practices, be modified in accordance with the Commission's recommendations.

Consideration of Request to Discuss Greyhound Racing Matters at an Upcoming Commission Meeting – Melvin Johnson

Mr. Dan Hartman, Director of the Division of Racing Events, advised that, at the Commission's April 20, 2010 meeting, Mr. Melvin Johnson, spokesperson for the Colorado Greyhound Breeders' Association, had requested that the Commission set a date at one of its upcoming meetings at which a discussion could be held to address various issues and matters of concern to the Colorado greyhound breeders. However, the Commission had declined to take action at that time based upon the lack of specific information concerning the topics to be addressed.

Mr. Hartman observed that, on May 5, 2010, he had received a letter from Mr. William Webb, legal advisor for the Colorado Greyhound Breeders' Association, which he had provided to the Commission along with his reply. Mr. Hartman explained that, in

Mr. Webb's letter, he had outlined some of the matters that the Colorado greyhound colony wishes to discuss, including its efforts to re-open a racetrack for the purpose of conducting greyhound race meets. Mr. Hartman commented that, in the event that the Commission desired to schedule a meeting with representatives of the Colorado Greyhound Breeders' Association, it could be conducted in conjunction with the Commission's July 13, 2010 meeting.

Mr. Johnson stated that there were two primary subjects that the Colorado Greyhound Breeders' Association wished to discuss with the Commission: 1) the regulation of live greyhound racing; and 2) the projected costs to regulate a live greyhound meet. Discussion ensued during which Mr. Hartman explained that he had provided proposed language to Mr. Johnson to assist him in making statutory changes suitable for presentation to a sponsor should he find one for the next or future legislative sessions. Further, Mr. Hartman commented that, in Mr. Johnson's request, he had asked for proper language to change the tax rate for greyhound racing and language that would change the method for distribution of funds destined for the greyhound welfare adoption fund and, instead, re-direct those monies to the Colorado Greyhound Breeders' Association for their use. Mr. Hartman stated that those proposals could be presented to a sponsor found by the Colorado Greyhound Breeders' Association and go through the regular legislative process.

Mr. Hartman advised that, in Mr. Webb's letter, he had referred to the prospect of reducing cash funding that supports the Racing Division. In his reply, Mr. Hartman explained to Mr. Webb that, currently, the Racing Division is and does operate on an extremely small budget and that the agency has taken steps in the last two years to reduce its budget by approximately \$1,000,000. Additionally, Mr. Hartman presented his response to Mr. Webb's assumptions concerning the costs necessary to regulate a prospective 120-day live greyhound race meet. Mr. Hartman offered his cost projections based upon the Division's expectation that 120-day live race meet would be run over a period not to exceed six months and, if so, the Division could possibly conduct a meet with temporary employees rather than full-time state employees as was done in the past. Mr. Hartman explained that, during the current legislative session, all permanent full-time employees associated with the running of live greyhound racing were removed permanently from the Division's budget, along with the appropriation for those expenses. At a minimum, any return of live greyhound racing would necessitate that the Division have sufficient ramp-up time in order to secure funding no matter what the actual number of race days proves to be.

For informational purposes, Mr. Hartman stated that any additional live race meet approved in Colorado would share the balance of the Division's budget, above and beyond the employee cost, with the existing licensee and, therefore, each licensed racetrack would pay for the employees devoted to it for a comparable length of time or, based upon a percentage of live racing, would then divide up the remainder of the cash fund that is used for operation, administration and infrastructure that are the day-to-day costs of the Racing Division. He noted that the Colorado Greyhound Breeders' Association could elect to pay its share of cash funding for Division operations either on a six-month basis (estimate of \$140,000 per month) or a twelve-month payment basis (estimate of \$70,000 per month). Initially, Mr. Johnson disputed Mr. Hartman's projections, but later stated that he did not contest the cost estimates as presented. Mr. Hartman agreed to provide a statistical breakdown of them for Mr. Johnson's consideration.

Mr. Johnson urged the Commission to intercede with the Legislature on behalf of his organization's potential legislative initiative(s), but the Commission declined to do so stating it was not the proper entity to undertake sponsorship or endorsement of the proposal(s).

The Commission expressed its chagrin and distress regarding the cessation of greyhound racing in Colorado. The Commission recommended that Mr. Johnson and the Colorado Greyhound Breeders' Association continue to work with and seek guidance from Mr. Hartman and the Division of Racing Events in order to formulate a detailed business plan or model that could be brought before the Commission for review and

discussion. However, based upon the lack of specific details, the absence of any business plan or model and without any clear direction on what and how the Colorado Greyhound Breeders' Association intends to proceed, the Commission declined at the present time to schedule a discussion session/dialogue at an upcoming Commission meeting. Thereupon, a motion was made by Commissioner Pretti, seconded by Commissioner Kester and unanimously carried to table the issues raised until such time as the Commission is given additional information by the Colorado Greyhound Breeders' Association.

Adjournment of Regular Business Meeting

There being no further business to consider, the Commission adjourned its regular meeting at 11:30 a.m.

Acknowledgment of and Farewell to Commissioner Marilyn Alkire – Dan Hartman

Division Director Dan Hartman observed that, on June 30, 2010, the second full term served by Commissioner Marilyn Alkire would officially end and, therefore, this would be the final Commission meeting that she would be attending.

Mr. Hartman, Ms. Alkire's fellow Commissioners and numerous industry representatives offered tributes and reflections in her honor. She was acknowledged for her excellent guidance, leadership and decision-making ability during her tenure as a Commissioner.

Mr. Hartman extended warmest regards and special thanks to Ms. Alkire for her outstanding service to the Division, the Commission, the racing industry and the citizens of Colorado. At this time, Mr. Hartman presented a commemorative plaque and a Certificate of Recognition to Ms. Alkire. These acknowledgments were greeted by a rousing ovation.

Ms. Alkire responded that she had enjoyed her terms as a Commissioner and that she had appreciated the support and helpfulness of her fellow Commissioners, members of the racing industry and the Division staff throughout the previous eight years.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, July 13, 2010 at Arapahoe Park, 26000 East Quincy Avenue, Aurora, Colorado.

The undersigned hereby approve the foregoing Minutes.

MARILYN ALKIRE, CHAIRWOMAN

JACK PRETTI, VICE-CHAIRMAN

CHARLES VAIL, DVM, MEMBER

MARY SHARON WELLS, MEMBER

DANIEL KESTER, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, July 13, 2010 in the Directors' Room at Arapahoe Park, 26000 East Quincy Avenue, Aurora, Colorado. Vice-Chair Jack Pretti called the meeting to order at 9:50 a.m.

Members Present

Jack Pretti, Vice-Chairman
Charles Vail, DVM, Member
Mary Sharon Wells, Member
Daniel J. Kester, Member (present via teleconference)

Staff Present

Dan Hartman, Director, Division of Racing Events
Robert "Duke" Mann, Division Horse Racing Coordinator
Michelle Bauman, Licensing Supervisor
Mark Brown, Division Enforcement Coordinator
Tina Bowman, Assistant Attorney General
Y. E. Scott, Senior Assistant Attorney General
Sherry Gunnell, Assistant to the Director

Also Present

An attendance sheet is attached hereto and made a part of these minutes.

Election of Officers

A motion was made by Commissioner Wells, seconded by Commissioner Vail and unanimously carried to appoint Jack Pretti to serve as Chair of the Commission. A motion was made by Commissioner Vail, seconded by Commissioner Kester and unanimously carried to appoint Mary Sharon Wells to serve as Vice-Chair of the Commission through June 2011.

Approval of Minutes of May 11, 2010

A motion was made by Commissioner Wells, seconded by Commissioner Vail and unanimously carried to approve the minutes of May 11, 2010 as submitted.

Scheduled Adjudicatory Hearing – In the Matter of Licensee ESGAR RAMIREZ

Commission Chairman Pretti convened the scheduled adjudicatory hearing in the matter of Jockey Esgar Ramirez at 9:56 A.M. Mr. Ramirez was present and was not represented by legal counsel.

Mr. Robert "Duke" Mann, Horse Racing Coordinator for the Colorado Division of Racing Events, advised the Commission that Mr. Ramirez had been duly and properly notified of today's hearing by both hand delivery and mailing of the Notice of Hearing. He provided the following background information relating to this matter:

- 1) That, on April 12, 2010, the Colorado Division of Racing Events issued Director's Order No. 10-02 that ordered Mr. Ramirez, a Jockey duly licensed by the Colorado Division of Racing Events at all times relevant to Case No. 09-376 and the rider of the Horse, "Specially Alluring", in the Bayer Legend West/Southwest Derby Challenge Trials and Finals, that were run at Arapahoe Park Racetrack during its 2009 race meet, to return the "Licensee's Portion of Purse Monies" in the amount of \$2,168.32 that were released to Mr. Ramirez in error;

- 2) That Director's Order No. 10-02 required that Mr. Ramirez return the "Licensee's Portion of Purse Monies" to the Arapahoe Park's Horsemen's Bookkeeper "within EIGHTEEN (18) calendar days of notification" of Director's Order No. 10-02, which, as specified in the Order, meant a return of purse monies no later than April 30, 2010; and
- 3) That, as of the close of business on June 11, 2010 (the date of the Notice of Hearing), Mr. Ramirez had not returned any of the "Licensee's Portion of Purse Monies" related to Director's Order No. 10-02;

The Commission entertained Mr. Ramirez' testimony regarding his reasons for failing to repay the specified "Licensee's Portion of Purse Monies". Mr. Ramirez stated for the record that Mr. Villarreal-Gutierrez, the owner of the horse "Specially Alluring", had indicated that the ruling redistributing the purse monies would be overturned and, therefore, Mr. Ramirez did not need to be concerned about repaying the money and, furthermore, Mr. Villarreal-Gutierrez had told Mr. Ramirez that, in the event that said ruling was not overturned, Mr. Villarreal-Gutierrez would repay Mr. Ramirez' portion of the purse monies. Mr. Ramirez stated that he had not spoken to Mr. Villarreal-Gutierrez in the last few months since that conversation with him. Mr. Ramirez advised the Commission that he would be willing to repay the money and requested permission from the Commission to set up a payment plan.

Following consideration of the evidence and testimony presented, a motion was made by Commissioner Wells, seconded by Commissioner Vail and unanimously carried to agree to the establishment of a payment plan by which Mr. Esgar Ramirez would repay the "Licensee's Portion of Purse Monies" in four equal installments of \$542.08, the first payment being due no later than July 20, 2010 and the next three payments being due on the tenth day of each of the next three months (August 10, September 10 and October 10, 2010). However, the Commission further ordered that if any payments are missed, the license of Mr. Esgar Ramirez would be immediately suspended until such time as the purse has been repaid in full. Notice was taken that all checks and/or money orders should be made payable to Arapahoe Park and mailed to the Arapahoe Park Horsemen's Bookkeeper at the racetrack location. The Commission directed that an Order be issued to Mr. Esgar Ramirez reflecting this decision.

The hearing concluded at 10:10 A.M.

A tape recording of the proceeding is on file in the Division's Lakewood office.

Consideration of Request to Discuss the Possibilities of Accepting Wagers Electronically – Bruce Seymore

Mr. Bruce Seymore, Executive Director of Colorado Racing Operations for Mile High Racing and Entertainment, presented his request to the Commission to begin accepting wagers electronically during the current Arapahoe Park live race meet. He explained that existing technology is capable of affording bettors the ability and convenience of being able to place legal wagers via an electronic information transfer approach. He observed that, once the system is in place, a patron would be able to call in and place a wager with a customer representative. Mr. Seymore stated that he is hopeful that it will be possible for electronic wagers to be received at Havana Park in the near future. Mr. Seymore noted that the wagers would be treated in much the same way as vouchers. Additionally, Mr. Seymore advised the Commission that receipt of electronic wagers would also serve to create a new revenue stream to benefit Arapahoe Park's operations.

Mr. Dan Hartman, Director of the Division of Racing Events, recommended that the Commission approve Mr. Seymore's request, noting that the Racing Statute permits facilities to accept electronic wagers, but this is the first time that an association has requested to do so.

Mr. Melvin Johnson, a representative of the Colorado greyhound racing community, inquired whether electronic wagering would be available on greyhound races

as well as horse races. Mr. Seymore stated that, at the present time, it is unclear whether it would be possible to accept electronic wagers on greyhound races, but he commented that he was attempting to arrange for greyhound signals. The Commission expressed its desire to Mr. Seymore to pursue this effort. Mr. Johnson requested that he be apprised of any developments or plans relating to the acceptance of greyhound signals and electronic wagering on greyhound races.

Following consideration of Mr. Seymore's presentation, a motion was made by Commissioner Vail, seconded by Commissioner Wells and unanimously carried to endorse Mr. Seymore's proposal to begin accepting wagers electronically during the current Arapahoe Park live race meet and to approve this plan on a conditional basis subject to successful completion of all necessary testing and submission of all documentation required by the Division of Racing Events prior to commencement of electronic wagering. The Commission requested that Mr. Seymore communicate with the Division on his progress and ensure that the Division's Auditor, Ms. Pam Kilgore, receive sufficient prior notification to schedule and complete testing.

Status Report – Arapahoe Park's 2010 Live Race Meet – Robert "Duke" Mann

Mr. Robert "Duke" Mann, Horse Racing Coordinator for the Division of Racing Events, and Mr. Bill Powers, Racing Secretary/Facilities Manager at Arapahoe Park, addressed the Commission regarding the current live race meet. Mr. Mann commented that the Division staff had been very busy with processing licenses for many new and renewing applicants and handling the work associated with a greatly increased volume of horses coming to/at the racetrack. Mr. Mann observed that Friday, July 16, 2010 would be the twenty-third live race day of this season. He noted that there were no major complaints or incidents to report and that the meet had been progressing very smoothly. Additionally, Mr. Mann advised the Commission that the racetrack surface was being properly maintained.

Mr. Powers stated that, although the attendance approximated that for 2009, the handle was substantially higher, up approximately \$700,000, than at the same time last year. He commented that this could, in part, be attributable to the quantity of horses at the track, which is 25% greater than it was last year. Therefore, the size of the fields has increased with nine to ten horses entered per race and the large volume of horses available to run has enabled Arapahoe Park to add one extra race to each live program. Mr. Powers also noted that the out-of-state wagering has increased approximately thirty percent above the 2009 figures, while the instate handle is up about ten percent from last year.

Mr. Mann stated that drug and medication usage is comparable to that in 2009 with the same drugs/medications being detected.

Report Regarding Early Distribution of Owners/Breeders Awards and Supplemental Purse Funds to Colorado Thoroughbred Breeders Association – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, advised the Commission that Ms. Pam Kilgore, Division Auditor, had completed an audit of the accumulated funds of the Colorado Thoroughbred Breeders Association pursuant to their formal written request for early release of \$137,000, which is a portion of their Owners/Breeders Awards and Supplemental Purse Fund accrual as permitted by statute. Mr. Hartman stated that, in light of Ms. Kilgore's verification that sufficient funds were available for this amount to be distributed to the Colorado Thoroughbred Breeders Association for the purpose of supplementing the 2010 Colorado Bred Stakes schedule at Arapahoe Park as soon after July 1, 2010 as possible, a warrant was issued to the Colorado Thoroughbred Breeders Association and the transfer of funds was successfully made.

2011 Race Dates Hearing

Chairman Pretti convened the 2011 Race Dates Hearing at 10:35 a.m.

Mr. Dan Hartman, Director of the Division of Racing Events, presented the requested 2011 race date envelope for Arapahoe Park for thirty-nine days of live horse racing on unspecified dates between May and September 2011. Mr. Hartman observed that no greyhound race date requests had been submitted.

In order for the Division to be able to plan for calendar year 2011, Fiscal Year 2011 and Fiscal Year 2012, to develop an appropriate staffing plan for the proposed meet and to have a clear idea about what its budgetary needs would be, Mr. Hartman recommended that the Commission approve the date request as submitted. He declared that it is very important for the Division and the Commission to be able to prepare for the continuation and perpetuation of live racing in Colorado. Additionally, he recommended that approval of the proposed envelope be conditioned on available resources, sufficient staff and budget.

Mr. Melvin Johnson, a representative of the Colorado greyhound racing community, inquired whether the Commission could authorize the granting of race dates to the Colorado Greyhound Breeders' Association. The Commission advised Mr. Johnson that, should a group/organization with a viable business plan tender a legitimate license application to conduct a live greyhound race meet, the Commission would gladly entertain it. However, the Commission declared that, absent receipt of a license application and a specific request for live race dates, it would be unable to make such a business decision.

Based upon Mr. Hartman's recommendation, the Commission proceeded to consider the proposed race date request for Arapahoe Park for 2011. Mr. Hartman advised that Arapahoe Park is requesting the ability to conduct thirty-nine (39) days of live racing on dates to be determined between May and September 2011. He stated that Arapahoe Park is not required to submit a proposed envelope of race dates and that, in the absence of an alternative application, Arapahoe Park's scheduling is allowed to be left open-ended. A motion was thereupon made by Commissioner Vail, seconded by Commissioner Wells and unanimously carried to approve Arapahoe Park's 2011 date request on a contingency basis subject to submission of actual race dates as well as availability of Division funding and staffing. (Notice was taken that Arapahoe Park may request the ability to conduct live racing on any days that it desires between May 1, 2011 and September 30, 2011, with the proviso that the conditions set forth above apply to any specific dates of racing.):

ARAPAHOE PARK
(Unincorporated Arapahoe County)

MAY – SEPTEMBER, 2011*
(39 UNSPECIFIED DATES)

* - Actual race days to be determined

(APPROVAL GRANTED SUBJECT TO AVAILABILITY OF DIVISION FUNDING AND STAFFING)

There being no further race date requests to consider, the 2011 Race Dates Hearing was adjourned at 10:45 a.m.

Consideration of Request for Immediate Action – In the Matter of a Protest of the Late Scratch of the Horse “Mile High Mojo” from the Colorado Thoroughbred Breeders’ Association Futurity Stakes Trials

Mr. Dan Hartman, Director of the Division of Racing Events, tendered to the Commission a packet of material relating to the scratch of the horse, “Mile High Mojo”, owned by Daley Racing, LLC, from the July 2, 2010 Colorado Thoroughbred Breeders Futurity Stakes Trials and the owners’ protest of the Stewards’ decision in this matter. Appearing on behalf of Daley Racing, LLC, were owners Neil and Rodger Daley and Trainer Stacey Rushton. Due to the fact that the finals of the Colorado Thoroughbred Breeders Futurity Stakes are to be run on Saturday, July 17, 2010 with entries for the finals to be drawn on Wednesday, July 14, 2010, Messrs. Neil and Rodger Daley requested that the Commission render a decision at this time regarding the eligibility of “Mile High Mojo” to be a participant in this race.

The Commission took notice of and reviewed all of the material pertaining to the aforementioned scratch of the horse “Mile High Mojo and entertained the testimony of Messrs. Rodger and Neil Daley and Mr. Stacey Rushton. Included in the packet of material provided to the Commission were the following documents:

- A nomination form for the 53rd running of the Colorado Thoroughbred Breeders Futurity Stakes at Arapahoe Park on Saturday, July 17, 2010 with the trials to be run on Friday, July 2, 2010;
- The “Colorado Thoroughbred Breeders Futurity & Lassie Stake Race Conditions”;
- The Arapahoe Park Board of Stewards Order in the Matter of “Mile High Mojo” – Late Scratch Protest (undated);
- Copy of Colorado Racing Commission Rules 6.206 and 6.210;
- Copy of notarized Affidavit of Vicki Warhol dated July 10, 2010;
- Copy of a formal written request dated July 10, 2010 from Daley Racing and Stacey Rushton to hold a meeting with Dr. Muller (Veterinarian), Travis Wales (Jockey) and other interested parties concerning “Mile High Mojo” and his standing relative to the CTBA Futurity; and
- Copies of pages from the Arapahoe Park racing program for the first and second races on Friday, July 2, 2010, which comprised the Colorado Thoroughbred Breeders Futurity Trials.

Following the Commission’s deliberation of the testimony and evidence presented, Commission Chairman Pretti apprised the owners of the horse, “Mile High Mojo”, Daley Racing, LLC, and the trainer of the horse, Mr. Stacey Rushton, that the Commission, by virtue of its collaborative discussion, had achieved mutual agreement, which was to uphold the decision of the Arapahoe Park Board of Stewards regarding the horse “Mile High Mojo” based upon the determination of the Track Veterinarian, Dr. Muller, to scratch the horse prior to the second race run on Friday, July 2, 2010, and, therefore, to find that the horse, “Mile High Mojo” is ineligible to participate in the finals of the Colorado Thoroughbred Breeders Futurity Stakes.

The Commission expressed its appreciation and gratitude to the members of the racing community for their continued support and participation in Colorado racing.

Thanks to Mr. Seymore for Hosting the Meeting

The Commission extended its warmest thanks to Mr. Bruce Seymore and his staff for hosting today’s meeting and for their hospitality and courtesy to everyone in attendance.

Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 11:40 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, September 14, 2010 in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

JACK PRETTI, CHAIRMAN

MARY SHARON WELLS, VICE-CHAIR

CHARLES VAIL, DVM, MEMBER

(PRESENT VIA TELECONFERENCE)
DANIEL KESTER, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, September 14, 2010 in Conference Room 110 (Gaming Conference Room) at 1881 Pierce Street, Lakewood, Colorado. Commission Chairman Jack Pretti called the meeting to order at 9:40 a.m.

Members Present

Jack Pretti, Chairman
Mary Sharon Wells, Vice-Chair
Charles Vail, DVM, Member
Daniel J. Kester, Member

Staff Present

Dan Hartman, Director, Division of Racing Events
Robert "Duke" Mann, Horse-Racing Coordinator
Mark Brown, Division Enforcement Coordinator
Y. E. Scott, Senior Assistant Attorney General
Sherry Gunnell, Assistant to the Director

Also Present

An attendance sheet is attached hereto and made a part of these minutes.

Approval of Minutes of July 13, 2010 and August 13, 2010

Commissioner Vail noted that, in light of his inability to participate in the August 13, 2010 special meeting, he would hereby ratify and concur with all decisions rendered by the Commission at that session. Additionally, Commissioner Vail requested that the Division verify whether Jockey Esgar Ramirez, for whom a payment schedule was established at the July 13, 2010 Commission meeting, was current in his payments.

A motion was thereupon made by Commissioner Vail, seconded by Commissioner Wells and unanimously carried to approve the minutes of July 13, 2010 and August 13, 2010 as submitted.

Recess of Open Session~~Regular Meeting~~/Convening of Executive Session

At 9:43 a.m., a motion was duly made by Commissioner Wells, seconded by Commissioner Kester and unanimously carried to recess the ~~regular meeting of the Commission~~ open session for the purpose of meeting in Executive Session to discuss with counsel pending or imminent court action involving the Commission as a party or information or legal issues that is subject to attorney-client privilege related to the case concerning Susan Wafer and Wafer Thoroughbred Ranch.

Adjournment of Executive Session

At 10:15 a.m., a motion was made by Commissioner Wells, seconded by Commissioner Kester and unanimously carried to exit from executive session and enter into open session for a formal vote on the case concerning Susan Wafer and Wafer Thoroughbred Ranch. Commissioner Vail called for individual votes to be reported. The vote was as follows: Commissioner Kester – yes; Commissioner Wells – yes; Commissioner Pretti – yes; and Commissioner Vail – abstained/recused. The Commission proceeded to reconvene the open session of its regular business meeting.

The following attestation was made by Senior Assistant Attorney General Scott: “Pursuant to C.R.S. 24-6-402(D.5)(ii)(b), I, Senior Assistant Attorney General Y. E. Scott, as counsel for the Commission, attest that all matters discussed in the unrecorded portion of the preceding executive session constituted attorney-client communications, and that no other record or electronic recording was kept of the discussion or will be reflected in these minutes.”

A motion was duly made by Commissioner Kester, seconded by Commissioner Wells and unanimously carried to accept the recommendation of the hearing officer with regard to the case concerning Susan Wafer and Wafer Thoroughbred Ranch. Commissioner Vail called for individual votes to be reported. The vote was as follows: Commissioner Kester – yes; Commissioner Wells – yes; Commissioner Pretti – yes; and Commissioner Vail – abstained/recused.

Consideration of Report and Recommendation of Race Review Committee – In the Matter of the Horse “Fischins Easy” – Robert “Duke” Mann

As a preliminary matter, Division Director Dan Hartman provided a brief history concerning the establishment of the “Race Review Committee”. He advised that, approximately three years ago, the Commission had adopted a rule that declared that the decisions of the Board of Stewards with respect to race-related matters were final and could not be appealed to the Commission. The purpose for the adoption of the rule was to relieve the Commission of the burden of having to review races and make decisions regarding them after the Board had already ruled on them. However, the rule created dissent and controversy among members of the horse racing community and, therefore, in order to preserve the rights of anyone who wished to object to a Board decision regarding the running or outcome of a race, the Commission instituted the “Race Review Committee”, a three-member body composed of a representative of the Association, most often, Mr. Bruce Seymore, Director of Racing Operations for Mile High Racing and Entertainment, a representative of the Colorado Horse-Racing Association and Mr. Robert “Duke” Mann, Horse-Racing Coordinator for the Division of Racing Events. The “Race Review Committee” is assigned the responsibility for reviewing videotapes of the race in question and rendering a decision either in support of or in opposition to the finding of the Board of Stewards. The party who has objected to the Board’s decision is then allowed to appeal the decision of the “Race Review Committee” and be heard by the Commission. Mr. Hartman stated that each “Race Review Committee” has been attentive

to and deliberate in the performance of its duties and the Commission has been very pleased with how well the “Race Review Committee” concept has been implemented.

Mr. Robert “Duke” Mann, Horse-Racing Coordinator for the Division of Racing Events, advised the Commission that, on August 14, 2010, the Race Review Committee met and conducted a hearing in the matter of Case No. 10-0397, the objection of Trainer Bradley Bolen to the decision of the Arapahoe Park Board of Stewards in Ruling #10-21 issued on August 6, 2010, wherein the Board had disqualified the horse “Fischins Easy”, which ran in post position #6 in the fifth race on August 6, 2010. Mr. Mann referenced the following background information relating to this matter contained in the Commission’s packet: A) Notice of Race Review Committee Hearing dated August 13, 2010; B) Arapahoe Park Board of Stewards’ Ruling No.10-21 – “Disqualification Based upon Running of a Race” dated August 6, 2010; C) Statement of Objection from Trainer Bradley Bolen for Appeal to Race Review Committee dated August 8, 2010; and D) a letter from Race Review Committee Chairman K. Bruce Seymore attesting to the unanimous decision of the Committee to recommend that the Commission uphold the actions and decisions of the Arapahoe Park Board of Stewards regarding the horse, “Fischins Easy” in Case No. 10-0397. Mr. Mann took note of the following:

- 1) That on August 6, 2010, the Board of Stewards at Arapahoe Park (hereafter, the “Board”) issued Ruling #10-21, “Disqualification Based Upon Running of a Race” (hereafter, the “Disqualification Ruling”);
- 2) That the Board in the Disqualification Ruling #10-21 disqualified the horse, “FISCHINS EASY”, racing in the 6th post position in the 5th Race at Arapahoe Park Racetrack on August 6, 2010 (hereafter, the “Race”) and established a new official order of the finish for the Race.
- 3) Prior to the Disqualification Ruling, “FISCHINS EASY” finished in 3rd Place in the Race.
- 4) As a result of the Disqualification Ruling, “FISCHINS EASY” was demoted to 7th Place in the Race.
- 5) The horse, “SMOKIN BROWN EYES”, in the 5th post position in the Race, finished in 4th Place in the Race.
- 6) As a result of the Disqualification Ruling, “SMOKIN BROWN EYES” was placed in 3rd Place in the Race.
- 7) As a result of the Disqualification Ruling, “FUTURE DAISY” in the 8th post position was elevated to 4th Place in the Race.
- 8) As a result of the Disqualification Ruling, “MAKEM FAST” in the 9th post position in the Race, finished in the 5th Place in the Race.
- 9) As a result of the Disqualification Ruling, “FIRST DOWN DASHIN” in the 3rd post position was elevated to the 6th Place in the Race.
- 10) On August 6, 2010, Bradley Bolen was a licensed trainer in good standing with the Colorado Division of Racing Events.
- 11) On August 6, 2010, Bradley Bolen was the trainer of record for the Horse, “FISCHINS EASY”.
- 12) On August 6, 2010, Tom Maher was the licensed owner of the Horse, “FISCHINS EASY”.

- 13) On August 6, 2010, Fernando Camacho was the Jockey for the Horse, "FISCHINS EASY", in the Race.
- 14) On August 8, 2010, Bradley Bolen, trainer of "FISCHINS EASY", filed a "Statement of Objection Under C.R.C.R. 6.401" (hereafter, the "Objection") with respect to the Disqualification Ruling, a copy of which is attached hereto.
- 15) The Director of the Division of Racing Events (hereafter, the "Director") has performed the required review of the Objection for compliance with the "Race Review Committee Policy and Procedural Directors" (hereafter, the "Policy") and determined that the Division must convene a Race Review Committee.
- 16) The Director has established the Race Review Committee according to the terms and guidelines of the Policy to include the following individuals: Kenneth B. ("Bruce") Seymore, Bill Johnson and Ray Teutsch.
- 17) The Chairperson of the Race Review Committee will be Kenneth "Bruce" Seymore.

Mr. Mann presented the following: A) Statement of Jurisdiction, Scope of Hearing, B) Findings of Relevant Facts, C) the Conclusions of Law and D) the Recommendation of the Race Review Committee to the Commission for its review:

Statement of Jurisdiction, Scope of Hearing

1. The jurisdictional basis of the Committee's action is Colorado Racing Commission Rule #6.401.
2. Colorado Racing Commission Rule #6.401's substantive jurisdictional limit for the Committee Hearing is:
The race review committee and the Commission may only address the issues raised in the appeal filed.
 - a. In response to the matters brought to the Committee's attention in the course of the Hearing, the Committee found it necessary to render decisions on the Scope of the Hearing based upon reasons that are set forth in the document entitled "Race Review Committee Report and Recommendation".
 - b. Therefore, the Committee based its decision and recommendation regarding the race solely upon matters directly related to the Trainer's Objection.

Findings of Relevant Facts

1. All findings of fact as set out in the Board's Ruling are adopted.
2. No other Horse or Jockey in the race caused the foul.

Conclusions of Law

1. All conclusions of law as set out in the Board's Ruling are adopted.

Recommendation

The Race Review Committee has concluded that the Trainer's Objection failed to set forth a meritorious claim. Therefore, the Committee recommends that the Colorado Racing Commission uphold the Board and retain the Board's Ruling with the results the Board determined to be correct.

It was the determination of the Board of Stewards at Arapahoe Park that the official order of finish shall be the following:

- First Place: "Bf Sonic Boom", in Post Position #7
- Second Place: "Sweet Separatist", in Post Position #1
- Third Place: "Smokin Brown Eyes", in Post Position #5
- Fourth Place: "Future Daisy", in Post Position #8
- Fifth Place: "Makem Fast", in Post Position #9
- Sixth Place: "First Down Dashin", in Post Position #3
- Seventh Place: "Fischins Easy", in Post Position #6
- Eighth Place: "Kells Regal Lady", in Post Position #2

After noting that Section III(J)(I) of the Race Review Committee Policy and Procedural Directive requires the Commission "to take final agency action on any Objection that has progressed through the Committee process to Commission review. . .", Mr. Mann requested and recommended that the Commission accept the Report and Recommendation of the Race Review Committee at this time.

After being advised by Mr. Hartman and Mr. Mann that the deliberation and decision-making process of the Race Review Committee in the aforementioned matter had been properly executed, a motion was made by Commissioner Vail, seconded by Commissioner Kester and unanimously carried to adopt the Report and Recommendation of the Race Review Committee in the matter of the horse, "Fischins Easy" (Case Number 10-0397). The Commission directed that an Order be issued reflecting this action.

A tape recording of this proceeding is on file in the Division's Pierce Street office.

The following Commission Order was disseminated:

BEFORE THE COLORADO RACING COMMISSION
STATE OF COLORADO

Case Number: 10-0397

COMMISSION ORDER # 10-09

IN THE MATTER OF:

BRADLEY CARROL BOLEN

License Type: Trainer

License Number: 200913850

On September 14, 2010, this matter was heard by the Colorado Racing Commission, upon the appeal of Trainer Bradley Bolen to the Race Review Committee, of the Arapahoe Park Board of Stewards Ruling #10-21. The Race Review Committee met on August 14, 2010 and upheld the decision of the Stewards Ruling #10-21.

Having considered the testimony and evidence presented and being fully advised in the premises, the Commission hereby unanimously sustains the findings of the Race Review Committee.

DONE this 14th day of September 2010.

FOR, AND BY ORDER OF,
THE COLORADO RACING
COMMISSION

s/

DANIEL J. HARTMAN, Director
Colorado Division of Racing Events

Consideration of Applications for Release of Monies from the Greyhound Purse, Welfare, Adoption and Greyhound Racing Promotion Fund – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, explained that this is the second time that applications for the release of funds from the Greyhound Purse, Welfare, Adoption and Greyhound Racing Promotion Fund have been brought before the Commission for its consideration. He observed that funds generated by the simulcasting of greyhound races, which would have originally been deposited in the Colorado State University Equine Research Fund, are now being diverted to the Greyhound Purse, Welfare, Adoption and Greyhound Racing Promotion Fund.

Mr. Hartman advised that, to date, the Division of Racing Events has received five applications for the release of money from the Greyhound Purse, Welfare, Adoption and Greyhound Racing Promotion Fund, which he had forwarded to the Commission for its consideration. He stated that the subject applications were submitted by the following organizations: 1) Colorado Greyhound Adoption; 2) Friends of Retired Greyhounds; 3) The Colorado Greyhound Breeders' Association; 4) Rocky Mountain Greyhound Adoption, Inc.; and 5) Recycled Racers, Inc. Mr. Hartman noted that he and Division Auditor Pam Kilgore had reviewed these applications. Additionally, he reported that, at this time, approximately \$52,000 has accrued in the Fund.

Mr. Hartman voiced his opinion that the request from the Colorado Greyhound Breeders' Association did not meet the standards set forth in the Colorado Racing Commission Rules relating to qualifications to receive fund money. He advised that there was no back-up material, information or documentation provided with the application to support the organization's request. Additionally, Mr. Hartman informed the Commission that the Colorado Greyhound Breeders' Association has again asked to be given funds to re-distribute at its discretion without a plan and, therefore, the Division of Racing Events would not recommend that any Fund monies be distributed to this organization at the present time. Mr. Hartman encouraged the Colorado Greyhound Breeders' Association to submit an application with the required back-up documentation, including its by-laws, and, also, to complete the Division of Racing Events' licensing process.

Mr. Hartman verified that the other applications meet the criteria set forth in the Commission's rule and that each of these applicants has provided back-up material in support of its request. He noted that in their applications, Colorado Greyhound Adoption requested \$30,000; Friends of Retired Greyhounds requested \$25,000; Rocky Mountain Greyhound Adoption, Inc. requested \$15,000 and Recycled Racers, Inc., a previous recipient of Fund money, requested an additional \$15,000. Mr. Hartman explained that, since the total accrual in the Fund is insufficient for full payments of the requested amounts to be made to each organization, the Division would recommend that partial disbursements from the Greyhound Promotion and Welfare Fund be distributed to the following organizations as specified below:

- To Colorado Greyhound Adoption: \$15,000.00
- To Friends of Retired Greyhounds: \$12,500.00
- To Rocky Mountain Greyhound Adoption, Inc. \$ 7,800.00
- To Recycled Racers, Inc: \$ 7,500.00

Mr. Melvin Johnson, a member of the Colorado Greyhound Breeders' Association, voiced his objections to release of any of the Fund money to out-of-state organizations, noting that the Commission had previously approved such a request. Additionally, Mr. Johnson expressed his desire for the Commission to endorse proposed language to be incorporated into a legislative initiative. The Commission advised Mr. Johnson that, without being fully aware of the content and intent of the proposal, it could

not agree to support it. The Commission informed Mr. Johnson that it would be appropriate for him to bring forth rule proposals at an upcoming rule review workshop.

The Commission stipulated that all fund recipients would be required to submit the following information/documentation to the offices of the Division of Racing Events for subsequent Commission review: 1) a preliminary report specifying how the organization intends to utilize the subject funds; and 2) subsequent to expending the funds, a follow-up accounting that reflects how the money allotted to the organization was used.

After ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Vail, seconded by Commissioner Wells and unanimously carried to release \$15,000 to Colorado Greyhound Adoption; \$12,500 to Friends of Retired Greyhounds; \$7,800 to Rocky Mountain Greyhound Adoption, Inc.; and \$7,500 to Recycled Racers, Inc., which totals \$42,800, with the proviso that each organization is to provide preliminary and follow-up reports relating to the use of the subject funds.

Approval of 2011 Commission Meeting Dates

Following review of the list of proposed 2011 Commission meeting dates, a motion was made by Commissioner Wells, seconded by Commissioner Vail and unanimously carried to continue to hold the Commission's meetings on the second Tuesday of any given month with the proviso that, if unexpected circumstances should necessitate a change of meeting date, the Commission would modify its regular schedule.

Announcement Regarding Scheduling of Rule Review Workshop – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, announced that, in anticipation of commencing the annual rule-making process and in accordance with standard procedure, the first rule review workshop would be conducted on Tuesday, September 28, 2010 in the Gaming Conference Room (Conference Room 110) at 1881 Pierce Street, Lakewood, Colorado, commencing at 9:30 a.m. He invited anyone wishing to participate in the rule review process to attend this discussion session. He requested that those persons wishing to present and discuss proposals for new rules, proposed amendments to existing rules or proposals for rules to be repealed bring them to the workshop.

Distribution of Equine Drug Testing and Therapeutic Regulations – Shannon Rushton

Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, distributed copies of the "Equine Drug Testing and Therapeutic Regulation (2009), Policy of the National Horsemen's Benevolent and Protective Association, Inc." compiled by Thomas Tobin and Kent H. Stirling to the Commission, Division Director Hartman and Horse-Racing Coordinator Mann. Mr. Rushton requested that the Commission consider certain subjects addressed in the document, such as the testing

procedures and withdrawal times for therapeutic medication usage, during both its upcoming rule review workshop(s) and at its formal Rule-Making Hearing.

Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 11:15 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, November 9, 2010 in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

JACK PRETTI, CHAIRMAN

MARY SHARON WELLS, VICE-CHAIR

CHARLES VAIL, DVM, MEMBER

DANIEL KESTER, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, November 9, 2010 in Conference Room 110 at 1881 Pierce Street, Lakewood, Colorado. Commission Chairman Jack Pretti called the meeting to order at 9:30 a.m.

Members Present

Jack Pretti, Chairman
Mary Sharon Wells, Vice-Chair
Charles Vail, DVM, Member
Daniel J. Kester, Member
Sean Beirne, Member

Staff Present

Dan Hartman, Director, Division of Racing Events
Robert "Duke" Mann, Horse-Racing Coordinator
Mark Brown, Division Enforcement Coordinator
Y. E. Scott, Senior Assistant Attorney General
Sherry Gunnell, Assistant to the Director

Also Present

An attendance sheet is attached hereto and made a part of these minutes.

Introduction of Newly Appointed Commissioner Sean Beirne

Mr. Jack Pretti, Chairman of the Commission, and Mr. Dan Hartman, Director of the Division of Racing Events, introduced Mr. Sean Beirne, who was recently appointed by Governor Ritter to serve a four-year term as a Commission member through July 1, 2014. Mr. Hartman observed that, by virtue of Mr. Beirne's twenty years of experience in all facets of the racing business, including but not limited to, holding management positions at several renown horse racecourses in various states, and, most recently, serving as a Regional Sales Representative for Roberts Communications Network, he is well qualified to serve as a member of the Commission.

Mr. Beirne stated that he is pleased to be serving as a representative of the racing industry. He assured the racing community and his associates that he desires to work for the perpetuation of a strong and vibrant racing industry in Colorado and would support its efforts to thrive.

Each of the Commissioners and meeting attendees welcomed Mr. Beirne and congratulated him on his appointment.

Approval of Minutes of September 14, 2010

A motion was thereupon made by Commissioner Wells, seconded by Commissioner Vail and unanimously carried to approve the minutes of September 14, 2010 as submitted.

End of Meet Report – Arapahoe Park’s 2010 Live Race Meet – Robert “Duke” Mann

Mr. Robert “Duke” Mann, Horse Racing Coordinator, presented his end of meet report for Arapahoe Park’s 2010 live race meet. Mr. William Powers, Plant Facilities Manager/Director of Racing at Arapahoe Park, appeared on behalf of the Association.

Mr. Mann reported that the thirty-nine (39) day live meet at Arapahoe Park began May 29, 2010 and ended August 22, 2010. Eighty-six (86) days of out-of-state simulcasting of pari-mutuel horse and greyhound racing was also offered during the live meet. Mr. Mann observed that Arapahoe Park’s 2010 live race meet was four days longer than the 2009 meet.

Mr. Mann reviewed various audited statistics for the 2010 live race meet, including those for out-of-state horse simulcasting, along with comparative figures for the 2009 live and simulcast race meet. Mr. Mann observed that this year’s total mutuel handle, including simulcasting, of \$21,804,751 represented a significant increase from last year’s total handle of \$12,793,577. He stated that the total number of live races in 2010 was 370 and that there were a total of 9,452 simulcast races offered during the live season. The average number of live races per day in 2010 was ten.

STATISTICAL DATA:

Mr. Mann reported the following: 1) that the 2010 on-track live handle was \$4,935,199; 2) that the 2010 in-state live handle was \$2,473,461; 3) that the out-of-state live portion was \$2,461,738; 4) that the on-track live handle was \$2,033,680; 5) that the total simulcast handle was \$16,869,552; and 6) that the total estimated attendance was 53,061 and that the estimated average daily attendance during 2010 was 1,361.

Mr. Mann offered the following average daily handle figures for 2010: 1) the average daily handle on-track was \$52,146; 2) the average daily handle in-state was \$63,422; 3) the average daily out-of-state handle was \$63,121; and 4) that this season’s average daily total handle was \$126,544.

Mr. Mann offered the following unaudited statistics relating to disbursement of purses by breed of race:

	<u>Races</u>	<u>Purses Paid with Fees Added</u>
Thoroughbred	234 (63%)	\$2,411,251
Quarter Horse	96 (26%)	\$1,287,850
Arabian	36 (10%)	\$ 356,200
Paint/Appaloosa	4 (1%)	\$ 51,655
Totals	370	\$4,106,956

Mr. Mann explained that the “fees” are those payments made to nominate horses to participate in special stakes or other types of races, including Colorado Bred races. The additional monies derived from fee payments are used to supplement such races and are paid out in purses.

In his report, Mr. Mann offered the following information and observations:

INJURIES TO HORSES (Racing and Training-Related):

Mr. Mann related the following racing and training-related injury statistics and observed that the injury rate is within reasonable levels:

	<u>2008</u>	<u>2009</u>	<u>2010</u>
Total Starts	2574	2572	3295
Total Injuries	52	41	79
Career ending injuries	0	2	2
Catastrophic	7	3	5

In response to Commissioner Vail’s query, Mr. Mann explained that the term “career-ending injuries” applies to various types of injuries, such as fractures, bowed tendons, that require the removal of a horse from racing and that the term “catastrophic” pertains to training-related injuries and/or conditions, including heart attacks. Mr. Mann stated that he could provide to the Commission specific information regarding the types of injuries sustained by horses racing at Arapahoe Park this past season, including those that suffered catastrophic injuries. Additionally, he explained that necropsies are performed on all horses that are euthanized at the racetrack. Mr. Mann advised the Commission that blood is usually not pulled for testing from horses that have been euthanized.

Dr. Nett and Mr. Mann concurred that the time frame for necropsy reporting has significantly improved and averages approximately one week, although preparation of a full report may require up to one month.

TESTING:

For the 2010 race meet, Mr. Mann reported that the veterinary staff took 611 total samples from all first-place winning horses and randomly selected horses from the racetrack. There were 611 blood samples taken, 563 urine samples taken and 594 samples taken from horses that finished in the money.

MEDICATION VIOLATIONS:

Mr. Mann reported as follows:

There were a total of twenty-four (24) unauthorized medication violations reported by Industrial Laboratories during the 2010 meet, which is a violation of Colorado Racing Commission Rule No. 5.301 – Unauthorized Medication. Of these,

- Ten (10) violations were for the drug *Triamcinolone Acetonide (Vetalog)*.
- Five (5) violations were for the drug *Methylprednisolone*.
- Four (4) violations were for the drug *Naproxen*.
- Three (3) violations were for the drug *Clenbuterol*.
- Two (2) NSAID violations – two (2) drugs found in horse's system.

Mr. Mann stated that all of the aforementioned violations were dismissed due to an issue between the testing methodology of one of the previously approved split samples laboratories and that used by our Primary Testing Laboratory (Industrial Laboratories). It was determined that this issue interfered with the existing Split Sample Policy and resulted in the previously approved laboratory being disqualified as a referee laboratory. In order to avoid such circumstances in the future, all referee laboratories will be contacted regarding their methodologies and comparability of equipment to our Primary Testing Laboratory before being accepted in our Split Sample Policy and being approved for use by and offered to licensees.

Mr. Mann advised the Commission that Industrial Laboratories was using new equipment that was much more sensitive than that which was being used at other laboratories and, therefore, it will be necessary for the Division of Racing Events to obtain a list of allowable split sample testing laboratories from our Official Racing Chemist, Petra Hartmann, and to verify that each laboratory has equipment that is comparable to that used by Industrial Laboratories.

Mr. Dan Hartman, Director of the Division of Racing Events, explained that the Division intends to revamp its testing protocols as part of its rule-making discussions and deliberations, including the selection of split sample testing laboratories. He advised that decisions concerning testing protocols, including the

establishment of levels of detection, along with modification of procedures for split samples would be clarified and made known prior to the commencement of Arapahoe Park's next live racing season.

REPORTED USE OF AUTHORIZED MEDICATION:

Authorized Medication

During the off-season before the 2010 race meet, the Colorado Racing Commission modified Rule 5.317 for the reported use of **first time Lasix** and also the use of Lasix without being a certified bleeder. The rule allowed the person entering the horse to indicate properly that the horse will participate on Lasix and the Division Veterinarian would add the horse to the Lasix list database and monitor the usage during the live meet. There were several instances when the person entering the horse would not indicate Lasix usage, yet the horse would receive the drug. Several verbal and written warnings were issued. Repeated violations resulted in administrative penalty citations being issued.

The Division also had a similar problem with the person entering a horse on the wrong NSAID. Again, written/verbal and written warnings were issued along with administrative penalty citations. Mr. Mann informed the Commission that administrative penalty citations were issued in lieu of conducting hearings for such common offenses as making errors in reporting medication(s) being used. He stated that, typically, fines were imposed and, for repeated violations, an ascending penalty scale was employed.

REGARDING ADMINISTRATIVE MATTERS AND DIVISION OF RACING EVENTS PERSONNEL:

The Board of Stewards for 2010 was composed of: Senior State Steward Randy Blaseg, State Steward George Slender and Association Steward Hank Demoney. The Board issued twenty-six (26) administrative rulings and eighteen (18) administrative citations. Mr. Powers and Mr. Mann commented that the 2010 Board of Stewards was especially competent, cooperative and effective in communicating with members of the jockey colony. Mr. Hartman expressed his hope that some, if not all, of the Board members would return next season.

The Commission took notice that a significant proportion of the horses racing at Arapahoe Park were brought in from out-of-state. Mr. Powers advised that he believes this trend will continue and that the demand for stalls at Arapahoe Park is going to continue to increase.

Mr. Hartman stated that, as a result of the enactment of Senate Bill 09-174 during the 2009 legislative session, Arapahoe Park was able to realize substantial increases in both its handle and its purse distribution amounts. He stated that the

legislation has contributed to revitalizing the industry and could hopefully enable it to continue to remain viable for the foreseeable future. Mr. Hartman observed that, during the live racing season, each of the groups involved in horse racing – the Commission, the racing association and its management and the members of the horse racing community – worked together to achieve a positive result and the success of the meet was a testament to their commitment and cooperation.

REGARDING DIVISION RANDOM DRAW – DRUG AND ALCOHOL TESTING

The Division of Racing Events performed random drug testing pursuant to Commission Rule No. 3.437 during Arapahoe Park's 2010 race meet. The policy for the performance of this testing was the same as last year. A representative from the Colorado Horse-Racing Association or Arapahoe Park witnessed the drawing of the names. Five lists were generated from the license validation files. From these five lists, one name was drawn for each of the five days, Wednesday through Sunday, for the five (5) different job categories listed below:

- Trainers, Assistant Trainers, Owners/Trainers
- Jockeys
- Exercise Riders, Pony Persons, and Miscellaneous
- Grooms
- Racing Officials

There were two (2) licensees who were randomly selected, one of whom tested positive for alcohol and the other tested positive for marijuana. Both licensees were suspended pursuant to Colorado Racing Commission Rule No. 3.437. Mr. Mann advised that the licensee who tested positive for marijuana remains ineligible to participate in racing.

REGARDING ARAPAHOE PARK ASSOCIATION RESPONSIBILITIES:

RACETRACK:

This year, a significant amount of rain fell during the first several weeks of the race meet. The Track Superintendent and his staff did a good job of maintaining a safe racetrack on the sloppy days. No water well issues were reported during the meet. Overall injuries were up, but an increase in the size of the fields may have contributed to the injury level. No major complaints about the surface were reported to the racing officials or the Division.

Due to the fact that the two-way telephone at the outside scale used by the Board of Stewards, Clerk of Scales and Jockeys failed to work properly, communication problems arose on occasions when the Clerk of Scales would be tagging randomly selected horses and talking to Jockeys as they

left the racecourse. It was necessary to use a Security radio for communication and this created some issues. This situation must be rectified prior to next year's live race meet.

American TeleTimer, the service provider of the timing system, oversaw the troubleshooting and digital camera operation. The system worked well with only a few problems with the electronic eyes during the longer races. The Board of Stewards indicated that the timer operator did an exceptional job with the system.

DIVISION OFFICES:

This Summer, the Division offices were extremely hot and the conditions made the Division's work environment very uncomfortable. It appeared that the fan from the air conditioning chiller was not blowing and there was no method for adjusting it. The thermostat was turned down, but, despite that, it appeared that the mean temperature continued to be in the upper 90's during the day. This situation must be corrected prior to next year's race meet.

RACING OFFICE:

Arapahoe Park continued to use the Encompass Software for accepting entries and preparing programs. (This software is Internet-based and downloads past performance information from Equibase.) By the conclusion of the meet, the process of inputting entry data via the keyboard was working well.

However, since Racing Office staff members did not always adequately proofread the program, occasional errors were reflected in the official racing program. All corrections were announced via the public address system and displayed on the video monitors. Mr. Mann remarked that, for the most part, Racing Office personnel provided a timely initial proof of the entries and jockeys to the Division and, therefore, complied with the Division's licensing policies. The Commission emphasized that it is very important that the data printed in the official racing program be accurately recorded.

Mr. Mann advised that Dr. Muller fills out the injury data reports that are used by the Division veterinarian(s). The injury data is then provided to the Jockey Club for its use in the tracking of racing injuries during the live meet, including training.

The Racing Office complied with Colorado Law and Division policies concerning the proper transfer of claimed horses receiving a brand inspection before the transfer of ownership occurred.

REGARDING THE VIDEO PATROL:

Again this year, International Sound Corporation, Arapahoe Park's contractor for video patrol, was able to provide some training for its video camera operators and, also, have its employees attend the pre-meet meeting with the Board of Stewards and Arapahoe Park Management as recommended by the Division. At this meeting, the Board was able to explain its needs to the video operators in order for them to capture the running of the race. Most of the operators were returning employees from the 2009 live race meet. This was especially helpful during review of races with Division staff and patrons. On the whole, the Audio-Visual crew performed their duties very well, provided good video coverage and were very cooperative.

REGARDING ARAPAHOE PARK SECURITY

Stable Gate: Arapahoe Park hired a new Security Director and Assistant Director for the 2010 meet. The Association employed a temporary employee service to help maintain staffing of the Stable Gate and other areas of the racetrack. The Division's Enforcement Section and the Association provided training. There were several employees who returned from last year's meet. The Division also hired a temporary full-time Compliance Investigator to help the Security staff and Division Test Barn personnel to ensure that proper health paperwork was provided before the horses entered the barn area. This temporary Division staff member helped greatly with the organization of the health records. There were a few instances when Division Investigators were assigned to verify health records of horses for compliance on race days.

The Stable Gate Security staff was also assigned to verify negative Equine Piroplasmiasis laboratory reports, current health certificates and Coggins test results for every horse that entered Arapahoe Park. Only one (1) horse was reportedly found in the stable area without a negative Equine Piroplasmiasis test result. This horse was immediately removed from the grounds. Once an investigation was performed and it was ascertained that an oversight had occurred and there had been confusion on the part of both Stable Gate Security and the horse's Trainer, the negative test result was immediately sent via facsimile to the Division. The horse was eventually allowed into the stable area after a hearing before the Board of Stewards was held. Mr. Mann recommended that the Division's policy concerning testing for Equine Piroplasmiasis remain in effect during the 2011 live race meet in light of the continued risk of exposure to and contraction of this disease. The Commission supported this recommendation and thanked Mr. Bruce Seymore, Director of Racing Operations for Mile High Racing and Entertainment, Mr. Bill Powers and Mr. Mann for their vigilance and concern for the welfare of the horses stabled at Arapahoe Park.

Division Investigators performed random checks of the barn area for the purpose of citing unlicensed individuals and finding violators/violations of the above-referenced policies. Several individuals were escorted out of the barn area during the meet for failure to be licensed, for failure to have visitor's passes and/or for violating Arapahoe Park's and/or Division rules and policies.

Grandstand & Paddock: No serious incidents were reported to the Division from the Grandstand or Paddock. There were two reports of fighting among patrons. The off-duty Sheriff's Officer, Division Investigators and Association Staff handled both incidents.

A Division Investigator was assigned to visit the Paddock during live racing to check licenses in order to ensure compliance in this restricted area. There were no issues reported by the Paddock Judge concerning horseshoes with toe grabs.

In summation, Mr. Mann offered the following list of recommendations for improvements to be made prior to the 2011 Arapahoe Park live race meet:

RECOMMENDATIONS RELATING TO TEST BARN MAINTENANCE:

- That, at the beginning and throughout any future racing seasons, new dirt and ground rubber continue to be added to the walking surface to repair ruts and soften the walking surface for the horses and their handlers.
- That dirt should be added to the inside of the testing stalls to level the surface with the outside shed row area.
- That the wash rack area should be resurfaced since these are areas that have holes, patched holes that have worn out or surface areas next to the shed row that have ledges that can cause a horse or its handler to trip or to stumble and, potentially, cause injuries to the horse or its handler.
- That the misting system in the collecting stalls be repaired and, where necessary, replaced.
- That Arapahoe Park is to continue to maintain proper water drainage behind the wash rack areas.

RECOMMENDATIONS RELATING TO THE RACETRACK:

- That the Association needs to replace the two-way telephone at the outside scale that is used by the Board of Stewards, the Clerk of Scales and the Jockeys.

- That Arapahoe Park, through its timing service provider, should continue to troubleshoot, repair and/or replace, wherever necessary, the timing wiring system contained in the inside rail and the electronic track distance timing eyes throughout the racetrack. The timing wiring system should also be troubleshoot and/or repaired up to the timing computer located in the Stewards' Stand.
- That Arapahoe Park needs to service the air conditioning and adjust the outside windows in the Racing Division offices in order to ensure that a comfortable work environment is maintained. Additionally, the window blinds need to be repaired or replaced in order to keep out the sunlight on the west side of the offices.

RECOMMENDATIONS RELATING TO THE RACING OFFICE:

- That the Racing Secretary should ensure that only authorized persons are allowed to be behind the counter during the time that entries are being taken. All accesses to the Racing Office restricted area during the time of entry-taking should have locking devices. This restricted area should include the Racing Secretary's office and access to this office through the Bookkeeper's office should also be locked during the time that entries are being taken. The Racing Secretary shall allow visitors to his office only by escort.
- That the Racing Secretary should have the Racing Office maintain and post to the licensees the written schooling lists for the Starter and Paddock. Additionally, the Racing Secretary should ensure that the Stewards' lists and Veterinarians' lists are updated, properly posted and entered into the Racing Office's computer system.
- That the Racing Secretary should continue to supervise Racing Office staff in the proofing of the entries.

RECOMMENDATION REGARDING VIDEO PATROL:

- That the Board of Stewards, Arapahoe Park Management and the Video Operators continue to conduct a pre-meet meeting to address the needs and expectations of the Board for their race review.

RECOMMENDATIONS RELATING TO SECURITY:

- That Arapahoe Park management should review the Security Director position and responsibilities for future live racing meets.

- That Arapahoe Park should continue to review its staffing of the Stable Gate to ensure enforcement and compliance with the racetrack's internal policies and the rules and policies of the Division and the Colorado Racing Commission.
- That Arapahoe Park should continue the policy regarding the testing of all horses for the Equine Piroplasmosis virus and allow only those horses that have negative test results into the stable area.
- That Arapahoe Park should continue to employ an off-duty sheriff's deputy during live race days.

Mr. Mann expressed his appreciation to Mr. William Powers, Arapahoe Park's Director of Racing and Plant Facilities Manager, and to Mr. Bruce Seymore, Director of Racing Operations for Mile High Racing and Entertainment, for solving problems when they arose and for being liaisons to the licensees. He thanked all of the Arapahoe Park and Division staff members as well. Mr. Mann also expressed his appreciation to Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, to all of the Arapahoe Park staff members and to, as well as to all of the breed organizations, for their support, assistance and cooperation during Arapahoe Park's 2010 race meet. Mr. Mann stated that Arapahoe Park's 2010 season had been extremely successful thanks to all concerned. The Commission commended everyone associated with and involved in conducting and regulating the 2010 Arapahoe Park meet.

A motion was made by Commissioner Wells, seconded by Commissioner Vail and unanimously carried to approve all of Mr. Mann's recommendations and to accept the end of meet report for Arapahoe Park's 2010 live racing season as presented. The Commission complimented Mr. Mann on the comprehensiveness of his report.

Consideration of Request to Schedule Formal Rule-Making Hearing and Announcement Regarding Rule Review Workshop – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, announced that, in anticipation of commencing the annual rule-making process and in accordance with standard procedure, the first rule review workshop would be conducted on Monday, November 22, 2010 in the Conference Room 110 at 1881 Pierce Street, Lakewood, Colorado. He invited anyone wishing to participate in the rule review process to attend this discussion session. He requested that those persons wishing to discuss proposals for new rules, proposed amendments to existing rules or proposals for rules to be repealed bring to the workshop.

Mr. Hartman requested that the Commission proceed with the scheduling of its annual Rule-Making Hearing. He advised the Commission that, subsequent to conducting this and, most likely, another rule review workshop, the Division of Racing Events would prepare a document containing proposed new rules and rules to be

amended or repealed based upon recommendations made by staff and industry members, although the Division would anticipate receipt of additional rules for incorporation into the rules packet. Mr. Hartman stated that copies of this material would be made available in the near future via electronic messaging for those on the agenda mailing list and in printed form for distribution prior to the February 2011 Rule-Making Hearing.

Based upon Mr. Hartman's request, a motion was made by Commissioner Wells, seconded by Commissioner Kester and unanimously carried to direct the Division to schedule a formal Rule-Making Hearing during the Commission's February 8, 2011 meeting, which will be held in Conference Room 110 at 1881 Pierce Street, Lakewood, Colorado.

Presentation Regarding Colorado State University Equine Research Fund

Dr. Torrance Nett, Associate Dean for Research and Graduate Education at the Colorado State University (hereinafter known as "C.S.U.") College of Veterinary Medicine and Biomedical Sciences, introduced himself and his colleague, Dr. Gisela Hussey, Assistant Professor of Equine Medicine in the Department of Clinical Sciences, to the Commission.

Dr. Nett explained that the funding provided by the Commission has been extremely beneficial to the University and is essential for the continued growth of the equine research program there. Dr. Nett informed the Commission that its annual financial contribution is leveraged approximately fifty-fold, which, along with the approximate \$2, 500,000 in research funds generated by equine researchers and annual donations to equine research programs totaling approximately \$2,000,000 forms the basis for obtaining grant funding for various research projects. He observed that the Commission's financial contribution in 2009 racing receipts of approximately \$83,900 has been applied to fund small, often "pilot" research projects in horses at Colorado State University. Dr. Nett explained that the Commission's funding is especially important because it affords researchers at C.S.U. the opportunity to work on projects that larger funding agencies would not accept without prior data to support such efforts. The data generated are then used to show funding agencies that the research plan is realistic and to form the foundation for larger grants to pursue the research. He commented that, in order to select the research proposals to be funded, a committee of researchers in the College of Veterinary Medicine and Biomedical Sciences evaluates the large quantity of research proposals that are submitted for consideration and ranks them in order of merit with funds being distributed until they are exhausted. He noted that this is an extremely competitive process with far more proposals being tendered than can be subsidized.

Dr. Nett apprised the Commission that C. S. U. had also become involved in a technology transfer with two start-up companies that provide services to the equine industry. Dr. Nett reported that C.S.U. has been able to fund a new endowed professorship in the Equine Reproduction Laboratory. He advised that Dr. Pat McCue was named to the Iron Rose Chair in Equine Reproduction and that a \$4,000,000 endowment provides funding for this position. He also advised that Dr. Chris Kawcak

had received an endowed fellowship to continue his research with the Colorado Racehorse Postmortem Program.

The Commission and Dr. Nett noted that the downturn in the economy has taken a toll on the amount of money contributed annually by the Commission. Dr. Nett expressed his hope that there would be an increase in funding levels in the near future. Division Director Dan Hartman advised that the amount of the Commission's contribution correlates directly to the amount of revenue generated in handle. He stated that the Division would continue to assess the impact of greyhound simulcasting on its revenue stream. Additionally, Mr. Hartman commented that he is encouraged by the handle generated during Arapahoe Park's 2010 live race meet as well as by the opening of some new off-track wagering facilities in Colorado.

Dr. Nett reported that the following equine research projects are currently funded and being performed at C.S.U.: 1) Mesenchymal Stem Cell Gene Expression of Therapeutic Factors in Response to Culture Conditions; 2) Pharmokinetics of Intravenous Dexmedetomidine and Its Physiological, Analgesic and Behavioral Effects in Horses; 3) Quantitative Assessment of Osseous Pelvic Asymmetry in Thoroughbred Racehorses; 4) Colorado Racehorse Postmortem Project; and 5) Effects of Aging and Metabolic Status on Hormone Responsiveness in the Ovary: Developing Laser-Optical Approaches to Study Single Cells. Dr. Nett expressed his appreciation to the Commission for its ongoing support of and contribution to equine research at Colorado State University.

Dr. Nett presented a status report on the Colorado Racehorse Postmortem Program on behalf of Dr. Chris Kawcak, who was unable to attend today's meeting. He presented a slide presentation illustrating the nature and focus of the research and the materials and methods used in this study. He explained that samples are taken from every horse that breaks down at a Colorado racecourse and research is then conducted in order to determine possible reasons why the life-ending injury occurred. He offered information regarding the types of injuries and illnesses that had been detected in 2010. Dr. Nett observed that there are serious concerns about drugs that are now being detected in racehorses, such as Ractopamine, a Beta agonist compound used in the pork industry to reduce fat and increase muscle that may then be mixed with Red Cell and Clenbuterol, and Nitrotain, a short-acting anabolic steroid. He commented that, although toxicology can be performed on the tissues of a horse, the window of opportunity is limited because whole blood is needed at the time of death. Additionally, Dr. Nett noted that C.S.U. can spearhead testing, but coordination is needed at the racetrack to ensure timely transport, communication and appropriate care and handling of the animal's corpse, so that proper analysis and diagnosis may be performed. Dr. Nett stated that timeliness has improved, but it is still a struggle with the Diagnostic Medical Center given that it is now using a new reporting system and employs new personnel. He explained that C.S.U. relies on the Racing Commission for reporting and that pathologists send all reports to the Racing Commission for further distribution. He advised that Dr. Kawcak called referring veterinarians and either discussed a case in question with them or left a message for them. Dr. Nett offered the following recommendations for streamlining the communication and coordination processes involved in accomplishing postmortem evaluations: 1) holding a

meeting with representatives from C.S.U., the Racing Commission and Veterinarians prior to the 2010 Arapahoe Park race meet to discuss and coordinate drug testing on deceased horses; 2) requesting that veterinarians with any concerns, especially those with potential biosecurity concerns, such as Equine Herpesvirus (EHV), Equine Influenza and Equine Piroplasmosis, and so on, contact Dr. Kawcak to spearhead the case with pathologists; and 3) having the Orthopaedic Research Center coordinate reporting to the Racing Commission, Veterinarians and Owners.

Dr. Hussey presented a summary of her research relating to the development of an equine model to study Equine Herpesvirus Myelitis, noting that she, along with Drs. Lunn, Powell and Goehring, are conducting studies on various types of infectious diseases in horses. She expressed her gratitude to the Commission for providing funding that has allowed C.S.U. to obtain \$600,000 over a three-year period to continue the study of Equine Herpesvirus Myelitis. Dr. Hussey explained that, despite the availability of certain vaccines, there are significant problems relating to outbreaks of numerous infectious diseases that are capable of producing upper respiratory congestion, neurological disorders and causing abortions. She advised that these diseases persist and are increasing in frequency throughout the world. Dr. Hussey reported that, at C.S.U. that concentration is being given to the photogenesis portion of infectious disease outbreaks and, in an effort to develop an experimental model, research is being performed on the eye and eye infections (chorioretinopathy). She explained that when Equine Herpesvirus-1 is detected, lesions are found in a horse's eye(s). This appears to be a transfer pathway or transmission route for infectious diseases in horses. A virus may then enter the respiratory track. Dr. Hussey explained that what is happening in a horse's eye is also occurring in its spinal cord.

Dr. Hussey stated that the project goal is to study the Equine Herpesvirus-1 infection with a handheld fundus camera in an effort to learn about the photogenesis of infectious diseases. She presented a slide presentation in which she displayed photographs taken by the fundus camera. Dr. Hussey commented that researchers are hoping to be able to visualize acute lesions and find a clear model for studying vaccines and determining the efficacy of treatment options.

Drs. Nett and Hussey thanked the Commission for the opportunity to appear and report on a sampling of equine research projects being performed at Colorado State University. The Commission expressed its appreciation to each of them for their insights and informative presentations.

Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 11:20 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Tuesday, February 8, 2011** in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

JACK PRETTI, CHAIRMAN

MARY SHARON WELLS, VICE-CHAIR

CHARLES VAIL, DVM, MEMBER

DANIEL KESTER, MEMBER

SEAN BEIRNE, MEMBER