

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, January 9, 2007 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. Chairman Gene Naugle called the meeting to order at 9:30 a.m.

### Members Present

Gene Naugle, DVM, Chairman  
David Lynn Hoffman, Vice-Chair  
Marilyn Alkire, Member  
C. Drew Grant, Member  
Jack Pretti, Member

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Earl Carlson, Commission Veterinarian  
Naomi Smith, Division Auditor  
Richard Mattson, Greyhound Racing Coordinator  
Robert "Duke" Mann, Horse Racing Coordinator/Division Investigator  
Mark Brown, Division Enforcement Coordinator  
Leland BeBee, Division Legal Assistant  
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 December 12, 2006

A motion was made by Commissioner Grant, seconded by Commissioner Alkire and unanimously carried to approve the minutes of December 12, 2006 as submitted.

### Consideration of Proposed Modification of 2007 Race Dates Calendar – Dan Hartman

Following review of the proposed amended version of the 2007 Race Dates Calendar, a motion was made by Commissioner Hoffman, seconded by Commissioner Alkire and unanimously carried to approve the following greyhound race dates for 2007:

#### **SOUTHERN CIRCUIT:**

NO DATES REQUESTED

#### **NORTHERN CIRCUIT:**

#### **INTERSTATE KENNEL CLUB**

(Commerce City)

#### **JANUARY 1 – FEBRUARY 5, 2007**

(Monday) (Monday)

(Envelope of 36 days)

#### **PUEBLO GREYHOUND PARK**

(Commerce City)

#### **FEBRUARY 7 – JUNE 6, 2007**

(Wednesday) (Wednesday)

(Envelope of 120 days)

#### **MILE HIGH GREYHOUND PARK**

(Commerce City)

#### **JUNE 8 – OCTOBER 5, 2007**

(Friday) (Friday)

(Envelope of 120 days)

INTERSTATE KENNEL CLUB  
(Commerce City)

OCTOBER 6 – NOVEMBER 21, 2007  
(Saturday) (Wednesday)  
(Envelope of 47 days)

NOVEMBER 23 – DECEMBER 23, 2007  
(Friday) (Sunday)  
(Envelope of 31 days)

DECEMBER 26 – DECEMBER 31, 2007  
(Wednesday) (Monday)  
(Envelope of 6 days)

ALL APPROVALS GRANTED SUBJECT TO AVAILABILITY OF DIVISION  
FUNDING AND STAFFING

Consideration of New Race Meet License Application – The Pueblo Kennel Club (PKC)  
at Mile High – Richard Mattson

Mr. Richard Mattson, Greyhound Racing Coordinator for the Division of Racing Events, who was primarily responsible for reviewing the new race meet license application for The Pueblo Kennel Club (PKC) meet to be conducted at Mile High Greyhound Park, presented his report to the Commission. Mr. Mattson observed that The Pueblo Kennel Club meet is scheduled to commence on Wednesday, February 7, 2007 and conclude on Wednesday, June 6, 2007, for a total envelope of 120 days as permitted by statute.

Mr. Bruce Seymore, Director of Racing Operations for Mile High Racing & Entertainment, appeared on behalf of the Racing Association.

The Commission took notice that Pueblo's meet includes five race days per week with 16 races per performance totaling 80 races per week.

Mr. Mattson reported that Pueblo Kennel Club submitted the following racing schedule:

Sunday – 16-race matinee  
Monday – Dark  
Tuesday – Dark  
Wednesday – 16-race matinee  
Thursday – 16-race matinee  
Friday – 16-race matinee  
Saturday – 16-race matinee

Post time for the Wednesday, Thursday, Friday and Saturday performances is to be 2:00 p.m. and post time for the Sunday program is to be 12:00 p.m.

Mr. Mattson noted that the list of racing officials for the upcoming Pueblo meet remains unchanged from the list submitted for Interstate's current meet.

The Commission took notice of the following items submitted as part of the new meet license application: a) Interstate's current financial statement (comment below); b) a copy of the most recent health/sanitation report; c) copies of the proposed wagering formats and the take-out structure; d) copies of required service contracts; e) copies of various simulcast agreements; and f) a request for retention of the outs tickets until October 1, 2007. Items that are forthcoming include: 1) a copy of the updated fire inspection report; 2) the signed agreement between Pueblo Kennel Club and the Colorado Greyhound Kennel Association; 3) a copy of the liability insurance binder; and 4) a marketing plan.

Mr. Mattson apprised the Commission of a change in the roster of service providers. He observed that Roberts Communications Network, Inc., would provide Frame Relay communication services from Las Vegas, Nevada during the Pueblo meet.

Commissioner Hoffman commented that he and Division Auditor Naomi Smith had reviewed the most recent consolidated financial statements from Mile High Kennel Club, Inc. and had taken notice that BLB, LLC, its parent corporation, displayed financial strength. However, he advised that the current assets are slightly lower than the current liabilities, although a small profit has been realized. Commissioner Hoffman estimated that the profit might diminish after the Pueblo meet.

Mr. Mattson observed that Pueblo would be continuing to update its roster of simulcast venues and agreements.

Mr. Seymore stated that the take-out rate had been raised to 30.0% on all types of wagers. The Commission expressed its desire to review Pueblo's handle figures as the meet progresses in order to ascertain whether the take-out rates could be reduced, but voicing its appreciation to Pueblo for undertaking a live race meet and preventing kennels from either abandoning racing in Colorado or disbanding entirely.

Mr. Seymore commended the Colorado greyhound colony and members of the staff of the Division of Racing Events for their assistance in preparing for the upcoming Pueblo meet. Mr. Eric Morgan voiced the sentiments of the racing community by expressing appreciation to BLB, LLC and Mile High Racing & Entertainment for agreeing to conduct a live race meet. However, Mr. Morgan commented that the greyhound community is concerned about the take-out rate and hopes that it can be reduced during the season.

Following review and discussion and after acknowledging Mr. Mattson's affirmative recommendation, a motion was made by Commissioner Hoffman, seconded by Commissioner Alkire and unanimously carried to grant approval of Pueblo Kennel Club's new race meet license application for a live race meet to be conducted at Mile High Greyhound Park from February 7, 2007 through June 6, 2007 subject to the terms and conditions set forth in the following Notice of Issuance of Meet License with Conditions:

BEFORE THE COLORADO RACING COMMISSION

STATE OF COLORADO

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NOTICE OF ISSUANCE OF MEET LICENSE WITH CONDITIONS

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IN THE MATTER OF THE ISSUANCE OF A MEET LICENSE FOR:  
PUEBLO KENNEL CLUB at MILE HIGH  
6200 DAHLIA STREET  
COMMERCE CITY, COLORADO 80022

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Pursuant to Colorado Revised Statute 12-60-505, the Colorado Racing Commission has reviewed and conducted a public meeting concerning this application for a race meet license with live racing to commence on February 7, 2007 and conclude on June 6, 2007 for an envelope of 120 calendar days.

The Colorado Racing Commission finds the application to be acceptable and orders said meet license to be issued to:

Pueblo Kennel Club at Mile High  
6200 Dahlia Street  
Commerce City, Colorado 80022

with the following conditions:

1. That all race official positions be filled no later than forty-eight (48) hours prior to the commencement of the race meet and a list of said officials shall be filed with the Division of Racing Events.
2. That all employees required to be licensed make application for and receive a license before commencing employment.
3. That a maintenance routine be established and approved by the Division to ensure the consistency required for formful racing and to ensure the safety of the racing greyhounds. The Colorado Racing Commission has charged the Division of Racing Events with the duty of requiring Pueblo Kennel Club to modify its track maintenance routine, if deemed necessary, at any time during the live race meet. Further, the Colorado Racing Commission delegates to the Division of Racing Events, without the necessity of conducting a special meeting, the authority to direct Pueblo Kennel Club to redefine its permanently approved racing schedule by decreasing the number of races on any given program or deleting an entire performance if such maintenance routine and/or equipment fails to maintain the racetrack in a proper and consistent manner.
4. That Pueblo Kennel Club's requested 2007 racing schedule of sixteen-race matinee performances on Sunday, Wednesday, Thursday, Friday and Saturday for a total of 80 races per week with no racing on Monday and Tuesday, be approved subject to the following conditions:
  - a) That the Division of Racing Events' staff will closely monitor Pueblo Kennel Club's racing operations to ensure that a sufficient number of racing greyhounds are available for any given racing performance.
  - b) That Pueblo's management ensure that greyhounds will have a minimum of seventy-two (72) hours between starts.
  - c) That, in the event of ongoing shortages of active greyhounds, the Commission delegates to the Division of Racing Events, without the necessity of conducting a special meeting, the authority to direct Pueblo Kennel Club to redefine its permanently approved racing schedule by either decreasing the number of races on any given program or deleting an entire performance.
  - d) That Pueblo Kennel Club management agrees to and will ensure that there is a forty-five minute (45) period between matinee and evening performances should Pueblo decide to add doubleheaders to their schedule during the race meet.
  - e) That notice was taken that an agreement was reached, with respect to purse structure, between Pueblo Kennel Club and the Colorado Greyhound Kennel Association, the organization representing the majority of the kennel operators scheduled to race their greyhounds at the 2007 Pueblo Kennel Club race meet.
5. That all simulcast contracts shall be submitted no later than forty-eight (48) hours prior to the commencement of simulcasting.
6. That the racing secretary shall verify the vaccination records of all race participants before accepting any registration papers.
7. That a schedule shall be provided to the staff of the Division of Racing Events for regular schooling races and weigh-in times.
8. That Pueblo's management shall ensure that the paddock is adequately staffed for all functions that are performed therein. The Commission determined that all grooms should be given proper guidance in the

performance of their duties and be shown a training video as part of their preliminary instruction.

9. That adequate advance notice be given to all racetrack departments regarding special events and races and the staff of the Division of Racing Events shall be notified twenty-four (24) hours in advance of any additional schooling races.
10. That all required facility improvements deemed necessary for the protection, health and safety of the public, the Division of Racing Events' employees and the race participants shall be completed before opening.
11. That current certified fire, health/sanitation inspection reports were submitted to the Division as required.
12. That the requirement that there be sufficient video surveillance cameras at Pueblo Kennel Club be continued throughout the 2007 Pueblo race meet.
13. That the Commission delegated authority to the Division Director and/or his designee to review Pueblo's proposal to send its signal to out-of-state venues and approve any requests if deemed acceptable.
14. That the following take-out percentages will be in effect during the 2007 Pueblo's race meet: For Win, Place and Show – 30.0%; for Quiniela, Daily Double and Exacta – 30.0% and for all other wagers – 30.0%. The Commission requested the ability to review Pueblo's take-out structure at an upcoming meeting in order to determine whether any adjustments could be made to the take-out percentages.

Failure to comply with the applicable conditions prior to or during the 2007 meet may result in a fine, suspension or revocation of the meet license for Pueblo Kennel Club.

DATED this 24th day of January, 2007.

BY ORDER OF THE COLORADO RACING COMMISSION

s/  
Dan Hartman, Director, Division of Racing Events

Presentation of Informal Attorney General's Opinion – In the Matter of a Request by Cloverleaf Kennel Club for a Two-Year Hiatus from Racing – Tina Bowman

Ms. Tina Bowman, Assistant Attorney General representing the Colorado Racing Commission and the Division of Racing Events, presented an Informal Attorney General's Opinion to the Commission regarding whether the Commission has the authority to grant Cloverleaf Kennel Club's request for a two-year hiatus from racing. Discussion ensued regarding Ms. Bowman's position and various issues pertaining to the Commission's broad and specific authority to grant or deny licenses for the conduct of race meets.

Mr. John Manning, General Manager of Cloverleaf Kennel Club, offered his views and opinions regarding the decision of the Cloverleaf Board of Directors to forego racing in 2007. He observed that the Board of Directors understands the Commission's concerns regarding the condition of the Cloverleaf racing surface, grounds and physical plant, but is seeking assurance that, if it is economically feasible to do so, Cloverleaf could be given the opportunity to apply for and have the likelihood of being able to obtain a license to conduct a race meet in the future. The Commission expressed its hope that Cloverleaf would seek to resume racing, its strong interest in ensuring that there is competition in Colorado for racing-related activities and encouraged Cloverleaf Greyhound Track to take whatever steps are necessary on its own behalf and in its own interests and to apply for licensure when it is feasible to do so.

Following discussion and deliberation, a motion was made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to find that, pursuant to Rule #11.222 of the Colorado Racing Commission Rules, Cloverleaf Greyhound Track's license 1) has been deemed relinquished by virtue of its decision not to request a renewal license for the year 2007; and 2) the Commission does not have the jurisdiction to grant a two-year hiatus relative to that. However, at the same time, the Commission recognized the ability of Cloverleaf Greyhound Track to come forward at any such time as Cloverleaf deems that it is qualified to recommence racing in the State of Colorado and to submit a new license application at that time.

#### Consideration of Requests to Schedule Hearings – Robert “Duke” Mann, Naomi Smith and Mark Brown

Mr. Robert “Duke” Mann, Investigator for the Division of Racing Events, and Ms. Naomi Smith, Auditor for the Division, requested that the Commission direct the Division to schedule two administrative hearings, one in the matter of alleged violations committed by Cloverleaf Kennel Club and the second in the matter of alleged violations committed by AmTote. Pursuant to Mr. Mann's and Ms. Smith's mutual recommendation and request, a motion was made by Commissioner Alkire, seconded by Commissioner Hoffman and unanimously carried to set these hearings for the February 13, 2007 Racing Commission meeting.

Mr. Mark Brown, Division Enforcement Coordinator, informed the Commission that the Division of Racing Events is in receipt of an Order issued by the Arizona Department of Racing revoking any and all racing licenses held by Colorado Licensee Richard Favreau. After acknowledging that it is a statutory requirement in Colorado for a hearing to be conducted to uphold the revocation of a racing license in another racing jurisdiction, a motion was made by Commissioner Alkire, seconded by Commissioner Hoffman and unanimously carried to schedule a hearing in the matter of Mr. Richard Favreau for the February 13, 2007 Racing Commission meeting.

#### Informational Update – Dr. Earl Carlson

Commission Veterinarian Earl Carlson offered a response to Commissioner Alkire's query regarding Equine Viral Arteritis. Dr. Carlson observed that, as a result of contacts that he had made, he had learned that there have not been any outbreaks of the disease in Colorado and, therefore, no additional regulatory requirements are needed at the present time. He stated that Equine Viral Arteritis appears to be a disease that is most prevalent at breeding farms and in breeding programs. He noted that an animal entering an area of contamination would need to be placed in isolation and quarantined for a period of three to four weeks. Dr. Carlson reported that, at this time, there is no vaccine available and vaccine may not be available until the Spring. He also commented that, from discussions that he has had with several practicing equine veterinarians, questions has been raised regarding both the effectiveness and the high cost of the vaccine. Dr. Carlson stated that, in the event of an outbreak of the disease in Colorado, the Division would require presentation of a twenty-four hour health certificate stating that an animal is disease-free for either entry into or departure from the state.

#### Update on Legislative Initiative – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, reported that the Division's Sunset Bill should be brought forward during the 2007 legislative session, although he does not have specific information regarding either sponsorship of the measure or the timing of its introduction and/or consideration. Mr. Hartman urged those in attendance to contact rural legislators and apprise them of the economic benefits that could be expected to result from passage of this initiative. Mr. Hartman assured the Commission that he would provide status reports on legislation at the regular meetings during the legislative session.

Query Regarding Rule-Making Hearing

In response to Commissioner Hoffman's query, Mr. Dan Hartman, Director of the Division of Racing Events, advised that the Division anticipates that the Rule-Making Hearing would be conducted at the Commission's March 13, 2007 meeting. He noted that the rule review workshop was held at which discussion of proposed rules with industry representatives took place.

Adjournment

There being no further business to consider, the meeting was adjourned at 10:40 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, February 13, 2007 in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

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GENE O. NAUGLE, DVM, CHAIRMAN

The undersigned hereby approve the foregoing Minutes.

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DAVID LYNN HOFFMAN, VICE-CHAIR

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MARILYN ALKIRE, MEMBER

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C. DREW GRANT, MEMBER

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JACK PRETTI, MEMBER

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, February 13, 2007 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. In Chairman Gene Naugle's absence, Vice-Chairman David Lynn Hoffman called the meeting to order at 9:55 a.m.

### Members Present

David Lynn Hoffman, Vice-Chair  
C. Drew Grant, Member  
Jack Pretti, Member

Commissioners Gene Naugle and Marilyn Alkire were excused from the meeting.

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Naomi Smith, Division Auditor  
Robert "Duke" Mann, Horse Racing Coordinator/Division Investigator  
Mark Brown, Division Enforcement Coordinator  
Leland BeBee, Division Legal Assistant  
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 January 9, 2007

A motion was made by Commissioner Grant, seconded by Commissioner Pretti and unanimously carried to approve the minutes of January 9, 2007 as submitted.

### Scheduled Administrative Hearing – In the Matter of Cloverleaf Kennel Club – Dan Hartman

At 9:57 a.m., the scheduled administrative hearing in the matter of Cloverleaf Kennel Club was convened. Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that based upon Cloverleaf Kennel Club's failure to follow established Division procedures, a Notice of Hearing had been issued to Cloverleaf. He explained that the Division and Cloverleaf had subsequently negotiated a mutually acceptable Settlement Stipulation that was signed by Mr. John Manning, General Manager of Cloverleaf Kennel Club, and Mr. Hartman. Mr. Hartman tendered the subject Settlement Stipulation to the Commission for its review with his recommendation for approval. A motion was made by Commissioner Grant, seconded by Commissioner Pretti and unanimously carried to accept the signed Settlement Stipulation based upon Mr. Hartman's recommendation. The hearing concluded at 9:59 a.m.

### Scheduled Administrative Hearing – In the Matter of AmTote – Dan Hartman

At 10:00 a.m., Mr. Dan Hartman, Director of the Division of Racing Events, advised the Commission that a Notice of Hearing had been issued to AmTote International, Inc. for the same violations alleged against Cloverleaf Kennel Club in the preceding matter. Mr. Hartman informed the Commission that he anticipates receipt of a signed Settlement Stipulation from AmTote in the near future, but since the matter is currently pending, he requested that the Commission continue this matter until its March 13, 2007 meeting. A motion was made by Commissioner Pretti, seconded by Commissioner Grant and unanimously carried to continue the scheduled hearing in the matter of AmTote International, Inc. until the Commission's regular March meeting.

Continuance of Administrative Hearing – In the Matter of Richard Favreau

The Commission took notice that the scheduled administrative hearing in the matter of Mr. Richard Favreau has been officially continued until the Commission's March 13, 2007 meeting. No action was taken at this time.

Presentation Regarding Distribution of Owners/Breeders Awards and Supplemental Purse Fund Monies – Naomi Smith

Ms. Naomi Smith, Auditor for the Division of Racing Events, advised that the Division had prepared a final accounting of the Owners/Breeders Awards and Supplemental Purse Fund monies to be distributed to the various breed organizations for calendar year 2006. She explained that, once authorization is given by BLB, Inc., the Division would be able to disburse the fund accruals.

After considering Ms. Smith's final accounting of the Owners/Breeders Awards and Supplemental Purse Fund monies for distribution to the various breed organizations for calendar year 2006, a motion was made by Commissioner Pretti, seconded by Commissioner Grant 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; and, further, to specify that in the event that the Colorado Appaloosa Racing Association develops bi-laws containing the required distribution plan, it would be eligible to receive its accumulated accrual.

Subsequent to the meeting, Ms. Smith completed a reconciliation of the bank statement and found additional funds deposited in January 2007 for 2005 uncashed tickets. These funds were not included in the report presented to the Commission. Thereupon, Division Director Dan Hartman contacted the members of the Commission and confirmed that they approved unanimously distribution of the following adjusted Owners/Breeders Awards and Supplemental Purse Fund amounts to the specified breed organizations pursuant to statute:

Colorado Thoroughbred Breeder's Association	\$703,818.61
Rocky Mountain Quarter Horse Association	130,885.22
Colorado Owners and Breeders of Racing Arabians	27,049.01
Rocky Mountain Paint Racing Club	4,305.48

The amount of \$2,102.77 due the Colorado Appaloosa Racing Association will continue to be held in escrow pending receipt of by-laws containing a distribution plan. The amount of \$52,111.13 due the Colorado Harness Horsemen's Association was also excluded from distribution and will remain in escrow due to the cessation of live harness racing in Colorado several years ago.

Inquiry Regarding Escrowed Harness Racing Accrual – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, stated that Senate Bill 07-119, the Division's Sunset initiative that is currently undergoing legislative deliberation, contains a mechanism for the distribution of the escrowed harness monies to the breeds that are actively participating in Colorado horse racing.

Consideration of Proposed Revised Video Surveillance Policy – Robert "Duke" Mann

Mr. Robert "Duke" Mann, Investigator and Horse Racing Coordinator for the Division of Racing Events, who was assigned primary responsibility for reviewing and updating the Division's Video Surveillance Policy, presented his proposed amended version of the Policy to the Commission for its consideration. Mr. Mann explained what changes he was proposing and gave his reasons for recommending them. He noted that advancements in technology since adoption of the original Video Surveillance Policy necessitated that certain changes be made to the existing Policy. Mr. Mann also stated that, if approved by the Commission, the changes would affect any new off-track wagering facilities or any existing facilities that intend to modify their video surveillance systems.

Mr. Mann discussed the following proposed changes to the Video Surveillance Policy (page numbers apply to the document as presented) with the Commission:

- Page 2, B – Specific Standards and Guidelines – Add specification that “AS OF FEBRUARY 13, 2007, any replaced SURVEILLANCE RECORDING component IS A DIGITAL VIDEO RECORDER (DVR) AND MEETS THE REQUIREMENTS OF SECTION C, #3B, OF THIS POLICY. THIS REQUIREMENT MUST ENSURE THAT THE NEW system does not prevent the Division from being able to review any recorded material.” Mr. Mann and Division Director Dan Hartman observed that such an equipment upgrade would conform to current “state of the art” technology.
- Page 4, D – Mutuel Areas – Add specification that “AS OF FEBRUARY 13, 2007, ALL RELOCATED TOUCHTOTES SHALL HAVE CAMERAS THAT MUST BE POSITIONED TO PROVIDE AN OVERVIEW OF NO MORE THAN TWO (2) TOUCHTOTE TOTALISATOR MACHINES. Camera view of the terminals must provide a clear view of the wagering patron AND THE TRANSACTION TICKET BEING ISSUED at the touchtote machine.” Mr. Mann stated that this would be beneficial in enabling an investigator to prove that something of value had actually been taken from a touchtote machine.
- Page 5, F – Horse Track Stable Gate – “Camera views of the stable gate area must be recorded for 24 hours WHILE THE STABLE AREA IS A RESTRICTED AREA PURSUANT TO CRCR #11.481.” Mr. Mann explained that, since the stable area at Arapahoe Park becomes a restricted area twenty days prior to the commencement of the live race meet, this would ensure vigilant oversight of the stable area in advance of the start of the meet.

Following consideration of the proposed revisions and discussion of them, a motion was made by Commissioner Grant, seconded by Commissioner Pretti and unanimously carried to approve the following revised Video Surveillance Policy as proposed by Mr. Mann:

**COLORADO RACING COMMISSION  
COLORADO DIVISION OF RACING EVENTS  
SURVEILLANCE VIDEO STANDARDS**

Revised 02/13/2007

**PURPOSE:** The use of surveillance camera systems at racetracks, OTB and simulcast facilities is necessary to maintain compliance with Division of Racing rules, the operation and conduct of Division licensed employees for the protection of the public interest. Surveillance camera systems allow the use of videotape in the investigation and mitigation of complaints, be aware of problems or violations not reported by the Associations.

**RULE:** CRC Rule #11.537 – Every Association and Simulcast facility shall comply with the current video Standards as adopted by the Commission. Failure to comply with the minimum procedures or standards approved pursuant to this section may result in a fine, penalty, or revocation of license.

Licenseses will be provided written notice of any changes to the minimum procedures or standards approved pursuant to this section and will have thirty (30) days, unless otherwise specified, in which to comply with such changes.

**PROCEDURE:** Pursuant to CRCR 11.537 the Division has established policy and guidelines for installing and maintaining the surveillance camera system. The system is monitored during contact visits and inspections by the Division Representative(s).

## **DEFINITIONS**

**Association:** An association is anyone conducting a licensed live race meet or approved simulcast race meet in Colorado.

**Division Representative:** Any person employed by the Division of Racing Events.

**Surveillance Camera System:** The equipment required for observing and recording an activity and being capable of playback of the recorded activity. Equipment includes but is not limited to: cameras, recording device, multiplexer that allows for the recording from several cameras, cables and wires necessary for connecting each piece of equipment.

**Race Day:** Any day that includes live performances, to include matinee and evening performances.

### **A. GENERAL**

Each Association shall install and maintain the necessary equipment for a Surveillance Camera System. An Association may contract with a company that is capable of installing and maintaining a Surveillance Camera System. It is possible, and may be necessary for an Association to have more than one Surveillance Camera System installed at their location.

Each racetrack, OTB or simulcast facility must have a surveillance room in-house. Exceptions would only be for commonly owned racetracks and simulcast facilities that are contiguous, and then only with Division approval. Surveillance rooms must remain locked, and must have room for at least two people to view monitors. Licensees that want other functions to be housed in the surveillance room must receive Division approval.

Surveillance camera system guidelines apply to all Association racetracks, OTBs and simulcast facilities.

Surveillance camera system coverage of all areas where restricted activity is conducted must receive approval from the Division prior to being utilized. The Division must approve changes to the systems regarding equipment and/or coverage area prior to changes proposed by the Association.

The Surveillance Camera System(s) requirement is part of the licensing process. Maintenance contracts for the system(s) will be turned in with the license application at the time of application or renewal.

### **B. SPECIFIC STANDARDS AND GUIDELINES**

These guidelines do not prevent an Association from upgrading to better equipment, or using equipment that takes advantage of current technologies. As of February 13, 2007, the Association is required to ensure that any replaced surveillance recording component is a digital video recorder (DVR) and meets the requirements of Section C, #3 B, of this policy. This requirement must ensure that the new system does not prevent the Division from being able to review any recorded material.

### **C. EQUIPMENT**

The following will serve as minimum specifications for the existing systems and replacement of equipment currently installed at Colorado racetrack and simulcast facilities.

1. Camera specs: 1/3" CCD pickup device with a resolution of at least: 380TV Lines. Minimum illumination: .5 Lux at F1.4. 24VDC power supply. This does not limit the use of other sizes or manufacturers as approved by the Division.

2. Camera Lens: Varifocal: minimum 3.5 - 8MM, F 1.4, manual or auto iris depending on scene. Auto iris lenses are acceptable, if they are properly adjusted at all times.
3. Recording Method:
  - A. 24-Hour Time Lapse VCR using VHS tape. A date/time generator must be used for all recording of all required areas, and the date and time must be synchronized with the totalisator system used for wagering and set correctly and must not significantly obscure the picture. Time synchronization between the totalisator, VCR and multiplexer shall be within one (1) minute of the totalisator time.
  - B. Digital Video Recorder (DVR) may be used that has the same capabilities as the 24-Hour Time Lapse VCR. The DVR must have the ability to record from the Multiplexer. The DVR must have the capability to make VHS tapes when requested by the Division.
4. Multiplexer: American Dynamics model # AD1487-16, or equivalent, with update per channel no less than 3.2 on a fully loaded system. A 16-channel video duplex multiplexer is acceptable with a dwell time not to exceed two seconds. It must be able to isolate a single camera using a switcher. At a minimum, it must record and playback 16 frames per second.
5. RG59 Coaxial cable with copper conductors, plenum fire rated if required by local code. Associations opening pari-mutuel operations subsequent to January 1, 2003, must use copper wiring or an equivalent signal medium (i.e., fiber optics, unshielded twisted pair wire, etc.) that meets or exceeds the rating specifications of copper wire for pari-mutuel wagering area surveillance camera systems.
6. Videotapes used for recording must be of at least High-Grade quality from a recognized manufacturer (Sony, JVC, Maxell, Memorex etc.) Videotapes must be capable of recording six (6) hours at extended play (EP) speed.
7. VCR's and cameras must be clean. Every three months, the Association must have a qualified person check to ensure that equipment is functioning properly. A maintenance log must be maintained which provides evidence that the equipment has been checked, and serviced if necessary.
8. Associations are responsible for ensuring all video equipment and videotapes are properly functioning and the playback quality meets Division requirements.
9. All mutuel video surveillance equipment and tapes shall be kept in the video surveillance room.
10. All stable gate video surveillance equipment may be kept in the stable gate security office. All stable gate video surveillance tapes shall be kept in the video surveillance room.
11. All videotapes must be erased or destroyed prior to disposal, sale to another licensee or manufacturer, or when discarded by any other means (e.g., giving a used tape to an employee for personal use).
12. All videotapes must be rewind using a rewinding device. Alternatively, they may be rewind in a VCR that is not currently recording pari-mutuel wagering operations (i.e., it is not acceptable for there to be a lapse in recording while a video tape is being rewind).
13. All videotapes recording mutuel areas must be kept a minimum of 30 operational business days, and videotapes recording paddock areas must be kept for a minimum of 15 operation race days. No videotape shall be used for recording more than six times.

14. Videotapes must be clearly labeled with the following information:

Association Name  
Date of Recording

15. The Association must maintain a log of videotape changes. A separate log will be maintained for each Surveillance Camera System in operation. The log will record the following information:

Date of tape change  
Time of tape change  
Initials of person making tape change

**D. MUTUEL AREAS**

1. All mutuel ticket issuing machines shall have coverage by surveillance cameras.
2. As of February 13, 2007, all relocated touchtotes shall have cameras that must be positioned to provide an overview of no more than two (2) touchtote totalisator machines. Camera view of the terminals must provide a clear view of the wagering patron and the transaction ticket being issued at the touchtote machine.
3. Cameras must be positioned to provide an overview of no more than two (2) mutuel totalisator machines. Camera view of the terminals must provide a clear view of any transaction at the mutuel window, including the counter area where a wagering patron would purchase a mutuel ticket.
4. Cameras must be positioned to give full view of the face of the person purchasing mutuel tickets. Alternate locations of cameras must have Division approval. Totalisator machines and cameras will not be moved without prior Division approval.
5. Ambient lighting shall be sufficient to allow for clear view of a patron's face while at the mutuel machine, and lighting shall be positioned to prevent wash-out of objects in view of the camera.
6. Associations may request exemption from CRCR 11.537 and these guidelines for special events, and operate specified mutuel areas without surveillance camera coverage only with prior approval from the Division. Specific mutuel areas that will be with out surveillance camera coverage during a race meet must be requested in writing and addressed at the renewal license application hearing.

**E. GREYHOUND PADDOCK AREAS**

1. Areas of the paddock that shall be covered by surveillance camera shall include but is not limited to:
  - a. Lockout kennels
  - b. Sample Collection Area
  - c. Sample Collection Packaging Area
2. All greyhound paddock video surveillance equipment shall be kept in the Division's Veterinarian offices. All greyhound paddock surveillance tapes shall be kept in the Division's main office.

## **F. HORSE TRACK STABLE GATE**

1. Coverage to include all vehicles entering and leaving the stable area. Cameras must be positioned to give full view of the face of the person driving the vehicle and license plate of the vehicle. Camera views of the stable gate area must be recorded for 24 hours while the stable area is a restricted area pursuant to CRCR #11.481.

## **G. OTHER GUIDELINES**

1. All camera views of pari-mutuel wagering areas must be continuously recorded by a VCR or other recording device as approved for use by the Division, from one half hour before wagering activity begins to one half hour after wagering activity ends. Camera views of the money rooms and vaults must be recorded for 24 hours a day.
2. Camera views in the greyhound paddock must be continuously recorded during the time there are racing animals in or will be in lock out kennel area. A separate monitor shall be made available for viewing by the trainers.
3. A complete set of instruction guidelines to the surveillance cameras and controls must be posted in clear view in the surveillance room. This guide must include, but not be limited to, a schematic of the camera locations, how to call up each camera, and the number of each camera.
4. Access to surveillance rooms shall be limited to essential employees authorized by the licensee, law enforcement agencies, service personnel, and others when approved by the Division. A current list of authorized employees and service personnel that have access to the surveillance room must be posted in the surveillance room.
5. Videotapes, tape change logs and maintenance logs must be made available to the Division upon request.
6. The Division recommends that a separate call-up monitor and multiplexer be installed for use by management. This allows viewing of a recorded videotape without interrupting a current recording period.

Additionally, a Camera System Tape Stop/Change Log form and a Camera System Maintenance Log form were attached to the revised version of the Video Surveillance Policy.

### Status Report on Legislation – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, reported to the Commission that Senate Bill 07-119, the Division's Sunset Bill, had passed out of the full Senate without amendment and had been directed to the Senate Finance Committee. He stated that it was docketed for discussion at today's session and that he would be attending the afternoon deliberation. Further, Mr. Hartman observed that Senator Chris Romer is the bill's sponsor.

In response to a query from Ms. Karen Cloud, Mr. Hartman enumerated what the bill is intended to accomplish: 1) if enacted, it would eliminate unfair double taxation of Colorado racing associations; 2) if enacted, it would change the current tax structure from a tax on the gross to an adjusted gross proceeds tax; and 3) if enacted, it would cure the inequity that has existed between the tax rates applied to greyhound racing and those applied to horse racing by affording the greyhound industry to receive one-half of all purses. Mr. Hartman stated that the modifications to the tax structure would bring the racing industry into conformity with competitive industries, such as the gaming industry. He advised that he believes the entire Colorado racing community appears to be supportive of the measure.

Mr. Hartman observed that he is “cautiously optimistic” about the bill’s future. He commented that he is hopeful that the Legislature would be mindful of the economic benefits that the racing industry brings to Colorado as a whole. He noted that, despite the approximate \$2.6 million reduction to the State’s General Fund that would result from passage of the bill in its present form, the entire state, especially rural areas, would profit by \$200-\$250 million in generated revenue.

Mr. Hartman assured the Commission and attendees that he would continue to monitor and report on the status of Senate Bill 07-119.

Update on Licensing Requirements – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, stated that stringent residency requirements for any person seeking to obtain a license for any type of service in Colorado would go into effect on March 1, 2007. He explained that, pursuant to the legislation passed during the Special Session, license applicants would be mandated to provide certain specified types of identification in order to be licensed.

Mr. Hartman advised that appropriate notices relating to the new requirements would be made available to prospective license applicants and current members of the Colorado greyhound and horse racing colonies. Further, he stated that he would update the Commission on this matter as additional information becomes available.

Adjournment

There being no further business to consider, the meeting was adjourned at 10:50 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, March 13, 2007 in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

(EXCUSED) \_\_\_\_\_  
GENE O. NAUGLE, DVM, CHAIRMAN

The undersigned hereby approve the foregoing Minutes.

\_\_\_\_\_  
DAVID LYNN HOFFMAN, VICE-CHAIR

(EXCUSED) \_\_\_\_\_  
MARILYN ALKIRE, MEMBER

\_\_\_\_\_  
C. DREW GRANT, MEMBER

\_\_\_\_\_  
JACK PRETTI, MEMBER

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, March 13, 2007 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. Chairman Gene Naugle, who was present via teleconference call, convened the meeting to order at 9:33 a.m.

### Members Present via Teleconference Call

Gene Naugle, DVM, Chairman  
Jack Pretti, Member

Commissioners David Lynn Hoffman, Marilyn Alkire and Drew Grant were excused from the meeting.

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Leland BeBee, Division Legal Assistant  
Sherry Gunnell, Assistant to the Director

Notice was taken that, due to lack of a quorum, no official Commission business could be transacted at this time.

### Continuation of Scheduled Administrative Hearings – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, stated for the record that Notices of Continuance of the scheduled administrative hearings in the matters of AmTote International, Inc. and Mr. Richard Favreau had been sent to the respective subjects, reflecting that the hearings had been postponed until the Commission's April 10, 2007 meeting.

### Continuation of Scheduled Rule-Making Hearing

Commissioner Naugle announced that the scheduled Rule-Making Hearing would be continued until the April 10, 2007 Commission meeting at 10:30 a.m. in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

(Mr. Leland BeBee, the Division's Legal Assistant, was present at the designated meeting location at 10:30 a.m., the time originally specified for the commencement of today's Rule-Making Hearing, and confirmed that no one arrived for this Hearing.)

### Announcement of Postponement of Consideration of Remaining Agenda Items – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, announced that all other items appearing on today's meeting agenda would be held over until the April 10, 2007 Commission meeting.

### Adjournment

There being no further business to consider, the meeting was adjourned at 9:35 a.m.

### Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, April 10, 2007 in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

(PRESENT VIA TELECONFERENCE CALL)  
GENE O. NAUGLE, DVM, CHAIRMAN

The undersigned hereby approve the foregoing Minutes.

(EXCUSED)  
DAVID LYNN HOFFMAN, VICE-CHAIR

(EXCUSED)  
MARILYN ALKIRE, MEMBER

(EXCUSED)  
C. DREW GRANT, MEMBER

(PRESENT VIA TELECONFERENCE CALL)  
JACK PRETTI, MEMBER

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, April 10, 2007 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. Chairman Gene Naugle called the meeting to order at 9:35 a.m.

### Members Present

Gene Naugle, DVM, Chairman  
David Lynn Hoffman, Vice-Chair  
C. Drew Grant, Member  
Jack Pretti, Member

Commissioner Marilyn Alkire was excused from the meeting.

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Richard Mattson, Greyhound Racing Coordinator  
Robert "Duke" Mann, Horse Racing Coordinator/Division Investigator  
Mark Brown, Division Enforcement Coordinator  
Leland BeBee, Division Legal Assistant  
Tina Bowman, Assistant Attorney General representing the Division of Racing Events  
Fred Kuhlwillm, Assistant Attorney General serving as Conflicts Counsel  
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 13, 2007 and March 13, 2007

A motion was made by Commissioner Pretti, seconded by Commissioner Grant and unanimously carried to approve the minutes of February 13, 2007 and March 13, 2007 as submitted.

### Rescheduled Administrative Hearing – In the Matter of AmTote – Dan Hartman

At 9:40 a.m., Chairman Naugle convened the rescheduled administrative hearing in the matter of AmTote. Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that based upon AmTote's failure to follow established Division procedures, a Notice of Hearing had been issued to AmTote International, Inc. He explained that the Division and AmTote had subsequently negotiated a mutually acceptable Settlement Stipulation that was signed by Mr. Michael Fuchek, General Counsel for AmTote International, Inc., and Mr. Hartman. Mr. Hartman tendered the subject Settlement Stipulation to the Commission for its review with his recommendation for approval. He informed the Commission that the Settlement Stipulation was comparable to that established with Cloverleaf Greyhound Track and reflected that procedures had been implemented by both Cloverleaf and AmTote International to prevent further communications breakdowns between the two entities. Additionally, Mr. Hartman advised the Commission that Division Auditor Naomi Smith and Division Investigator Robert "Duke" Mann would be monitoring AmTote and Cloverleaf's compliance with the terms and conditions set forth in their respective Settlement Stipulations. A motion was thereupon made by Commissioner Grant, seconded by Commissioner Hoffman and unanimously carried to accept the signed Settlement Stipulation submitted by AmTote with the provisions provided by the Division of Racing Events pertaining to Case Number RAC 07-010. The hearing concluded at 9:42 a.m.

Rescheduled Administrative Hearing – In the Matter of RICHARD FAVREAU

Chairman Naugle convened the rescheduled administrative hearing in the matter of Mr. Richard Favreau at 9:43 a.m. Mr. Favreau was not present and was not represented by legal counsel. As a preliminary matter, the Commission took notice that Mr. Favreau had been duly and properly notified of the hearing to be held on this date and at this time and location.

Ms. Tina Bowman, Assistant Attorney General, entered her appearance on behalf of the Colorado Racing Commission and the Division of Racing Events. Mr. Fred Kuhlwilm, Assistant Attorney General, entered his appearance as Conflicts Counsel in this matter.

Ms. Bowman informed the Commission that Mr. Richard Favreau had failed to provide documentation to the Arizona Department of Racing relating to the disposition of at least one hundred forty (140) greyhounds that he had been paid to transport from Tucson Greyhound Park to recognized adoption agencies between November 2005 and July 2006. Thereupon, the Arizona Department of Racing conducted hearings that resulted in the revocation of Mr. Favreau's racing license, the imposition of a fine totaling \$140,000 (\$1,000 per missing greyhound) to be contributed to a greyhound adoption program and seven hundred (700) hours of community service with an animal-rights organization or adoption group. Mr. Favreau did not appeal the final agency action of the Arizona Department of Racing, but he has not paid the fine or undertaken the requisite community service. Ms. Bowman advised that, at this time, the Colorado Racing Commission is being requested to consider whether Colorado should reciprocate and recognize the penalties imposed upon Mr. Favreau by the Arizona Department of Racing. She presented numerous statutory citations reflecting the Commission's authority to uphold the actions of another racing jurisdiction with respect to licensure and penalty.

The following persons gave sworn testimony:

- 1) Leland BeBee, Legal Assistant for the Division of Racing Events; and
- 2) Mark Brown, Enforcement Coordinator for the Division of Racing Events.

During the hearing, the following exhibits were entered into the record:

Exhibit A: Copy of State of Colorado Division of Racing Events' three-year "Support Occupational License Application" signed and dated on January 28, 2005 by Mr. Richard Favreau, License #200813034.

Exhibit B: Copy of Multi-Jurisdictional License Application with information pertaining to Mr. Richard Favreau.

Exhibit C: Copy of Colorado Division of Racing Events' License Approval Letter dated February 23, 2005 reflecting that Mr. Richard Favreau was approved for licensure as an Owner.

Exhibit D: Copy of "Notice of Hearing", Case #06-0153, in the matter of Richard Allen Favreau dated January 9, 2007 and mailed to Mr. Favreau on January 10, 2007. This Notice of Hearing with attached Certificate of Mailing reflects that a hearing before the Colorado Racing Commission was to be held on February 13, 2007.

Exhibit E: Copy of "Continuance of Hearing and Notice" in the matter of Richard Allen Favreau dated February 9, 2007 and mailed on that date to Mr. Favreau. This Continuance of Hearing and Notice with attached Certificate of Mailing reflects that a hearing before the Colorado Racing Commission was to be held on March 13, 2007.

Exhibit F: Copy of Amended Notice of Hearing in the matter of Richard Allen Favreau dated March 9, 2007 and mailed on that date to Mr. Favreau. This Amended Notice of Hearing with attached Certificate of Mailing reflects that a hearing before the Colorado Racing Commission would be held on April 10, 2007.

Exhibit G: Copy of document entitled "Notification of Stewards Hearing" from the Arizona Department of Racing addressed to Richard Favreau dated August 31, 2006, Arizona License #0570428.

Exhibit H: Copy of "Ruling No. 77" issued by the Stewards at Phoenix Greyhound Park (Arizona) dated October 18, 2006 in the matter of Richard Favreau.

Exhibit I: Copy of appeal letter signed by Richard Favreau to the attention of the Arizona State Stewards dated October 20, 2006.

Exhibit J: Copy of State of Arizona Department of Racing, Case No. 06A-316-DOR, "Findings of Fact, Conclusions of Law and Order" in the matter of Richard Favreau dated December 19, 2006.

Exhibit K: Copy of letter from Nan Mitchell, Administrative Services Coordinator for the Arizona Department of Racing, to the attention of Dan Hartman, Director, Colorado Division of Racing Events, dated February 8, 2007 confirming the status of the matter involving Richard Favreau, Arizona Department of Racing case number 06A-316-DOR. (The Commission took special notice of the fact that Mr. Favreau "had no remaining rights of appeal after January 24, 2007" in Arizona.)

Following review and consideration of the testimony and evidence presented and in recognition of the Director of the Arizona Department of Racing's "Findings of Fact, Conclusions of Law and Order" in Arizona Case No. 06A-316-DOR, a motion was made by Commissioner Hoffman, seconded by Commissioner Pretti and unanimously carried in the matter of Mr. Richard Allen Favreau, Case Number 06-0153, that any and all occupational racing licenses held by Mr. Favreau in Colorado are hereby revoked and will remain revoked as long as his license(s) is/are revoked in Arizona; and, further, at any time that Mr. Favreau resolves the affecting matter in Arizona and if he should desire to be relicensed in Colorado, he must come before the Colorado Racing Commission before being considered eligible to be issued a racing license in Colorado.

The hearing concluded at 10:16 a.m. Ms. Angela Smith, Court Reporter, stenographically recorded the above proceeding. A tape recording of the proceeding is on file in the Lakewood office of the Division of Racing Events.

The following Order was disseminated:

BEFORE THE COLORADO RACING COMMISSION  
STATE OF COLORADO

Case Number: 06-0153

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**COMMISSION ORDER # 07-04**

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IN THE MATTER OF:  
Richard Allen Favreau  
Licensee Type: Owner  
License Number: 200813034

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This matter came on for hearing before the Colorado Racing Commission (hereafter, the "Commission") on April 10, 2007. Based upon information from the State of Arizona's Department of Racing, the Commission decided on January 9, 2007 to invoke its jurisdiction under C.R.C.R. #6.540 to hear this matter, and directed the Division of Racing Events (hereafter, the "Division") to issue a Notice of Hearing to Richard Allen Favreau (hereafter, the "Licensee").

The Licensee did not appear. Assistant Attorney General Ana Cristina (Tina) Bowman represented the Division. Fred C. Kuhlwilm, Assistant Attorney General, participated as conflicts counsel for the Commission. Mark G. Brown, Division Enforcement Coordinator, and Leland W. BeBee, Division Legal Assistant, were sworn and testified on behalf of the Division.

The Commission accepted the following exhibits into evidence:

- Exhibit "A" --- Division of Racing Events' "Support Occupational License Application" for Richard Allen Favreau, License # 200813034
- Exhibit "B" --- Division of Racing Events' Licensing System printout of "Multi-jurisdictional license application" for Richard Allen Favreau
- Exhibit "C" --- Division of Racing Events' "License Application Approval" letter from Dan Hartman, Director, to Richard Allen Favreau, dated February 23, 2005
- Exhibit "D" --- Colorado Racing Commission, "Notice of Hearing," Case # 06-0153, for Richard Allen Favreau, Licensee, dated January 9, 2007
- Exhibit "E" --- Colorado Racing Commission, "Continuance of Hearing and Notice," Case # 06-0153, for Richard Allen Favreau, Licensee, dated February 9, 2007
- Exhibit "F" --- Colorado Racing Commission, "Amended Notice of Hearing," Case # 06-0153, for Richard Allen Favreau, Licensee, dated March 9, 2007
- Exhibit "G" --- Arizona Department of Racing, "Notification of Stewards Hearing," dated August 31, 2006, to Richard Favreau, Arizona License # 0570428
- Exhibit "H" --- Arizona Department of Racing, Phoenix Greyhound Park, 2006 Meeting, State Stewards' "Ruling No. 77" dated October 18, 2006, to Richard Favreau
- Exhibit "I" --- Letter, dated 10/20/06, from Richard Favreau to the Attention of the State Stewards of the Arizona Department of Racing
- Exhibit "J" --- State of Arizona, Department of Racing, Case No. 06A-316-DOR, "Findings of Fact, Conclusions of Law, and Order," "In the Matter of Richard Favreau, Respondent, A.D.O.R. License No. 0570428," issued on December 19, 2006
- Exhibit "K" --- Arizona Department of Racing, Letter, dated February 8, 2007, from Nan Mitchell, Administrative Services Coordinator, to Dan Hartman, Director of Racing Events

### **Findings of Fact**

1. On January 28, 2005, the Licensee submitted to the Division a "Support Occupational License" application by which the Licensee sought to be licensed as an "Owner." (Exhibit "A").

2. As part of the noted license application, the Licensee signed a Certification, which includes, in relevant part, the following statement: “By accepting any license issued pursuant to this application, I agree to be familiar with and comply with the provisions of the Colorado Racing Commission’s regulations pertaining to racing...and laws of the United States and the State of Colorado, and the subdivisions thereof.”
3. The Division’s Official Licensing System database information for the Licensee includes, in relevant part, a record entitled, “Multi-jurisdictional License Application.” (Exhibit “B”).
4. The Multi-jurisdictional License Application for the Licensee discloses the official license-issue date for the Licensee’s Colorado Racing License as January 28, 2005.
5. The Multi-jurisdictional License Application for the Licensee also reveals the last address furnished by the Licensee to the Commission as his official address, i.e., “23480 McDaniel Rd, Calhan, CO 80808.”
6. On February 23, 2005, Dan Hartman, Director of the Division, issued to the Licensee a letter entitled, “License Application Approval,” approving the Licensee’s application for a Support Occupational License as an “Owner.” (Exhibit “C”)
7. The noted License Application Approval letter also recited the expiration date of the Licensee’s license as January 28, 2008.
8. On January 9, 2007, the Commission issued to the Licensee a “Notice of Hearing” in the instant case, for a hearing scheduled for Tuesday, February 13, 2007. (Exhibit “D”)
9. Attached to the January 9, 2007 “Notice of Hearing” was a copy of the State of Arizona’s “Findings of Fact, Conclusions of Law, and Order,” in Arizona Case No. 06A-316-DOR, issued to Richard Favreau by Geoffrey E. Gonsler, Director of the Department of Racing, State of Arizona.
10. On January 10, 2007, the Division mailed by first class postage prepaid the January 9, 2007 “Notice of Hearing” to the Licensee at the last address furnished by the Licensee to the Commission as his official address, i.e., “23480 McDaniel Rd, Calhan, CO 80808.”
11. The United States Postal Service did not return the January 9, 2007 “Notice of Hearing” to the Division as an undeliverable item.
12. On February 9, 2007, the Commission issued to the Licensee a “Continuance of Hearing and Notice” in the instant case, rescheduling the hearing to March 13, 2007. (Exhibit “E”)
13. On February 9, 2007, the Division mailed by first class postage prepaid the February 9, 2007 “Continuance of Hearing and Notice” to the Licensee at the last address furnished by the Licensee to the Commission as his official address, i.e., “23480 McDaniel Rd, Calhan, CO 80808.”
14. The United States Postal Service did not return the February 9, 2007 “Continuance of Hearing and Notice” to the Division as an undeliverable item.
15. On March 9, 2007, the Commission issued to the Licensee an “Amended Notice of Hearing” in the instant case, replacing the original January 9, 2007 “Notice of Hearing,” and rescheduling the hearing to April 10, 2007. (Exhibit “F”)

16. Attached to the March 9, 2007 “Amended Notice of Hearing” was a copy of the State of Arizona’s “Findings of Fact, Conclusions of Law, and Order,” in Arizona Case No. 06A-316-DOR, issued to Richard Favreau by Geoffrey E. Gonsher, Director of the Department of Racing, State of Arizona.
17. On March 9, 2007, the Division mailed by first class postage prepaid the March 9, 2007 “Amended Notice of Hearing” to the Licensee at the last address furnished by the Licensee to the Commission as his official address, i.e., “23480 McDaniel Rd, Calhan, CO 80808.”
18. The United States Postal Service did not return the March 9, 2007 “Amended Notice of Hearing” to the Division as an undeliverable item.
19. On August 31, 2006, the Arizona Department of Racing’s State Stewards at Phoenix Greyhound Park issued to Richard Favreau a Notification of Stewards Hearing, summoning him to appear before the Stewards on September 14, 2006. (Exhibit “G”)
20. The Arizona Department of Racing’s Notification of Stewards Hearing was mailed on September 1, 2006, to the Licensee’s official address in the Arizona system, i.e., “23480 Mc Daniels Rd, Calhan CO 80808”
21. The Arizona Department of Racing’s Notification of Stewards Hearing showed the Licensee as licensed as an “Owner” in Arizona, Arizona License # 0570428.
22. The Arizona Department of Racing’s Notification of Stewards Hearing indicated that the September 14, 2006 Stewards’ hearing had been scheduled to consider the following matters:

*Contracting with Tucson Greyhound Park to transport greyhounds to his facility where they were supposed to be properly cared for and placed with recognized adoption agencies. Approximately 192 greyhounds have been transported to this point and this Department is not able to verify placement of any to recognized adoption agencies, leading this Department to believe that Mr. Favreau has disposed of these greyhounds in an inhumane manner.*
23. The September 14, 2006 Stewards’ hearing was continued at the Licensee’s request, and was completed on October 18, 2006, with the Licensee appearing by telephone on his own behalf.
24. On October 18, 2006, the Arizona Department of Racing, Phoenix Greyhound Park, 2006 Meeting, State Stewards, issued “Ruling No. 77.” (Exhibit “H”)
25. The Arizona Department of Racing’s State Stewards “Ruling No. 77” was mailed on October 18, 2006, to the Licensee’s official address in the Arizona system, i.e., “23480 Mc Daniels Rd, Calhan CO 80808”
26. The Arizona Department of Racing’s State Stewards in “Ruling No. 77” determined that the Licensee was in violation of certain Arizona Statutes and Racing Rules for “failing to produce documents verifying that the greyhounds he transported from Tucson Greyhound Park were placed in recognized adoption agencies or returned back to their owners.”
27. The Arizona Department of Racing’s State Stewards in “Ruling No. 77” penalized the Licensee as follows:
  - a. fined the Licensee one thousand dollars (\$1,000.00);

- b. suspended the Licensee for sixty (60) days from October 18, 2006 through and including December 16, 2006
  - c. referred the case to the Director of the Arizona Department of Racing with the recommendation the Licensee's Arizona racing license be revoked; and,
  - d. denied the Licensee the privileges of all grounds under the jurisdiction of the Arizona Department of Racing, during the term of the Licensee's suspension.
28. On October 20, 2006 the Licensee faxed a letter to the attention of the Arizona State Stewards in which he requested an appeal of the Arizona Stewards' "Ruling No. 77." (Exhibit "I")
29. On October 27, 2006, the Director of the Arizona Department of Racing issued a Notice of Hearing to the Licensee to appear at a hearing scheduled for November 29, 2006.
30. The Arizona Department of Racing served the Licensee with the October 27, 2006, Notice of Hearing by Certified Mail to the Licensee's official address in the Arizona system, i.e., "23480 Mc Daniels Rd, Calhan CO 80808."
31. On December 19, 2006, "In the Matter of Richard Favreau, Respondent, A.D.O.R. License No. 0570428," the Director of the Arizona Department of Racing issued to the Licensee the Director's "Findings of Fact, Conclusions of Law, and Order," in Arizona Case No. 06A-316-DOR. (Exhibit "J")
32. According to the Arizona Director's "Findings of Fact, Conclusions of Law, and Order," in Arizona Case No. 06A-316-DOR, the Licensee failed to appear at the November 29, 2006 hearing.
33. The noted Arizona Director's "Findings of Fact, Conclusions of Law, and Order" in Arizona Case No. 06A-316-DOR. was served on the Licensee by both U.S. and Certified Mail at the Licensee's official address in the Arizona system, i.e., "23480 Mc Daniels Rd, Calhan CO 80808."
34. The Arizona Director in the "Findings of Fact, Conclusions of Law, and Order" in Arizona Case No. 06A-316-DOR upheld the findings and the legal basis in Arizona Law and regulation of the Arizona Department of Racing's State Stewards in "Ruling No. 77."
35. The Arizona Director in the "Findings of Fact, Conclusions of Law, and Order" in Arizona Case No. 06A-316-DOR utilized the Director's additional penal authority under Arizona Law and regulation to revise the Licensee's penalties to be as follows:
- a. "The Respondent's license is hereby revoked."
  - b. "The Respondent is banned for life from obtaining a license or participating in pari-mutuel greyhound racing activities in Arizona."
  - c. "The Respondent shall make a one hundred forty thousand dollar (\$140,000) contribution (\$1,000 total for each missing greyhound) to a greyhound adoption program."
  - d. "The Respondent shall serve seven hundred (700) hours of community service (5 hours for each missing greyhound) to an organization associated with animal rights or adoption."
36. On February 8, 2007, Nan Mitchell, Administrative Services Coordinator of the Arizona Department of Racing sent a letter to Dan Hartman, Director of

the Colorado Division of Racing Events “to confirm the status of the matter involving Richard Favreau, Arizona Department of Racing case number 06A-316-DOR.” (Exhibit “K”)

37. The February 8, 2007, letter from Nan Mitchell to Dan Hartman declared that the Licensee “had no remaining rights of appeal after January 24, 2007,” with regard to the Arizona Director’s “Findings of Fact, Conclusions of Law, and Order” in Arizona Case No. 06A-316-DOR.
38. The Division had provided information and assistance to Arizona in the course of Arizona’s investigation of the underlying facts of Arizona Case No. 06A-316-DOR.
39. Although the Division had also opened an independent Colorado investigation into matters related to Arizona’s Case No. 06A-316-DOR, the Division, nevertheless, had honored Arizona’s request that the Division suspend its own case, pending the completion of Arizona’s prosecution of its case.

### **Conclusions of Law**

Having considered the facts and arguments presented and having been fully advised in the premises, the Commission hereby unanimously concludes:

1. The Commission has jurisdiction over the Licensee because the Licensee is licensed by the Commission at the time of this Order, and was licensed by the Commission at all times relevant to the instant case.
2. The Commission exercised its authority to hear the instant case under the provisions of C.R.C.R. # 6.540.
3. The Commission afforded the Licensee timely and proper notice of the hearing before the Commission on April 10, 2007 under the provisions of C.R.C.R. # 6.614.
4. The Licensee, Richard Allen Favreau, licensed by the Commission in Colorado, is the same individual whom the State of Arizona’s Department of Racing licensed in Arizona and who was the subject of the Director of the State of Arizona’s Department of Racing’s “Findings of Fact, Conclusions of Law, and Order,” in Arizona Case No. 06A-316-DOR.
5. The “Findings of Fact, Conclusions of Law, and Order,” in Arizona Case No. 06A-316-DOR” issued to the Licensee by the State of Arizona was an official action by the Department of Racing of the State of Arizona against the Licensee as licensed in Arizona under License No. 0570428.
6. The “Findings of Fact, Conclusions of Law, and Order,” in Arizona Case No. 06A-316-DOR” issued to the Licensee was a final agency action by the Arizona Department of Racing and is no longer subject to appeal within the agency or to any Arizona court.
7. The Commission is authorized to consider recognition in Colorado of the Director of the State of Arizona’s Department of Racing’s “Findings of Fact, Conclusions of Law, and Order,” in Arizona Case No. 06A-316-DOR regarding the Licensee, based upon the following:
  - a. The “Full Faith and Credit Clause” of the United States Constitution, i.e., Article IV, § 1 (in relevant part);
  - b. § 12-60-507(1)(1), C.R.S.; and,
  - c. C.R.C.R. #3.302

8. § 12-60-507(1)(l), C.R.S., however, restricts the Commission's authority to recognize the State of Arizona's Department of Racing's "Findings of Fact, Conclusions of Law, and Order," in Arizona Case No. 06A-316-DOR, by requiring that recognition must be predicated on the Commission's determination that Arizona's Ruling was based upon "acts or omissions that, if committed in Colorado, would have been grounds for discipline in this state...."
9. The Commission, in the exercise of full faith and credit recognition, can act within the limits of its penal jurisdiction under Colorado law, except that § 12-60-507(1)(l), C.R.S. explicitly denies the Commission the right to fine a Licensee as a form of recognition.
10. The "acts or omissions" that provided the legal basis for the State of Arizona's Director of Racing to issue to the Licensee the "Findings of Fact, Conclusions of Law, and Order," in Arizona Case No. 06A-316-DOR" were that the Licensee had failed "to produce documents verifying that the greyhounds he transported from Tucson Greyhound Park were placed in recognized adoption agencies or returned back to their owners."
11. § 12-60-507.5(1)(b), C.R.S., one of a set of mandatory license-disqualification criteria, requires the Commission to deny a license to any applicant if the applicant fails "to provide information, documentation, and assurances...requested by the commission."
12. The Commission has the authority to revoke a license based upon any criteria the Commission may or must use to deny a license initially, including, inter alia, if the licensee were to fail "to provide information, documentation, and assurances ... requested by the commission."
13. "Acts or omissions" of the sort that provided the legal basis for the State of Arizona's Director of Racing to issue to the Licensee the "Findings of Fact, Conclusions of Law, and Order," in Arizona Case No. 06A-316-DOR" could provide the legal basis for the Commission to proceed against the Licensee in Colorado under § 12-60-507.5(1)(b), C.R.S.
14. The Commission has the authority, pursuant to C.R.C.R. # 3.302, to recognize and, within the Commission's penal jurisdiction as restricted by § 12-60-507(1)(l), C.R.S., to give effect to the "Findings of Fact, Conclusions of Law, and Order," in Arizona Case No. 06A-316-DOR" issued to the Licensee by the State of Arizona.
15. It is appropriate, under the circumstances, for the Commission, pursuant to C.R.C.R. # 3.302, to recognize and give effect to the "Findings of Fact, Conclusions of Law, and Order," in Arizona Case No. 06A-316-DOR" issued to the Licensee by the State of Arizona.

## **Order**

The Commission hereby unanimously orders:

1. Effective as of the date of this Order, the Colorado Racing Commission hereby recognizes as valid and applicable in the State of Colorado the revocation of Richard Allen Favreau's Arizona Racing License as set out in the "Findings of Fact, Conclusions of Law, and Order" issued by the Director of the Arizona Department of Racing in Case No. 06A-316-DOR.
2. Until both the Department of Racing of the State of Arizona has restored Richard Allen Favreau to good standing in Arizona, and the Colorado Racing Commission has recognized Arizona's restoration of Richard Allen Favreau to good standing, each of the following shall apply:

- a. The Colorado Racing License of Richard Allen Favreau is revoked.
  - b. Richard Allen Favreau is prohibited from engaging, directly or indirectly, in any activities in Colorado that are the privileges accorded to a Licensee by any Colorado Racing License.
  - c. Richard Allen Favreau may not seek to renew nor to apply for any Colorado Racing License of any type.
3. At any future time, should Richard Allen Favreau desire to obtain any type of Colorado Racing License, he must, by means of a written request to the Director of the Colorado Division of Racing Events, schedule an appearance before the Colorado Racing Commission, at which time Richard Allen Favreau must provide proof of his restoration to good standing in Arizona and must sufficiently address any concerns the Commission may have regarding his character and fitness to obtain a Colorado Racing License.

DONE this 27th day of April 2007.

FOR, AND BY ORDER OF,  
THE COLORADO RACING COMMISSION

s/

\_\_\_\_\_

DANIEL J. HARTMAN, Director  
Colorado Division of Racing Events

Consideration of Request for Early Distribution of a Portion of the 2006 Breeders Awards Fund Monies – Willard Burbach, Colorado Thoroughbred Breeders Association

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that the Colorado Thoroughbred Breeder's Association had submitted a formal written request for early release of \$124,000, a portion of their Owners/Breeders Awards and Supplemental Purse Fund accrual as permitted by statute. Mr. Hartman assured the Commission that the Division could project with confidence that sufficient funds would be available for this amount to be distributed to the Colorado Thoroughbred Breeders' Association on July 1, 2007.

Mr. Willard Burbach, Vice-President of the Colorado Thoroughbred Breeders Association, appeared to address the Commission on behalf of the breed organization. Mr. Burbach advised that his organization is requesting the sum of \$124,000 for the purpose of supplementing the Colorado Bred Stakes schedule at Arapahoe Park in 2007.

A motion was then made by Commissioner Pretti, seconded by Commissioner Naugle and unanimously carried to authorize early distribution of \$124,000 to the Colorado Thoroughbred Breeder's Association by July 1, 2007 conditioned upon confirmation of the availability of funds.

Update on Pueblo Greyhound Park's Handle and Decision Regarding Take-Out Rate Adjustment – Dan Hartman/Bruce Seymore

Mr. Dan Hartman, Director of the Division of Racing Events, observed that, at the Commission's January 2007 meeting at which the Commission granted approval of Pueblo Greyhound Park's live race meet application, it had requested the ability to review Pueblo's take-out structure of 30.0% on all wagers at an upcoming meeting in order to determine whether any adjustments could be made to the take-out percentages. Mr. Hartman asserted that, in light of the Division's review of Pueblo Greyhound Park's pari-mutuel handle, the Division would not recommend that any change to the take-out rate be made at this time. The Commission took no action.

Scheduling of 2008 Race Dates Hearing – Dan Hartman

A motion was made by Commissioner Pretti, seconded by Commissioner Naugle and unanimously carried to schedule the 2008 Race Dates Hearing on Tuesday, July 10,

2007 in conjunction with the Commission's regular July meeting. The location of both of these sessions will be 1881 Pierce Street, Conference Room 110, Lakewood, Colorado.

#### Presentation of Settlement Agreement – In the Matter of Sandra Lynn Edwards

Mr. Dan Hartman, Director of the Division of Racing Events, presented the following background information relating to the Division's issuance of a Settlement Stipulation and Agreement in the matter of Ms. Sandra Lynn Edwards, a licensed Kennel Helper, Trainer and Authorized Agent:

- On October 20, 2006, the Colorado Division of Racing Events issued a Citation to Ms. Edwards for failing to bring a greyhound to weigh-in for the 16<sup>th</sup> race of the matinee performance of the Interstate Kennel Club meet at Mile High Greyhound Park on October 11, 2006 and was fined the sum of fifty dollars (\$50.00). Ms. Edwards appealed this decision and requested a hearing on the Citation.
- On February 8, 2007, the Division issued a Notice of Hearing for March 2, 2007 to be held before the Colorado Department of Revenue Hearing Office. Although Ms. Edwards did not request to continue the March 2, 2007 hearing to another date and time, she did not appear for the hearing and the hearing proceeded as scheduled. On March 9, 2007, the Hearing Office issued its ruling in the matter, suspending Ms. Edwards' license(s) for thirty-five (35) days and imposing a fine of two hundred fifty dollars (\$250.00), both effective March 19, 2007. On March 19, 2007, the Division received Ms. Edwards' Notice of Appeal to the Colorado Racing Commission, which included a request for a stay of execution of the Hearing Office's Ruling.
- The Division considered the contents of Ms. Edwards' Notice of Appeal and, on March 23, 2007, the Division issued to Ms. Edwards a Notice of Appeal Hearing and a Stay of Execution. The Division scheduled an Appeal Hearing for the Commission's regular May meeting.

Mr. Hartman explained that, after considering the costs and uncertainties of litigation in this matter, the Division of Racing Events and the Licensee-Appellant had entered into a mutually agreeable Settlement Stipulation that was signed by Ms. Sandra Lynn Edwards and Mr. Hartman on March 30, 2007. Mr. Hartman tendered the subject Settlement Stipulation to the Commission for its review with his recommendation for approval.

A motion was thereupon made by Commissioner Grant, seconded by Commissioner Pretti and unanimously carried to accept the signed Settlement Stipulation in the matter of Licensee Sandra Lynn Edwards with the provisions provided by the Division of Racing Events pertaining to Case Number 06-01183.

#### Update on Legislation – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, reported to the Commission that the Senate had amended Senate Bill 07-119, the Division's Sunset Bill, during second reading. He explained that the intention of the proposed amendment is to bring in the adjusted gross proceeds on a graduated four to five year bases. Mr. Hartman observed that this amendment does not reflect the sponsor's intention and, therefore, he anticipates that a second amendment will be introduced. Mr. Hartman commented that he remains hopeful that the bill will continue to move forward and will be introduced in the House of Representatives in the near future.

Mr. Hartman assured the Commission and attendees that he would continue to monitor and report on the status of Senate Bill 07-119.

#### Continued Rule-Making Hearing

Pursuant to the published Notice of Rule-Making Hearing dated January 19, 2007, which is attached hereto and made a part of these minutes, Chairman Naugle convened

the scheduled Rule-Making Hearing at 10:37 a.m., which was continued on March 13, 2007 until the present date, time and location.

Mr. Robert “Duke” Mann, who had assisted in the preparation of the rules for consideration at this time, informed the Commission and attendees that the Division of Racing Events had complied with all preliminary rule-filing requirements whereupon he presented the packet of rules for Commission review. Mr. Mann apprised attendees that copies of the rules were available both in written form and on the Division’s website. He stated that a workshop open to all interested parties had been conducted and subsequent meetings had also been held to allow industry participation in the initial phase of the rule review process.

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. Mann noted that the packet of rules to be considered at this time contains proposed new definitions, proposed new rules, certain rules proposed for amendment and certain rules proposed for repeal/deletion.

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.

At the outset of the Rule-Making Hearing, Mr. Mann observed that, although the rules were presented in numerical order in the packet, he would be requesting that the Commission consider certain rules in groups by subject and subsequently consider the definitions.

- Consideration of Proposed Jockey Rules (Proposed Amended Definition of “Riding Gear”, Proposed Amended Rules 3.616, 7.218, 7.646, 7.762 and Proposed Repealed/Deleted Rules 7.532, 7.631 and 11.511): Mr. Mann read the text of proposed amended definition to “Riding Gear” into the record. Following review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Hoffman, seconded by Commissioner Grant and unanimously carried to adopt the amended definition 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.

Mr. Mann reviewed the text of proposed amended rules 3.616, 7.218, 7.646, 7.762 and of proposed repealed/deleted rules 7.532, 7.631 and 11.511. Discussion ensued regarding proposed amended rule 7.218 during which views, opinions and arguments were expressed for and against adoption of the proposed amendment. Following consideration of the statements presented, a motion was made by Commissioner Pretti, seconded by Commissioner Grant and unanimously carried to adopt amended rule 7.218 on a permanent basis with the stipulation that the Commission would revisit the rule in one year’s time to ascertain whether the rule should be revised; and, further, that during the interim, Horse Racing Coordinator Mann is to monitor the rule. The Commission requested that, either during or following Arapahoe Park’s 2007 live race meet and after discussing the impact of the rule with the Arapahoe Park Board of Stewards, Mr. Mann report to the Commission whether any abuses of it have occurred. Mr. Mann stated that, with the Commission’s approval, he would report on this subject at the regular August meeting. The motion to adopt this rule 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.

Following review and after ascertaining that there were no objections to formal action being taken on the other rule proposals under consideration, a motion was made by Commissioner Hoffman, seconded by Commissioner Grant and unanimously carried to adopt amended rules 3.616, 7.646 and 7.762 and repealed/deleted rules 7.532, 7.631 and 11.511 on a permanent basis and, as part of the motion to adopt or repeal/delete, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rules. A copy of the subject rules is attached hereto and made a part of these minutes.

Consideration of Proposed Colorado Bred Rules (Proposed Amended Definition “Colorado Bred (Horse)”, Proposed Amended Rules 9.200, 9.204 and 9.208, Proposed Repealed/Deleted Rules 9.206, 9.210 and Proposed New Rule 9.211):

Mr. Mann reviewed the text of the aforementioned rules for the record and observed that the purpose for recommending amendments, repeals/deletions and adoption of a new rule is to eliminate any definitional or interpretational problems and to ensure that the rules accord with current practices in the racing industry in Colorado. Following review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Pretti, seconded by Commissioner Grant and unanimously carried to adopt amended definition of “Colorado Bred (Horse)”, amended rules 9.200, 9.204 and 9.208, repealed/deleted rules 9.206 and 9.210 and new rule 9.211 on a permanent basis and, as part of the motion to adopt or repeal/delete, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rules. A copy of the subject rules is attached hereto and made a part of these minutes.

Consideration of Proposed Lasix and Race Day Rules (Proposed Amended Rules 5.244 and 5.250 and Proposed New Rule 5.252): Mr. Mann reviewed the text of proposed amended rules 5.244 and 5.250 and proposed new rule 5.252 for the record and observed that the purpose for recommending amendments to certain rules and adoption of a new rule is to clarify the medication requirements and restrictions applicable under the given circumstances of each rule. After ascertaining that there were no objections to formal action being taken at this time on the proposed amended rules, a motion was made by Commissioner Pretti, seconded by Commissioner Naugle and unanimously carried to adopt amended rules 5.244 and 5.250 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 rules. A copy of the subject rules is attached hereto and made a part of these minutes.

Discussion ensued regarding proposed new rule 5.252 and, as a result of this, certain changes were incorporated into the text of the rule. Additionally, the Commission directed that the Division revisit current rule 5.312 relating to the administration of non-steroidal anti-inflammatory drug(s) (NSAID’s). Following discussion, a motion was made by Commissioner Hoffman, seconded by Commissioner Pretti and unanimously carried to adopt new rule 5.252 as modified 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 Greyhound Disposition Rules (Proposed New Definitions “Abandon”, “Euthanasia”, “Greyhound Disposition” and “Humane Manner” and Proposed New Rules 2.600, 2.602, 2.604, 2.606, 2.608, 2.610, 2.612, 2.614, 2.616, 2.618, 2.620, 2.622, 2.624, 2.626, 2.628 and 2.630):

Mr. Mann reviewed the text of each of the proposed new definitions and new rules for the record. Mr. Mann observed that the purpose for recommending adoption of these rules is that they are designed to serve as a protocol for encouraging the health, welfare and safety and protective placement of racing greyhounds and to deter the wanton suffering and elimination of racing greyhounds. After ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Naugle, seconded by Commissioner

Pretti and unanimously carried to adopt new definitions “Abandon”, “Euthanasia”, “Greyhound Disposition” and “Humane Manner” and new rules 2.600, 2.602, 2.604, 2.606, 2.608, 2.610, 2.612, 2.614, 2.616, 2.618, 2.620, 2.622, 2.624, 2.626, 2.628 and 2.630 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 rules. A copy of the subject rules is attached hereto and made a part of these minutes. Mr. Dan Hartman, Director of the Division of Racing Events, stated that he did not anticipate that Colorado Racing Associations would incur extra expenses for ensuring proper documentation maintenance and accurate recordkeeping on racing greyhounds.

- Consideration of Proposed Amended Financial Responsibility Rule (Rule 3.416): Mr. Mann reviewed the text of proposed amended rule 3.416 for the record. Mr. Mann observed that the purpose for recommending adoption of this rule is for clarification and to obviate problems with interpretation and enforcement. 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 Hoffman, seconded by Commissioner Grant and unanimously carried to adopt amended rule 3.416 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 Pari-Mutuel Rules (Rules 12.336, 12.408, 12.504, 12.510, 12.690, 12.770, 12.780, 12.790 and 12.800): Mr. Mann explained that the purpose for amending these rules was to correct either grammatical or syntactical errors. Mr. John Manning, General Manager of Cloverleaf Greyhound Track, observed that additional amendments to these rules relating to the issuance of exchange tickets should be made. Discussion ensued during which the Commission requested that Mr. Manning submit proposed amended text for consideration at the next rule review workshop. Mr. Dan Hartman, Director of the Division of Racing Events, commented that the Sunset Review Committee had recommended that the Division undertake a complete revision of its existing rulebook. He noted that, upon adoption of the Division’s pending legislative initiative, the Division would need to schedule another formal Rule-Making Hearing at which time, proposed amendments to the pari-mutuel rules could be addressed. After ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Hoffman, seconded by Commissioner Grant and unanimously carried to adopt amended rules 12.336, 12.408, 12.504, 12.510, 12.690 and 12.770, 12.780, 12.790 and 12.800 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 rules. A copy of the subject rules is attached hereto and made a part of these minutes.
- Consideration of All Other Rule-Making Decisions (Proposed Amended Definition of “Host Track”, Proposed Amended Rules 7.200 and 11.520): Mr. Mann reviewed the proposed textual amendment to the definition of “Host Track” and the proposed amendments to rules 7.200 and 11.520. Following review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Hoffman, seconded by Commissioner Grant and unanimously carried to adopt the amended definition on a permanent basis and amended rules 7.200 and 11.520 as presented, and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rules. A copy of the subject rules is attached hereto and made a part of these minutes.

There being no further rules to consider, the Rule-Making Hearing was adjourned at 12:00 p.m.

Consideration of Proposed 2007/08 Simulcast Schedule – Arapahoe Park – Robert “Duke” Mann/Bruce Seymore

Mr. Robert “Duke” Mann, Horse Racing Coordinator, presented Arapahoe Park’s 2007/2008 proposed simulcast schedule for the period of April 21, 2007 through April 20, 2008, which was submitted by Mr. Sean Beirne, Vice-President of Racing and Simulcast Operations. He explained that it is appropriate and allowable for the Commission to consider the subject simulcast schedule at this time because Arapahoe Park has complied with the requirement that its renewal application to conduct a live race meet in 2007 be received by the Division of Racing Events sixty days prior to the planned opening of the meet. Mr. Bruce Seymore, Director of Racing Operations for Mile High Racing & Entertainment, appeared on behalf of the Association.

The Commission took notice of the following matters: 1) that Arapahoe Park is requesting permission to conduct 250 days of simulcasting, which is allowable by statute; 2) that thirty-six (36) of these simulcast days are to be presented in conjunction with Arapahoe Park’s live race meet, to be conducted from May 26, 2007 through August 12, 2007; and 3) that, in conjunction with its live meet, Arapahoe Park will provide horse simulcasting on its non-live days.

Mr. Mann 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

Mr. Mann stated that the Division recommends Commission approval of the range of dates and the simulcasting proposal submitted by Arapahoe Park. The Commission acknowledged Division receipt of a copy of the permission letter from the Colorado Horse-Racing Association, the organization that represents a majority of the horse racing community at Arapahoe Park, signed on November 29, 2006 supporting the subject simulcast calendar for the period of April 21, 2007 through April 20, 2009 and a Simulcast Calendar indicating the simulcast race days including live racing days.

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 are delegated authority to approve such changes. Mr. Mann 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 discussion, a motion was made by Commissioner Pretti, seconded by Commissioner Grant and unanimously carried to approve Arapahoe Park’s request to commence simulcast wagering on April 21, 2007 and to allow Arapahoe Park to continue simulcast wagering through April 20, 2008 subject to the following terms and conditions:

- 1) 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.
- 2) 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.

- 3) That adequate advance notice of the actual dates and simulcasting schedules for any and all venues to be made part of Arapahoe Park's 2007/2008 roster be provided to the Division of Racing Events prior to the start of racing from that site.
- 4) 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.
- 5) 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.
- 6) That the Commission delegate authority to the Director or his designee to approve schedules for pre-approved tracks when a specified envelope is determined.
- 7) That the Commission will consider the complete renewal application for Arapahoe Park's 2007 live race meet, including specific approvals on the number of simulcast races to be offered on live race days at its May 8, 2007 meeting.

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.

End of Meet Report – Interstate Kennel Club's 2006/07 Live Race Meet – Richard Mattson

Mr. Richard Mattson, Greyhound Racing Coordinator, presented the end of meet report for Interstate Kennel Club's 2006/07 live racing season, which commenced on September 30, 2006 and concluded on February 5, 2007 with eighty-five (85) days of live racing and eighty-five (85) performances. He reported that the total mutuel handle for the 2006/07 live racing season of \$15,554,215 was approximately 7.41% higher than the amount of \$14,482,222 wagered during the 2005/06 season.

In his report, Mr. Mattson provided the following additional statistical information: 1) the total in-state mutuel handle was \$3,456,134; 2) the total out-of-state handle was \$11,856,278 (approximately 11.37% higher than for the 2005/06 season); 3) the average daily handle/average handle per performance for the meet was \$182,991; 4) the average daily handle generated on-site at Interstate was \$40,660; and 5) the average daily handle generated off-site was \$128,874; and 6) the average handle per live race was \$9,209. He advised that \$996,404 was paid in purses during the 2006/07 live racing season compared to \$813,847 paid in purses during the 2005/06 live racing season. He noted that the amount added-in from out-of-state simulcasting was \$64,880.

Mr. Bruce Seymore, Director of Racing Operations for Mile High Racing & Entertainment, appeared on behalf of the Association.

Mr. Mattson commented in his report that the Division veterinary staff had found the operation of the paddock area to be as smooth as it was last season and no problems were reported. Mr. Mattson complimented Racing Secretary/Director of Racing Gil Romero and his staff for their helpfulness in implementing changes to the procedures relating to Division programs and for their cooperation and helpfulness in addressing problems and issues as they arose. Mr. Mattson advised that, although there was a shortage of grooms for a few performances, on most occasions, there had been an adequate number of grooms available to staff the paddock.

Additionally, Mr. Mattson stated that there were no problems involving security during the meet.

Mr. Mattson stated that, although there were no complaints received regarding the operation of the mutuel department, there was a concern regarding the number of vouchers that were left in mutuel machines. He observed that determining the true ownership of a voucher required a great deal of time and effort by Division investigators.

Mr. Mattson observed that there were 1,689 pari-mutuel races and 220 schooling races during this meet for a total of 1,909 official races. A total of 94 derogatory comments were issued for various infractions related to the running of the races. Further, there were 150 scratches requiring the greyhounds to school in front of the Board of Judges prior to being allowed to enter into official races. Mr. Mattson stated that there were five program cancellations due to inclement weather and three "no races" during the meet.

In his report, Mr. Mattson commented that Mr. Raul Sanchez, the Lure Operator, performed his duties very well. Mr. Mattson stated that he operated the lure in a consistent manner, keeping it at a proper distance ahead of the lead greyhound in every race.

Mr. Mattson observed that the racetrack surface remained very consistent throughout the season and that race times were normally within the range projected by management prior to the commencement of the meet. He advised that the number of injuries observed by the veterinarian on duty was down from last year, noting that this decrease in the injury rate could be attributed to the program implemented by the Division Veterinarian(s). Mr. Mattson commented that this program requires that measurements be taken around the racetrack on the cushion depth from the inside to the outside rail. Afterward, the findings are provided to track maintenance personnel so that maintenance routines can be adjusted accordingly. On behalf of the Division, especially the veterinary staff, Mr. Mattson thanked the track maintenance staff for addressing problems as they arose and for performing their duties in an exemplary manner.

Mr. Mattson reported that, during the meet, seventy-five (75) license transactions were completed with license and fingerprint fees totaling \$1,925.00. Additionally, there were nineteen (19) citations issued for racing violations resulting in fines totaling \$955.00. There were twenty (20) human drug/alcohol tests conducted during the meet. One person refused to take the test and received a fourteen (14)-day suspension. Three (3) tests were performed "for cause" and all were negative. The Board of Judges issued five (5) rulings during the meet.

In his report, Mr. Mattson observed that American Teletimer, the provider of photo finish and official timing services, experienced very few problems during this meet. He also stated that having the Presiding Judge operate the photo finish camera instead of an employee of American Teletimer has continued to work very well and it has proved to be a benefit to the Judges to have control of the photo finish equipment. The Board has been able to view the photo without having to contact another individual to highlight specific areas of the photo. The process of making a race official has thereby been expedited.

Mr. Mattson commented that the personnel of both United Tote Company, the provider of pari-mutuel services and equipment, and International Sound, the supplier of video surveillance of the races, performed their duties in a very professional manner.

Mr. Mattson extended his thanks to Mr. Seymore and his staff for cooperation throughout the meet.

After noting that there were no recommendations or conditions imposed for relicensure, a motion was made by Commissioner Grant, seconded by Commissioner Pretti and unanimously carried to accept the end of meet report for Interstate Kennel Club's 2006/07 live race meet as presented.

Adjournment

There being no further business to consider, the meeting was adjourned at 12:15 p.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, May 8, 2007 in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

\_\_\_\_\_  
GENE O. NAUGLE, DVM, CHAIRMAN

The undersigned hereby approve the foregoing Minutes.

\_\_\_\_\_  
DAVID LYNN HOFFMAN, VICE-CHAIR

(EXCUSED)  
\_\_\_\_\_  
MARILYN ALKIRE, MEMBER

\_\_\_\_\_  
C. DREW GRANT, MEMBER

\_\_\_\_\_  
JACK PRETTI, MEMBER

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, May 8, 2007 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. Chairman Gene Naugle called the meeting to order at 9:35 a.m.

### Members Present

Gene Naugle, DVM, Chairman  
David Lynn Hoffman, Vice-Chair  
Marilyn Alkire, Member  
C. Drew Grant, Member  
Jack Pretti, Member

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Dr. Earl Carlson, Commission Veterinarian  
Richard Mattson, Greyhound Racing Coordinator  
Robert "Duke" Mann, Horse Racing Coordinator/Division Investigator  
Mark Brown, Division Enforcement Coordinator  
Naomi Smith, Division Auditor  
Leland BeBee, Division Legal Assistant  
Tina Bowman, Assistant Attorney General representing the Division of Racing Events  
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 10, 2007

A motion was made by Commissioner Pretti, seconded by Commissioner Hoffman and unanimously carried to approve the minutes of April 10, 2007 as submitted.

### Report –Association of Racing Commissioners International Spring Conference – Commissioner Jack Pretti

Commissioner Jack Pretti reported that he and Division Director Dan Hartman had attended the Spring Conference of the Association of Racing Commissioners International (ARCI) held at Snake River Lodge in Jackson Hole, Wyoming from April 23 through April 27, 2007. Commissioner Pretti observed that, as a first-time attendee at a conference of this nature, he had been very impressed with how informative and instructive the conference sessions had been and was pleased to have been able to participate in them. He commented that discussions were held concerning the following matters: 1) drug testing standards and practices, anabolic steroid use, development of Model Rules, establishment of tolerance levels and withdrawal time frames, use of "gene doping" and implementation of plasma and urine testing thresholds; 2) backstretch security, including discussions of measures to thwart hidden ownership, simplification of the process of transferring animals when suspensions occur, use of detention barns; 3) wagering systems security, including testing of totalisator systems and implementation of wagering transfer protocols, implementing multiple layers of security to ensure the integrity of individual wagers; 4) continuing education and training, including testing of trainers and certification of stewards, judges and Racing Commission members; 5) consideration of common elements throughout the industry, such as decline in revenues, developing marketing strategies and promotions to attract the wagering public, competition between adjoining states and ensuring the integrity of the sport. Mr. Pretti commented that he was also very impressed by the dedication, and passionate commitment displayed by the ARCI affiliates.

Additionally, Commissioner Pretti acknowledged that Mr. Dan Hartman had been awarded the 2007 Len Foote Award, a very prestigious honor, in tribute to and in recognition of his outstanding service to the ARCI. The Commission and all meeting attendees applauded Mr. Hartman and congratulated him on being the recipient of this award. Mr. Hartman expressed his appreciation for this honor and observed that it was especially meaningful because his peers had selected him to be the recipient of the award. Mr. Hartman reflected that this was the first major conference held since the merger of the ARCI and the North American Pari-Mutuel Regulators' Association (NAPRA) and he had been very pleased with the cooperation and graciousness displayed by all attendees.

In closing, Mr. Pretti mentioned that he had had the pleasure of being introduced to and participating in some of the midnight meetings of the Wyoming Social Club, a unique charitable group. He expressed his appreciation for the great opportunity that he had been afforded by being able to attend and participate in the conference.

The Commission requested that Ms. Petra Hartmann, Chief Racing Chemist for Industrial Laboratories, comment on the meeting of the Association of Racing Chemists (AORC) held in conjunction with the ARCI Conference. She reported that anabolic steroid usage is a major issue and is becoming widespread in the greyhound industry. Ms. Hartmann advised that the AORC is attempting to obtain as much relevant information as possible in order to develop guidelines for testing greyhounds for the presence of these substances. She stated that, recently, several positive tests have been reported for the drug, Amenoid, categorized by the ARCI as a Class I substance, but its origin is presently unknown. Additionally, she noted that the EPO, or "milkshake" substances, continue to be regularly detected in racehorses and this has spurred racing chemists throughout the world to attempt to ascertain clearance times of these drugs from the systems of racing animals.

#### Consideration of 2007 Renewal Application – Mile High Greyhound Racing – Richard Mattson

Mr. Richard, Mattson, Greyhound Racing Coordinator, presented Mile High Greyhound Racing's 2007 renewal application with the dates of Friday, June 8, 2007 through Friday, October 5, 2007. He noted that these dates fall within the 120-day envelope previously granted to Mile High Greyhound Racing by the Commission.

Mr. Mattson stated that the following requested racing schedule for Mile High Greyhound Racing's meet equates to six performances and eighty (80) races per week:

Sunday – Dark  
Monday – 12-race matinee  
Tuesday – Dark  
Wednesday – 12-race matinee  
Thursday – 12-race matinee  
Friday – 16-race evening  
Saturday – 12-race matinee/16-race evening

Mr. Bruce Seymore, Director of Racing Operations Colorado for Mile High Racing & Entertainment, appeared on behalf of the Racing Association.

Mr. Mattson reported that Mile High's renewal application was accompanied by copies of the wagering format, current liability insurance binder in effect until June 1, 2007 (automatic renewal is to be submitted to the Division of Racing Event prior to expiration), current service contracts except for an updated contract from American Teletimer (the provider of photo finish and official timing services), a list of racing officials and officers and an overview of the racetrack surface maintenance routine.

Mr. Mattson advised the Commission that the list of racing officials submitted with the application is essentially the same as the list of individuals who were employed during the Pueblo Kennel Association meet that was just conducted at the Mile High racecourse. He assured the Commission that Division staff would monitor the performance of any newly-named officials and would ensure that if a position becomes vacant, it is filled in a timely manner.

Mr. Mattson advised the Commission that a signed agreement from the Colorado Greyhound Kennel Association relating to purse structure was provided to the Division with the application.

Mr. Mattson stated that the simulcast agreements with seven in-state entities have been submitted. However, he apprised the Commission that, to date, no out-of-state contracts have been provided to the Division, although a list of prospective venues was referenced in the renewal application. Mr. Mattson asserted that all simulcast agreements must be submitted at least forty-eight (48) hours prior to the commencement of simulcast operations with each entity. He observed that Mile High management has requested the ability to import the signal and offer wagering on out-of-state tracks on the eighty-four days of racing shown in their application.

Mr. Mattson reported to the Commission that a copy of Mile High Greyhound Racing's proposed wagering format had been submitted. He stated that Mile High Greyhound Park's take-out structure would be as follows:

Win, Place and Show	22.0%
Quiniela, Daily Double and Exacta	24.0%
All other wagers	25.0%

Mr. Seymore observed that, although Mile High Greyhound Park has requested this take-out structure, it desires to be able to request an adjustment of the take-out rates if sufficient funds are not collected at these rates to cover the cash funding regulatory fee.

Mr. Mattson stated that Mile High must provide an updated certified fire inspection report to the Division prior to commencement of the meet. Subsequent to receipt of the application, a certified fire inspection report for the Rocky Mountain Post Time simulcast facility dated April 20, 2007 was submitted to the Division. Additionally, fire alarm inspection reports for both the Private Reserve and Havana Park simulcast facilities dated September 29, 2006 and March 13, 2007 respectively were submitted. Mr. Hartman observed that the health/sanitation inspection report dated January 13, 2007 was also included with the renewal application as were health/sanitation inspection reports for The Reserve at Cherry Creek (formerly known as Private Reserve), Arapahoe Park and Pueblo Kennel Association.

Mr. Hartman informed the Commission that the Division would need to be able to review the most recent financial statements for both Mile High Greyhound Park and Arapahoe Park, which were received today. He recommended that a condition for relicensure be that Division Auditor Naomi Smith reviews and accepts the financial statements for both Associations. Mr. Hartman commented that, in the event that any financial issues require clarification or are problematical, the Division reserves the right to call a special meeting in order to resolve them. Additionally, Mr. Hartman recommended that a condition for approval of both the Mile High and Arapahoe Park renewal application be that the Commission and Division complete their review of Mile High's proposed marketing plan prior to the commencement of the live race meets.

Following review and discussion and after acknowledging Mr. Mattson's affirmative recommendation, a motion was made by Commissioner Alkire, seconded by Commissioner Hoffman and unanimously carried to grant approval of Mile High Greyhound Racing's renewal application for its 2007 live race meet subject to the terms and conditions set forth in the following Notice of Issuance of Meet License with Conditions:

BEFORE THE COLORADO RACING COMMISSION

STATE OF COLORADO

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NOTICE OF ISSUANCE OF MEET LICENSE WITH CONDITIONS

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IN THE MATTER OF THE ISSUANCE OF A MEET LICENSE FOR:  
MILE HIGH GREYHOUND PARK  
6200 DAHLIA STREET  
COMMERCE CITY, COLORADO 80022

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Pursuant to Colorado Revised Statute 12-60-505, the Colorado Racing Commission has reviewed and conducted a public meeting concerning the application for a race meet license.

The Colorado Racing Commission finds the application to be acceptable and orders said meet license to be issued to:

Mile High Greyhound Park  
6200 Dahlia Street  
Commerce City, Colorado 80022

with the following conditions:

1. That all racing official positions be filled no later than forty-eight (48) hours prior to the commencement of the race meet and a list of said officials shall be filed with the Division of Racing Events. All employees are required to be licensed and must apply for and receive a license before commencing employment.
2. That a maintenance routine be established and approved by the Division to ensure the consistency required for formful racing and to ensure the safety of the racing greyhounds. The Colorado Racing Commission has charged the Division of Racing Events with the duty of requiring Mile High Greyhound Park to modify its track maintenance routine, if deemed necessary, at any time during the live race meet.
3. That Mile High Greyhound Park, which is approved to conduct live racing from Friday, June 8 through Friday, October 5, 2007, (comprising an envelope of 120 days) has requested the following racing schedule: 12-race matinee performances on Monday, Wednesday, Thursday and Saturday and 16-race evening performances on Friday and Saturday for a total of six performances and eighty races per week. No racing will be conducted on Sunday and Tuesday. The schedule is to be approved subject to the following conditions:
  - a) That the Division of Racing Events' staff will closely monitor Mile High Greyhound Park's racing operations to ensure that a sufficient number of racing greyhounds are available for any given racing performance.
  - b) That, in the event of ongoing shortages of active greyhounds, the Commission delegates to the Division of Racing Events, without the necessity of conducting a special meeting, the authority to direct Mile High Greyhound Park to redefine its permanently approved racing schedule by either decreasing the number of races on any given program or deleting an entire performance.

- c) That Mile High Greyhound Park's management shall provide at least a seventy-two (72) hour period between starts for any greyhound.
  - d) That Mile High Greyhound Park's management agrees to and will ensure that there is a forty-five minute (45) period between matinee and evening performances throughout the entire race meet.
4. All simulcast contracts shall be submitted no later than forty-eight (48) hours prior to the commencement of simulcasting.
  5. The racing secretary shall verify the vaccination records of all race participants before accepting any registration papers.
  6. A schedule shall be provided to the staff of the Division of Racing Events for regular schooling races and weigh-in times.
  7. Mile High Greyhound Park's management shall ensure that the paddock is adequately staffed for all functions that are performed therein.
  8. Adequate advance notice be given to all racetrack departments regarding special events and races and the staff of the Division of Racing Events shall be notified twenty-four (24) hours in advance of any additional schooling races.
  9. That certified fire, health/sanitation inspection reports shall be submitted to the Division no later than five (5) days prior to commencement of the race meet.
  10. That the requirement that there be sufficient operational video surveillance cameras at Mile High Greyhound Park be continued throughout the 2007 Mile High Greyhound Park race meet.
  11. That Mile High Greyhound Park's take-out rate be as follows: For Win, Place and Show – 22.0%; for all Quiniela, Daily Double and Exacta wagers – 24.0%; and for all other wagers – 25.0%. (Notice was taken that Mile High wishes to reserve the ability to request adjustments to its take-out rates in the event that insufficient funds are collected to pay its cash funding regulatory fee. Any such change to this take-out rate schedule would need to be approved by the Colorado Racing Commission.)
  12. That Mile High Greyhound Park is to receive 84 of the total 250-day allotment of greyhound simulcast days for use on live race days during calendar year 2007 in accordance with changes to the Racing Statute during the 2003 legislative session. The Commission noted that the enabling legislation mandates that only racetracks that are scheduled to offer live performances five days per week with a minimum of ten races per day would qualify for simulcast racing.
  13. That contracts for all service providers to Mile High Greyhound Park be submitted to the Division of Racing Events prior to assuming their duties. Specifically, an updated contract from American Teletimer, the photo finish provider, is to be submitted prior to the commencement of the meet.
  14. That the Commission and Division complete their review of Mile High's proposed marketing plan prior to the commencement of the live race meet.
  15. That the updated liability insurance binder be provided to the Division of Racing Events upon its June 1, 2007 expiration.

16. That Mile High Greyhound Park's most current financial statement is reviewed and accepted by the Division's Auditor prior to the commencement of the live meet. If any issues require clarification or are problematical, the Division reserves the right to call a special meeting in order to resolve them.

Failure to comply with the applicable conditions prior to or during the 2007 meet may result in a fine, suspension or revocation of the meet license for Mile High Greyhound Park.

DATED this 9th of May, 2007.

BY ORDER OF THE COLORADO RACING COMMISSION

s/

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Dan Hartman, Director  
Division of Racing Events

#### Consideration of 2007 Renewal Application – Arapahoe Park – Robert “Duke” Mann

Mr. Robert “Duke” Mann, Horse Racing Coordinator, presented his report concerning Arapahoe Park's 2007 renewal application. Mr. Bruce Seymore, Director of Racing Operations Colorado for Mile High Racing & Entertainment and General Manager of Arapahoe Park, and Mr. William Powers, Arapahoe Park's Plant 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-six (36) day live race meet beginning on Saturday, May 26, 2007 and concluding on Sunday, August 12, 2007, with live performances to be offered on Saturday, Sunday and Monday throughout the meet, including a special program to be conducted on Wednesday, July 4, 2007 (Independence Day). Additionally, the Commission noted that Arapahoe Park intends to offer ten 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 intends to reduce its take-out rates as follows: 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 have been provided and that the most current list of Export Signal Guests has been submitted to the Division. Mr. Mann advised the Commission that, if Arapahoe Park negotiates any export contracts in the future, it would need to notify the Division and seek approval of such 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 and its request to offer more than the four statutorily designated simulcast races on live race days. Notice was taken that Arapahoe Park intends to simulcast out-of-state horse races into Colorado five (5) days a week on both its live and non-live race days. Notice was also taken that the Horsemen's Contract between the Colorado Horse-Racing Association and Arapahoe Park to be in effect from February 1, 2007 through April 20, 2009 was provided with the renewal application, as was a copy of the purse structure.

The Commission reviewed the list of racing officials for Arapahoe Park's upcoming meet. Mr. Mann apprised the Commission that Mr. Pat Bovenzi would serve as the Senior State Steward and that Mr. Michael Pearson would be the Presiding State Steward. The Commission took notice that, at the present time, the positions of Assistant Racing Secretary, Clerk of Scales and Jockey Room Custodian remain unfilled. Mr. Mann reported

that Mr. Jess Mora, who is the Security Director for Mile High Greyhound Park, would also serve as Arapahoe Park's Director of Security. He noted that Mr. Mora is in the process of developing a "Stable Area Rules" document relating to backside security and posted hours of entry for distribution to the horsemen. Additionally, Mr. Mann stated that Mr. Mora has scheduled training for himself and the security staff from the Division's Enforcement wing on rule and policy enforcement and maintaining a safe environment for licensees and patrons.

The Commission took notice that the insurance binder for on-track accident coverage for Jockeys was not submitted with the renewal application. Mr. Mann stated that Arapahoe Park has indicated that it would provide insurance binders for both Jockeys and Exercise Riders, but not for Pony Persons, who are independent contractors. Copies of these insurance binders must be submitted to the Division no later than five days prior to the commencement of the meet. Additionally, Mr. Mann informed the Commission that Arapahoe Park's public liability insurance policy expires on July 2, 2007 and a Certificate of Insurance would need to be provided to the Division no later than that date.

Mr. Mann reported that Arapahoe Park is required to submit copies of its certified health/sanitation inspection and fire inspection reports no later than five (5) days prior to the commencement of the meet.

Mr. Mann stated that Arapahoe Park has submitted most of the required exhibits with its renewal application and he recommended that the Commission grant conditional approval of Arapahoe Park's 2007 renewal application.

Mr. Mann reviewed the list of recommendations set forth in Arapahoe Park's 2006 end of meet report, noting that Arapahoe Park had complied with each of them.

The Commission acknowledged that the Arapahoe Park's financial statements have yet to be reviewed and accepted by Division Auditor Naomi Smith and that its marketing plan has yet to be reviewed by Division personnel. These items are to be included conditions for relicensure.

Following review and discussion, a motion was made by Commissioner Hoffman, seconded by Commissioner Pretti and unanimously carried to approve Arapahoe Park's 2007 renewal application to operate as a Class B racetrack during the period specified in the application; further, to allow Arapahoe Park to offer additional simulcast races above the statutorily permitted level of four simulcast races per live race day; and approving 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 the Division Auditor and the Division Director and/or his designee perform a complete review of the financial statements and approve them. Additionally, the Division will review Arapahoe Park's marketing plan.
- 2) That Arapahoe Park will submit copies of its current certified health/sanitation inspection and fire inspection reports for the racetrack and all simulcast or track facilities no later than five (5) days prior to the commencement of the meet.
- 3) 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.
- 4) That Arapahoe Park will apprise the Division of the names of any Association employees not listed as Racing Officials no later than ten (10) days after the commencement of the meet.
- 5) That Arapahoe Park will notify the Division of the names of those persons who are to serve as racing officials in positions that are currently vacant no less than three days prior to the commencement of the meet.

- 6) That Arapahoe Park will ensure that its public liability insurance policy is in effect and will provide a copy of it to the Division on or before its July 2, 2007 expiration date.
- 7) That Arapahoe Park will submit proof of Jockey's and Exercise Rider's insurance no later than five (5) days prior to the opening of the meet.
- 8) That copies of all intrastate simulcast contracts and/or agreements entered into by the applicant will be submitted to the Division no later than five days prior to receipt of the simulcast signal.
- 9) That any additional health/sanitation reports received for Arapahoe Park and its facilities are to be provided to the Division.
- 10) That Arapahoe Park will provide copies of all service contracts not presently on file with the Division no later than five days prior to the commencement of the meet.
- 11) 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 following Notice of Issuance of Meet License with Conditions was provided to Arapahoe Park in accordance with the Commission's motion:

BEFORE THE COLORADO RACING COMMISSION  
STATE OF COLORADO

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NOTICE OF ISSUANCE OF MEET LICENSE WITH CONDITIONS

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IN THE MATTER OF THE ISSUANCE OF A MEET LICENSE FOR:  
RACING ASSOCIATES OF COLORADO, LTD. DBA ARAPAHOE PARK  
26000 EAST QUINCY AVENUE  
AURORA, COLORADO 80016

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Pursuant to Colorado Revised Statute 12-60-505, the Colorado Racing Commission has reviewed and conducted a public meeting concerning the application for a race meet license.

The Colorado Racing Commission finds the application to be acceptable and orders said meet license to be issued to:

Racing Associates of Colorado, Ltd. d.b.a. Arapahoe Park  
26000 East Quincy Avenue  
Aurora, Colorado 80016

with the following conditions:

1. This approval is granted from the opening day of the live race meet, which is May 26, 2007 through the closing day of the meet, which is August 12, 2007 for an envelope of thirty-six days. The following racing schedule was requested by the Association and approved by the Commission: Saturday, Sunday and Monday: ten (10)-race matinee performances per day. A ten (10)-race matinee program is to be conducted on Wednesday, July 4, 2007.
2. The Association shall keep in force a public liability insurance policy at all times. Although a copy of the current proof of adequate public liability insurance was included with the renewal application, a copy of the Certificate of Insurance must be submitted to the Division prior to expiration and no later than July 2, 2007.

3. The Association shall keep in force adequate insurance coverage for the protection of the Jockeys and Exercise Riders. Proof of this coverage is to be provided to the Division no later than five (5) days prior to the opening of the meet. Copies of the insurance policy shall be provided to the Division and said coverage shall take effect the first day of training.
4. All employees shall be properly licensed prior to conducting any activities. In addition, all Association Racing Officials, including replacement officials, must be approved by the Division of Racing Events prior to conducting any activities. Their names are to be submitted for approval no less than three (3) days before the commencement of the race meet.
5. All monies derived from live race monies due for horse purses shall be deposited by the licensee directly into the horsemen's purse account. All horsemen's nominations and sustaining fees shall be handled through the Horsemen's Bookkeeper account.

All monies due from simulcast races due for horse purses shall be deposited by the licensee in a "Colorado Racing Association Escrow" trust account in a commercial bank located in Colorado until such date as the purse funds are paid to the horse owners or to the host track for payment to the horse owners. The moneys deposited in any such trust account shall be invested in a fund that invests in obligations of the United States Government with maturities of less than one year or that is account insured in full by an agency of the Federal Government. All trust accounts shall be interest-bearing accounts with the interest payable as horse purses.

The Association shall make a full accounting to the Department of Revenue through the Division each week of all amounts due purse funds from simulcast and live races and paid out from the purse funds as specified by Statute and contracts.

6. All funds due Colorado State University for allocation to its School of Veterinary Medicine shall be paid weekly with a full accounting to the Colorado Racing Commission yearly.
7. The facility shall meet the "Totalisator Standards" as adopted by the Commission.
8. All required facility improvements deemed necessary for the protection, health and safety of the public, the Division of Racing Events' employees and the race participants shall be completed prior to opening. Successful completion and compliance with a Division pre-meet inspection of the facility is required.
9. The Association shall have a fully operational totalisator system (tested and approved at least three (3) days prior to start of wagering on live races) capable of:
  - a. Handling pari-mutuel wagers on horse races;
  - b. Producing CRC reports on a timely basis; and
  - c. Common pool wagering on both an intrastate and interstate level.
10. Any change from the approved simulcast schedule for each in-state and out-of-state simulcast facility, which the Association proposes to simulcast from or to, including its live races, shall be approved by the Division of Racing Events prior to any simulcasting activity at such simulcast facility. All simulcast contracts must specify how purse percentages are to be calculated. (As part of its approval, the Commission formally accepted Arapahoe Park's proposed simulcast schedule during its live racing season through August 12, 2007, and, additionally, granted approval for Arapahoe Park to exceed the

statutory limit of four simulcast races per live race day.) The Commission delegates to the Director or his designee the ability to approve schedules for pre-approved tracks when a specified envelope is determined.

11. Current certified fire and health/sanitation inspection reports shall be submitted to the Division and, if not current, then within five days prior to the commencement of the live meet for the entire racetrack operations.
12. Approval of the renewal application and simulcast race programs, even if the above conditions are met, shall be subject to the Colorado Legislature granting an appropriation for funding and spending authority to the Commission for its fiscal year 2007/2008 and subsequent budget years.
13. A list of all Association employees not listed as Racing Officials shall be submitted to the Division no later than ten (10) days after the opening of the meet.  
  
A list of all security staff, including copies of their qualifications and firearm certificates, shall be kept on file in the Division of Racing office at Arapahoe Park.
14. To permit the Division to coordinate staffing for simulcast programs, the applicant shall provide the Commission with all modifications to its simulcast program as approved by the Commission one week prior to the proposed modifications.
15. All racing official positions shall be filled no later than five days (5) prior to the commencement of the meet.
16. That all service contracts that are not presently on file with the Division be submitted no later than five days prior to the opening of the meet.
17. That Arapahoe Park and its facilities comply with the Division of Racing Events' Video Surveillance Policy throughout the 2007 Arapahoe Park race meet.
18. That the Stable Superintendent shall make every effort to ensure that all horses entering the grounds at Arapahoe Park shall have a current health certificate signed by a Veterinarian.
19. The Racing Secretary and/or Stable Superintendent shall be responsible for the arrival and departure of all horses from the premises and maintain records for the Division's inspection.
20. The Racing Secretary shall require that all horses entering the grounds at Arapahoe Park, whether from within or outside of Colorado, have a current Coggins Test (within the previous twelve (12) months) and have the document attached to the foal certificates when they are submitted to the Racing Office.
21. Arapahoe Park will make arrangements to satisfy the Colorado Racing Commission and the Division in providing an adequate water supply to the racetrack, stable area and grandstands at all times.
22. The Commission, in its discretion, may determine that additional conditions need to be imposed at this time or at any time during the live meet.
23. That the Division Director and/or his designee with the Division Auditor review and approve Arapahoe Park's most recent financial statement(s) prior to the commencement of the meet.

24. That the Commission and the Division review Arapahoe Park's proposed marketing plan prior to the commencement of the meet.

Failure to comply with the applicable conditions prior to or during the 2007 meet may result in a fine, suspension or revocation of the meet license for Racing Associates of Colorado, Ltd., d.b.a. Arapahoe Park.

DATED this 17th day of May 2007.

BY ORDER OF THE COLORADO RACING COMMISSION

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Dan Hartman, Director,  
Division of Racing Events

Consideration of 1) Arapahoe Park's Stewards' Guidelines and Groundrules; 2) Race Review Committee Protocol; 3) Split Sample Policy; and 4) Horse Racing Medication Guidelines and Veterinary Practices for 2007 Live Race Meet – Robert "Duke" Mann

Mr. Robert "Duke" Mann, Horse Racing Coordinator, presented the following documents for Commission consideration:

- 1) Stewards' Guidelines and Groundrules: The Commission reviewed the proposed Stewards' Guidelines and Groundrules for 2007. Mr. Mann advised that minimal changes had been made to the document from 2006. Those in attendance were afforded an opportunity to comment on the document and offer views and opinions relating to it. No objections being raised to acceptance of this document as presented.
- 2) Race Review Committee Protocol: The Commission took notice that no changes had been made to this document from 2006. Mr. Mann stated that, since its implementation, the Race Review Committee Protocol had been utilized on two occasions and had worked well in each instance. 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 submitted.
- 3) Split Sample Policy: The Commission reviewed the proposed Split Sample Policy for 2007 and found it to be acceptable as presented. Ms. Petra Hartmann, Chief Racing Chemist for Industrial Laboratories, had suggested to Mr. Mann that an additional testing laboratory be added to those listed in the document. However, this change has not yet been made.
- 4) Horse Racing Medication Guidelines and Veterinary Practices: Mr. Mann advised that the proposed Horse Racing Medication Guidelines and Veterinary Practices had not yet been changed, but would need to be modified once the revisions made to the Colorado Racing Commission Rules take effect. No objections were made to acceptance of this document as presented.

Mr. Mann concluded his presentation by recommending that the Commission approve the aforementioned documents. He stated that, upon Commission acceptance, they would be incorporated into the trainers' packets along with copies of the rules and other pertinent supplementary material. A motion was thereupon made by Commissioner Grant, seconded by Commissioner Pretti and unanimously carried to accept the 2007 Stewards' Guidelines and Groundrules, the Race Review Committee Protocol, the 2007 Split Sample Policy and the 2007 Horse Racing Medication Guidelines and Veterinary Practices as presented. The Commission acknowledged that revisions would be made to the Horse Racing Medication Guidelines and Veterinary Practices document once revisions to the Colorado Racing Commission Rules become effective.

## Consideration of Verbiage in “Stable Gate Security Warning” Notice

Mr. Shannon Rushton, Executive Director of the Colorado Horse Racing Association, voiced his opinion that the fine amount of “up to \$500” should be removed from the “Stable Gate Warning Notice” for Arapahoe Park’s upcoming race meet. Mr. Bruce Seymore, General Manager of Arapahoe Park, concurred with Mr. Rushton’s view.

Discussion ensued during which the Commission acknowledged the concerns expressed by both Mr. Rushton and Mr. Seymore. Mr. Rushton stated that, in recent years, Arapahoe Park has implemented stringent security measures to prevent horses without current health certificates and/or proof of an up-to-date Coggins test from gaining access to the stable area/backside. Mr. Rushton and Mr. Seymore explained that the competency of the security staff at the stable gate and the adequacy of security controls have proved to be effective deterrents to possible violators. Therefore, Mr. Rushton and Mr. Seymore requested that the Commission consider amending the notice in accordance with current practice and eliminate the reference that “up to a \$500 fine” could be imposed for stable gate security violations. Based upon the comments made by Mr. Rushton and Mr. Seymore and issues raised concerning the language relating to the potential penalty assessment, Commissioner Alkire suggested a modification to the document. After ascertaining that the proposed amended language was acceptable to Mr. Rushton and Mr. Seymore, a motion was made by Commissioner Alkire, seconded by Commissioner Hoffman and unanimously carried to amend the Stable Gate Security Warning as recommended. The following Stable Gate Security Warning will be in effect during the upcoming Arapahoe Park race meet:

### **Stable Gate Security WARNING**

1. CONSISTENT WITH CRC RULES, A FINE MAY BE IMPOSED FOR EACH HORSE OR PONY FOUND IN THE STABLE AREA OF ARAPAHOE PARK WITHOUT A CURRENT COGGINS TEST AND PROPER CERTIFICATE OF HEALTH ON FILE WITH THE DIVISION (INCLUDING HORSES FROM COLORADO).
2. GOATS WILL BE ALLOWED WITH PROPER CERTIFICATE OF HEALTH. NO OTHER ANIMALS ARE PERMITTED IN THE STABLE AREA OF ARAPAHOE PARK. A FINE UP TO \$500 PER ANIMAL WILL BE IMPOSED FOR VIOLATIONS OF THIS ORDER.
3. NO PERSON MAY ENTER THE STABLE AREA WITHOUT A, VALID CRC RACING LICENSE OR TEMPORARY AUTHORIZATION.

**ADDITIONAL PENALTIES MAY BE IMPOSED INCLUDING  
SUSPENSION AND/OR EXCLUSION.**

Issued May 8, 2007

## Update on Opening of The Reserve – Bruce Seymore

Mr. Bruce Seymore, Director of Racing Operations for Mile High Racing & Entertainment, informed the Commission that The Reserve at Cherry Creek, the new simulcast facility associated with Interstate Kennel Club, had opened for business on Thursday, May 3, 2007.

## Consideration of Adoption of Revised Language for New Rules 2.612 and 2.620 and Re-Adoption of Entire Rules Package Adopted on April 10, 2007 – Robert “Duke” Mann

Mr. Robert “Duke” Mann, who had presented the rules for Commission review at its April 10, 2007 Rule-Making Hearing, advised the Commission that the text of Rules

2.612 and 2.620, rules included in the set of rules designated as “Greyhound Disposition Rule”, would need to be revised in accordance with the determination of the Attorney General’s Office. He stated that the Attorney General determined in the Attorney General’s Opinion, that with respect to the specific requirement that the documents in Rule #2.612 and #2.620 be signed under penalty of perjury, both of these rules exceeded the authority of the Commission under the Racing Statutes by criminalizing the signature process.

Additionally, Mr. Mann stated that, since the Attorney General had withheld approval of the packet of rules adopted by the Commission at its April meeting and because no provision appears to exist in the new electronic filing provisions for the Attorney General to approve some but not all of a given electronic submission, the Attorney General had indicated that the Commission could reopen the Rule-Making Hearing process at this time for a limited purpose: to examine the two aforementioned rules, only, in light of the Attorney General’s concerns, and, if the Commission determines, revise these rules to eliminate the language of concern. Mr. Mann explained that, following said revision and adoption of the two cited rules in their revised form, the Commission could then re-adopt the entire packet of 2007 rule changes with the revised form of the two rules included and could re-submit the entire packet to the Attorney General’s Office. Mr. Mann noted that the Attorney General’s Office should be able to expedite processing since its review of the rules has already been completed and permit the rules to become effective on July 1, 2007.

A motion was thereupon made by Commissioner Alkire, seconded by Commissioner Hoffman and unanimously carried to re-open the Commission’s Rule-Making Hearing at 11:10 a.m. for the limited purposes reflected above.

A motion was made by Commissioner Alkire, seconded by Commissioner Hoffman and unanimously carried to re-adopt the rules proposed for adoption, which are Rules 2.612 and 2.620 with the following amendments: that in Rule 2.612, the language “The Greyhound Disposition Record form shall be signed under penalty of perjury” be deleted and in Rule 2.620, the language “. . .which shall be signed under penalty of perjury. . .” be deleted and, further, that the entire packet of rules from the April 10, 2007 Rule-Making Hearing be re-adopted with the changes to the two aforementioned rules.

The Rule-Making proceeding was concluded at 11:12 a.m.

The Commission expressed its desire to pursue a statutory change in the future that would enable the Commission to require that documents submitted under the Greyhound Disposition Rule be signed under penalty of perjury.

Consideration of Rules Proposed for Waiver or Modification during Arapahoe Park’s 2007 Live Race Meet – Robert “Duke” Mann

Mr. Robert “Duke” Mann, Horse Racing Coordinator, informed the Commission that, due to the delayed effective date of certain rules relevant to Arapahoe Park’s upcoming race meet, he would request that the Commission grant waivers or modifications of the following: Colorado Racing Commission Rules 7.532, 7.631, 7.646, 11.511 and the definition of “Riding Gear”. The waivers or modifications would apply until such time as the new rulebook takes effect.

A motion was made by Commissioner Hoffman, seconded by Commissioner Alkire and unanimously carried to do the following:

- 1) Waive the application of Colorado Racing Commission Rules 7.532, 7.631 and 11.511;
- 2) Modify the definition of “Riding Gear” to be the following items: “clothing, boots, saddle, and attachments”;
- 3) Modify Colorado Racing Commission Rule 7.646 to read: “The jockey’s weight shall also include clothing, boots, saddle, and attachments”; and
- 4) Each to apply until such time as the new rulebook takes effect.

### Consideration of Adjustment of Cash Funding Fees to Racing Associations – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that, due to staffing/operational changes as well as a carryover in the cash fund, the Division has made this year, the Division is anticipating that it will realize an additional \$200,000 savings in its proposed 2008 budget. He stated that the Division is proposing to make a change at this point in the year to reflect the \$200,000 savings.

Mr. Hartman observed that, currently, greyhound racetracks pay \$133,400.00 per month of racing to the State of Colorado racing cash fund and that Arapahoe Park pays \$34,859.49 per month for twelve months of the year. Mr. Hartman explained that, in order to achieve the \$200,000.00 savings, the Division is recommending that the Commission authorize the following:

That the May and June payments for Mile High Greyhound Park/Interstate Kennel Club/Pueblo Kennel Association are to be \$73,928.27 and the July payment is to be \$93,758.85; and

That the May and June payments for Arapahoe Park are to be \$19,321.22 and the July payment is to be \$24,500.64.

Following review, a motion was made by Commissioner Pretti, seconded by Commissioner Grant and unanimously carried to adopt the aforementioned adjustments to the cash funding fees as proposed in Mr. Hartman's memorandum to the Commission dated May 4, 2007.

### Update on Legislation – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, reported to the Commission that, upon final senatorial consideration, Senate Bill 07-119, the Division's Sunset Bill, had been significantly amended. He stated that the Bill, in its final form, retained only the 2016 Sunset date for the Division of Racing Events.

Mr. Hartman commented that he was especially pleased with the cooperation displayed by all sectors of the racing community during this session and expressed his hope that this united spirit would prevail next year when measures are brought forward.

### Acknowledgment of Commissioner Alkire's Re-Appointment

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission and attendees that the Senate had confirmed Commissioner Marilyn Alkire's re-appointment for a second term as a Racing Commission member. The Commission congratulated Commissioner Alkire on this occasion.

### Presentation to and Recognition of Commission Veterinarian Earl Carlson

Mr. Dan Hartman, Director of the Division of Racing Events, announced that Dr. Earl Carlson, who has served as the Commission Veterinarian for over twenty-three years, would be retiring this month. In honor of Dr. Carlson's outstanding service to the State of Colorado and in recognition of his achievements and contributions to the health, safety and welfare of racing animals, Mr. Hartman presented a plaque and a letter signed by Governor Bill Ritter to him. Members of the Commission, many of Dr. Carlson's colleagues, both from the entire racing community and Division staff, complimented Dr. Carlson and acknowledged him with a standing ovation.

### Adjournment

There being no further business to consider, the meeting was adjourned at 11:37 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, June 12, 2007 at Arapahoe Park, 26000 East Quincy Avenue, Aurora, Colorado.

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GENE O. NAUGLE, DVM, CHAIRMAN

The undersigned hereby approve the foregoing Minutes.

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DAVID LYNN HOFFMAN, VICE-CHAIR

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MARILYN ALKIRE, MEMBER

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C. DREW GRANT, MEMBER

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JACK PRETTI, MEMBER

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, June 12, 2007 in the Directors' Room at Arapahoe Park, 26000 East Quincy Avenue, Aurora, Colorado. Chairman Gene Naugle called the meeting to order at 9:40 a.m.

### Members Present

Gene Naugle, DVM, Chairman  
David Lynn Hoffman, Vice-Chairman  
Marilyn Alkire, Member  
Jack Pretti, Member

Commissioner Drew Grant arrived subsequent to the commencement of the meeting.

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Robert "Duke" Mann, Horse Racing Coordinator  
Mark Brown, Division Enforcement Coordinator  
Naomi Smith, Division Auditor  
Leland BeBee, Division Legal Assistant  
Tina Bowman, Assistant Attorney General representing the Division of Racing Events  
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 May 8, 2007

A motion was made by Commissioner Pretti, seconded by Commissioner Hoffman and unanimously carried to approve the minutes of May 8, 2007 as submitted.

### Consideration of 2008 Occupational License Fees and Review of Current License Categories – Dan Hartman

Mr. Dan Hartman, Division Director, advised the Commission that this would be the fifth year of fee-setting for both occupational and cash funding fee assessments. Mr. Hartman stated that, overall, there have been minimal changes to the costs associated with the issuance of licenses and, therefore, the Division is recommending retention of all of the occupational license fee assessments that are currently in effect.

Mr. Hartman explained how the license costs are set. He advised that the breakdowns indicate the actual license cost, including recovery of all Division expenses for licensing and the difference between them and the total cost minus the administrative/licensing costs for Fiscal Year 2008 per the formula that the Commission had previously adopted. Mr. Hartman recommended adoption of the proposed license fees for next year as presented.

Following review and discussion of the statistical breakdown of actual license costs for all license categories and after electing to continue to omit the administrative-salary costs from license fee assessments, a motion was made by Commissioner Hoffman, seconded by Commissioner Alkire and unanimously carried to adopt the following fees for 2008:

New Support License	(3 years)	\$75.00
Renewal Support License	(3 years)	\$25.00
New Key License	(3 years)	\$225.00
Renewal Key License	(3 years)	\$75.00
Registration	(1 year)	\$15.00
Additional Badge	(1 year)	\$10.00
Temporary Badge	(30 days)	\$15.00
New Minor Business License	(3 years)	\$135.00
Renewal Minor Business License	(3 years)	\$65.00
New Major Business License*	(3 years)	\$225.00+
Renewal Major Business License**	(3 years)	\$60.00+
Multi-Jurisdictional Owner License	(3 years)	\$85.00
Reciprocal	(Variable)	\$15.00

\*-The motion relating to the new major business license also states that the applicant must deposit \$225.00 with the Division as advance payment for licensing and investigation. The \$225.00 will be credited toward the amount due upon completion of the investigation. Additionally, an advance deposit of \$75.00 for each "key" person must be made plus investigative fees and expenses that are due upon completion of investigation. Each corporate officer, director, owner, partner or manager will be billed at the rate of \$36.73 per hour for investigative fees and any additional expenditures to include travel, lodging and meals.

\*\* -The motion relating to the renewal major business license also states that the applicant must deposit \$60.00 with the Division as advance payment for licensing and investigation. The \$60.00 will be credited toward the amount due upon completion of the investigation. Additionally, an advance deposit of \$75.00 for each "key" person must be made plus investigative fees and expenses that are due upon completion of investigation. Each corporate officer, director, owner, partner or manager will be billed at the rate of \$36.73 per hour for investigative fees and any additional expenditures to include travel, lodging and meals.

Consideration of Racing Association/Off-Track Wagering Facility Cash Funding Fee Assessments for Fiscal Year 2008 – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, presented the calculations for the annual cash funding fee assessments for each greyhound racetrack, Arapahoe Park and each off-track wagering facility based upon its total Fiscal Year 2008 budget of \$2,118,377.00. He explained that, since the Division is a cash-funded agency, it must recoup its expenses via occupational and racetrack/off-track wagering facility fee assessments. Mr. Hartman observed that the Division estimates that it will recognize \$20,000.00 from occupational license fee charges, which leaves a remainder of \$2,098,377.00 to be obtained from the racing associations.

Mr. Hartman stated that, by taking into account statutory starting and ending cash fund balances, the Division has determined that 1) the fee assessment that each greyhound racetrack should be required to remit to support cash funding beginning July 1, 2007 would be \$131,859.06 per month when live racing is being conducted; 2) the fee to be assessed Arapahoe Park would be \$33,250.08 per month for twelve months of the year; and 3) the fee to be assessed each operating off-track wagering facility or additional facility would be \$2,061.40 per month. These fee assessments would be due and payable on the fifteenth day of the month following the beginning of Fiscal Year 2008.

Mr. Hartman requested that the Commission approve these recommended license fee assessments for 2008 with the proviso that these fees might need to be adjusted, either upward or downward, to accommodate such unforeseeable circumstances as modifications to race dates, racing programs, wagering formats, and so on. Mr. Hartman apprised the Commission of the formulae used to calculate the amounts payable. He stated that the Division is attempting to operate efficiently in a cost-effective manner and expects to realize a savings next year. Mr. Hartman asserted that, if fee adjustments were warranted during the year, he would present them for Commission consideration.

Mr. John Manning, General Manager of Cloverleaf Greyhound Track, offered his opinion that the cash funding fee assessment for Cloverleaf's simulcast facility was excessive based upon the limited amount of regulatory oversight provided by Division personnel. However, the Commission expressed its view that the Division has managed to keep its costs at a reasonable level while continuing to meet its regulatory obligations.

Following review of the proposed racing association license fees and schedules for Fiscal Year 2008 (July 1, 2007-June 30, 2008) presented by Mr. Hartman, a motion was made by Commissioner Pretti, seconded by Commissioner Alkire and unanimously carried to adopt the following payment schedule for Mile High Greyhound Park, Interstate Kennel Club, Pueblo Kennel Association and Arapahoe Park in accordance with the figures provided by the Division of Racing Events:

**Greyhound:**

- **For Mile High Greyhound Racing/Interstate Kennel Club/Pueblo Kennel Association** – Payments are to be made in eight equal installments of \$131,859.06 per month for the months of July 2007 through June 2008, beginning the 15<sup>th</sup> of August 2007 through June and one final payment in July 2008. The total amount due will be \$527,436.24.

**Horse:**

- **Arapahoe Park** – Payments are to be made in twelve equal monthly installments of \$33,250.08 per month beginning the 15<sup>th</sup> of August through July 2008. The total amount due will be \$399,000.96.

**Off-Track Wagering or Additional Facilities:**

- **For Cloverleaf Greyhound Park, Red & Jerry's, Havana Park, The Reserve, Pueblo and Post Time** - \$2,061.40 per month beginning the 15<sup>th</sup> of August through July 2008. The total amount due for each facility will be \$24,736.80

Consideration of Continuation of Waiver of Colorado Racing Commission Rules 7.232 and 7.236 – Arapahoe Park/Colorado Horse-Racing Association

Mr. Robert "Duke" Mann, Horse Racing Coordinator, advised the Commission that he had received a written request from Mr. Bruce Seymore, on behalf of Arapahoe Park and the Colorado Horse-Racing Association, to continue the waiver of Colorado Racing Commission Rules 7.232 and 7.236. Mr. Mann explained that both of these rules limit the pari-mutuel wagering betting interests for same ownership or owner/trainership for large fields, but neither of them affects the purse distribution. He stated that he believes that with the limited number of horses participating in Arapahoe Park's 2007 race meet at this time, the waiver of these rules has proved to be beneficial in enabling the Director of Racing, Mr. William Powers, to fill races. Mr. Mann commented that, in previous years, the betting public was more inclined to wager on larger field sizes than on smaller ones.

Mr. William Powers addressed the Commission regarding the benefits that have been recognized from the waiver of these rules. He stated that, as well as enabling him to increase the volume of entries in a given race and, thereby, maintain certain betting pools, the waiver of the subject rules had also contributed greatly to the competition among jockeys for mounts.

Further, Mr. Mann stated that it is imperative that, if the two referenced rules are waived, Colorado Racing Commission Rule 7.230 be enforced. This rule limits the number of horses with the same ownership or owner/trainership that can be entered in an overnight event.

Based upon Mr. Mann's affirmative recommendation, a motion was thereupon made by Commissioner Hoffman, seconded by Commissioner Naugle and unanimously carried to continue the waivers of Colorado Racing Commission Rules 7.232 and 7.236 for the remainder of Arapahoe Park's 2007 race meet. Commissioner Alkire stated that the Division may need to revisit these rules during its next rule-making review cycle in order to determine whether they should be proposed for repeal/deletion.

Items Arising After Publication of Agenda:

Consideration of Proposed Policy Regarding Use of Electronic Therapy Devices – Robert “Duke” Mann

Mr. Robert “Duke” Mann, Horse Racing Coordinator, presented copies of Colorado Racing Commission Rules 5.251 and 5.308 relating to the criteria for and prohibitions on the practice of alternative forms of therapy on racing animals. Mr. Mann stated that, during the current Arapahoe Park meet, various types of electronic therapeutic devices had been found in the barn area and it had become apparent that the use of these devices was not being overseen or monitored by any authorized licensed caregiver(s) or licensed veterinarian(s). Therefore, he recommended adoption of a policy to ensure that these devices were only used when prescribed or directly supervised by a licensed practicing veterinarian and incorporate this policy into the Commission's/Division's Animal Welfare Policy Document.

Discussion ensued regarding the proposed policy during which certain revisions were suggested and considered. Additionally, the Commission considered whether the adoption of a policy was sufficient to afford it the ability to punish any violators. Mr. Mann assured the Commission that it would have jurisdiction to protect the safety and well-being of racing animals pursuant to its Animal Welfare Policy. Ms. Tina Bowman, Assistant Attorney General, advised that the Division needed to provide thirty days' advance notice of its intention to make a policy change before taking formal action on it. Division Director Dan Hartman asserted that the Division was giving thirty days' prior notification of its intent to take formal action on this matter at its July 10, 2007 meeting and would be placing this item on its regularly scheduled meeting agenda

Following review, a motion was made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to provide thirty days' public notice of the Colorado Racing Commission's intention to adopt additional provisions within its Animal Welfare Policy as follows:

**Electronic Therapy Devices**

**“The use of all alternative electronic therapy devices, but not limited to Transcutaneous Electrical Nerve Stimulation (TENS) devices, Electrotherapy Devices, Electric Stimulation Blankets and Ultrasound Devices shall be prescribed by and under the supervision of a licensed practicing veterinarian while in use in the stable area. The use of these devices shall be prohibited within twenty-four (24) hours prior to post time of any entered horse to run.”**

Consideration of Proposed Waiver of Colorado Racing Commission Rule 7.200 Concerning Jockey Agents

At the request of Director of Racing William Powers, the Commission considered whether to grant a waiver of current Colorado Racing Commission Rule 7.200 as of July 1, 2007 to permit Jockey Agents to retain the ability to enter a horse into a race. Mr. Powers stated that this season at Arapahoe Park, there were five Jockey Agents participating in the meet, a substantially higher number than in 2006. Thus, Mr. Powers observed that there was greater competition among them for entries and this was beneficial in filling races.

Discussion ensued regarding this matter. Consideration was given to possible options, such as requiring Jockey Agents to be licensed as Authorized Agents or allowing them to enter only on behalf of specific Jockeys. Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, suggested that a Jockey Agent be required to sign off on a sheet whenever he/she entered a horse. Presiding State Steward Pat Bovenzi and Senior State Steward Michael Pearson offered their opinions and observations. Mr. Pearson commented that, despite mandating that the Racing Department notate every change made to an entry, there had been some problems with entries made by Jockey Agents. Commissioner Alkire inquired whether it would preclude problems with entries if a Jockey Agent were required to have a Trainer's signature on the entry form. She suggested that, in this way, the Board of Stewards would have a mechanism in place to punish any Jockey Agents who failed to adhere to established policies and/or procedures relating to entries.

Following review and discussion, a motion was made by Commissioner Alkire, seconded by Commissioner Grant and unanimously carried to waive the modification of Colorado Racing Commission Rule 7.200 which becomes effective on July 1, 2007 and retain the language "or Jockey Agent" for the remainder of the Arapahoe Park 2007 race meet, and, further, that documentation be retained in the Racing Office reflecting that an agreement for the purpose of entering horses exists between a Trainer and a Jockey Agent so that any changes that are made on entry forms by Jockey Agents may be tracked; and, additionally, to direct that the Division decide whether to reconsider removal of this rule amendment on a long-term basis during its next rule-making review cycle.

Mr. Mann stated that he would develop a sign-off sheet for tracking purposes in accordance with the Commission's decision and would provide a copy of it to the Commission at the July meeting.

#### Consideration of Elimination of Notation Regarding Use of Non-Steroidal Anti-Inflammatory Drugs (NSAIDs) – Robert "Duke" Mann/Bruce Seymore

Mr. Robert "Duke" Mann, Horse Racing Coordinator, explained that the Colorado Racing Commission Rules do not require the notation regarding the use of the non-steroidal anti-inflammatory drugs Phenylbutazone, Banamine and Ketoprofen in the official racing program and Equibase, the official database company for past performances, does not recognize this notation. Therefore, Arapahoe Park's Racing Department staff enters these notations on a manual basis.

Discussion ensued during which views and opinions were expressed regarding whether the wagering public might be confused if this information was eliminated from racing programs. It was determined that, since so many racehorses receive administrations of a non-steroidal anti-inflammatory drug and since official racing publications did not include notations regarding these drugs, it would not be of significant concern if this information were not inserted into the official racing program. Therefore, effective immediately, the Commission approved the elimination of the notation(s) regarding non-steroidal anti-inflammatory drugs (Phenylbutazone, Banamine and Ketoprofen) from Arapahoe Park's official racing program.

#### Consideration of Mile High Greyhound Park's Proposed Modified Racing Schedule – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, advised the Commission that, due to a small roster of active greyhounds at Mile High Greyhound Park, the Association was requesting the ability to adjust its racing schedule. Mr. Hartman reported that he had requested and had received wagering formats for between ten to sixteen race cards.

Based upon Mr. Hartman's affirmative recommendation, a motion was made by Commissioner Hoffman, seconded by Commissioner Alkire and unanimously carried to approve the new wagering formats for Mile High Greyhound Park's 2007 race meet as presented to Director Hartman.

## Commission Request Regarding Injury Tracking and Racetrack Condition Reports

In response to Commissioner Alkire's request, Division Director Dan Hartman stated that he would provide monthly updates on injury levels and the condition of the racing surface at each active racecourse to the Commission as accompaniments to their agenda material.

## Correspondence from Mr. Justin Gleason – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that he was in receipt of a letter from Mr. Justin Gleason requesting a hearing before the Commission "to obtain a license and be reinstated in the state of Colorado". Mr. Hartman stated that he had written to Mr. Gleason and had advised him that, prior to determining whether a hearing should be conducted in this matter, it would be necessary for Mr. Gleason to provide specific, verifiable information regarding the S.C.A.T. classes for alcohol/anger management that he indicated he was taking. The Commission concurred with Mr. Hartman's position and took no action at this time.

## Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 10:40 a.m.

Subsequent to adjournment of the meeting, a reception was held in honor of Commissioner Naugle.

## Acknowledgment of Gene Naugle – Dan Hartman

Division Director Dan Hartman observed that, on June 30, 2007, the second full term served by Commissioner Gene Naugle would officially end and, therefore, this would be the final Commission meeting that he would be attending.

Mr. Hartman offered a moving tribute to Mr. Naugle. He advised that he had been very fortunate to know and work with Dr. Naugle for the past eight years and had found him to be a consummate gentleman, a person of great honesty, integrity with excellent common sense, good judgment and humanity. He acknowledged Dr. Naugle's outstanding leadership and decision-making ability during his tenure as a Commissioner. On behalf of the remaining Commissioners, the Division staff and those in attendance, Mr. Hartman extended warmest regards and special thanks to Dr. Naugle for his 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 Dr. Naugle. These acknowledgments were greeted by a standing ovation in honor of Dr. Gene Naugle.

Dr. Naugle stated that he had enjoyed his terms as a Commissioner and his hope was that he had made a contribution. He stated that he had appreciated the support and helpfulness of his fellow Commissioners, members of the racing industry and the Division staff throughout his tenure.

Mr. Hartman also thanked Mr. K. Bruce Seymore for hosting today's meeting and recognition ceremony at Arapahoe Park.

## Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, July 10, 2007 in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

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GENE O. NAUGLE, DVM, CHAIRMAN

The undersigned hereby approve the foregoing Minutes.

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DAVID LYNN HOFFMAN, VICE-CHAIR

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MARILYN ALKIRE, MEMBER

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C. DREW GRANT, MEMBER

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JACK PRETTI, MEMBER

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, July 10, 2007 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. Vice-Chairman David Lynn Hoffman called the meeting to order at 9:35 a.m.

### Members Present

David Lynn Hoffman, Vice-Chairman  
C. Drew Grant, Member  
Jack Pretti, Member

Commissioner Marilyn Alkire was excused from the meeting.

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Richard Mattson, Greyhound Racing Coordinator  
Robert "Duke" Mann, Horse Racing Coordinator  
Naomi Smith, Division Auditor  
Mark Brown, Division Enforcement Coordinator  
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 Grant, seconded by Commissioner Pretti and unanimously carried to open the election of officers. Motions were then made by Commissioner Grant, seconded by Commissioner Pretti and carried by acclamation to appoint David Lynn Hoffman to serve as Chair of the Commission and to appoint Marilyn Alkire to serve as Vice-Chair of the Commission through June 2008.

### Approval of Minutes of June 12, 2007

A motion was made by Commissioner Pretti, seconded by Commissioner Grant and unanimously carried to approve the minutes of June 12, 2007 as submitted.

### Consideration of Request for Clarification of Wording/Intent of Revised Rule 7.218 of the Colorado Racing Commission Rules – Jockey Guild Representative Johnny Beech

Mr. Johnny Beech, Western Region Representative of the Jockey Guild, addressed the Commission regarding the revised text of Rule 7.218 of the Colorado Racing Commission Rules that became effective on July 1, 2007. Mr. Beech explained that the Jockey Guild does not believe that the revised version of the rule wherein the words ". . . matching jockey mount fee" are substituted for ". . . a matching or equal fee to that earned by the jockey who rode the horse" as applied to a jockey who was taken off of a mount is an accurate reflection of the intent of the Colorado Horse-Racing Association, the organization that submitted this proposed rule for Commission consideration at the most recent Rule-Making Hearing. Therefore, he requested that the Commission clarify how the rule is to be interpreted and applied and to determine whether a disparity exists between the intent and the wording of current Rule 7.218.

In order to enable the Commission to respond appropriately, the Commission requested that Mr. Robert "Duke" Mann, the Division's Horse Racing Coordinator, contact Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, who was unable to attend today's meeting, for clarification of the organization's intent. Mr. Mann reported that the members of the Colorado Horse-

Racing Association believed that it was unfair and burdensome for them to be required to pay a matching or equal fee to a jockey who was taken off of a mount as well as to the jockey who rode the horse. Mr. Mann informed the Commission that, per his conversation with Mr. Rushton, it was clearly the intent of the Colorado Horse-Racing Association for the rule to reflect that the jockey taken off of a mount would be paid the losing jockey mount fee.

Discussion ensued during which Mr. Beech and Jockey Carl Kutz expressed their objections to the rule in its existing form and recommended that the Commission consider scheduling a rule-making session for the purpose of revisiting the subject rule. The Commission declined to schedule a formal Rule-Making Hearing for the purpose of correcting the language of this rule since the Arapahoe Park meet would conclude before such a rule change would become effective. Mr. Beech and Mr. Kutz contended that, since the wording of the rule does not represent its intent, the Commission should render an interpretation for the benefit of the Arapahoe Park horse racing community and for utilization by the Board of Stewards. The Commission Chairman, David Lynn Hoffman, said that his understanding of the rule, when adopted, was that it was intended all along to mean "losing jockey mount fee" and that, in order to rule on the request, the Commission may look at the intent expressed in the Rule-Making Hearing and, also, take note that the Jockey's Guild representative was present at that hearing arguing against that change. In the absence of Ms. Tina Bowman, Assistant Attorney General for the Division of Racing Events, the Commission advised that it could not provide a legally binding opinion, but stated that it would assert that, for the duration of the 2007 Arapahoe Park live race meet, the term "matching jockey mount fee" should be interpreted to mean "losing jockey mount fee" in existing language in Rule 7.218 of the Colorado Racing Commission Rules. A motion was made by Commissioner Pretti, seconded by Commissioner Grant and unanimously carried to stand with the intent of Rule 7.218 as approved and to continue to operate under the premise that the rule's intent is that a losing jockey mount fee is to be paid to a rider taken off of a mount with the proviso that this rule is to be reviewed by the Assistant Attorney General and if additional comments or changes to this interpretation need to be made, they be brought forward during the Commission's next Rule-Making Hearing and, further, that this rule be brought forward for reconsideration when the rule review process is undertaken.

Mr. Beech thanked the Commission for considering this matter.

#### 2008 Race Dates Hearing

Chairman Hoffman convened the 2008 Race Dates Hearing at 10:15 a.m.

Division Director Dan Hartman, charged with primary responsibility for reviewing the proposed race date requests, explained that the Commission conducted an annual Race Dates Hearing for the purpose of establishing the envelopes of race dates for each racing association for the upcoming calendar year, in this instance, 2008, and not for specifying the actual dates upon which racing would be conducted. He noted that, pursuant to statute, greyhound racing associations in the Southern Circuit are permitted to request envelopes of up to 180 days while those in the Northern Circuit may request envelopes of no more than 120 days.

Mr. Hartman advised that the Division had reviewed the requests and had found that all of them met the requirements. Therefore, Mr. Hartman recommended approval of these race date proposals.

#### A. GREYHOUND:

Mr. Hartman apprised the Commission that no date requests had been received for racing in the Southern Circuit.

After taking notice that Mile High Racing & Entertainment was the only association that had submitted race date requests and that the requested greyhound race date envelopes did not include the months of January, February, November and December 2008, the Commission entertained comments from the audience. Several

members of the greyhound racing community exchanged views, opinions and arguments reflecting their frustration and distress occasioned by BLB USA's decision to forego conducting live greyhound racing year-round in Colorado. Additionally, strong objections were raised to the lack of prior notification to the greyhound racing community from BLB USA regarding its decision to shorten its 2008 racing schedule.

Mr. Gary Bryan, President of the Colorado Greyhound Kennel Association, and Mr. Dick Figurilli, Representative of the National Greyhound Association, voiced like-minded sentiments with respect to the catastrophic effects that the absence of racing during these four months will have on the entire racing industry. They spoke of the foreseeable inability of many kennel operators to subsidize and continue in business and the negative impact that this will inevitably have on the racing greyhounds and the dogs being trained and prepared to race. It was the consensus of the members of the greyhound racing community at the meeting that this racing schedule was totally unacceptable. Discussion ensued during which the Commission, Division Director Dan Hartman, Mr. Bruce Fraser, Executive Vice-President of Operations for BLB USA, Inc., Mr. John Manning, General Manager of Cloverleaf Greyhound Track, and several greyhound kennel operators, including Daryl and Peggy Brumage, considered the ramifications of this situation and possible avenues to alleviate some of the anticipated consequences of it. Some of the members of the greyhound racing community observed that the decline in the popularity of live racing was directly attributable to the introduction and increased emphasis on simulcast wagering.

Mr. Fraser stated that the position taken by BLB USA was a business decision occasioned by the substantial loss of revenue that the association had sustained when it had agreed to assume the dates vacated by Cloverleaf Greyhound Track this past season and conduct the Pueblo Kennel Association meet at Mile High Greyhound Park. Mr. Fraser reflected that BLB should be given credit for having conducted this live race meet rather than forcing a hiatus between the 2007 Interstate and Mile High meets. He noted that, due to the fact that Senate Bill 07-119 had been derailed, BLB's options were significantly reduced. He stated that Mile High Racing & Entertainment had determined that it would not be cost-effective to operate during the Winter months and, therefore, it had adjusted its racing schedules to accommodate racing during optimal weather periods.

The Commission considered which of the following three options might prove beneficial in addressing the current race dates dilemma:

- 1) The Commission acknowledged that it does not have the authority to compel BLB LLC to race year-round.
- 2) The Commission recognized that it could approve the requested 2008 race dates as submitted and, thus, preserve some live racing in Colorado. The advantage of taking such action would be that the racing community would have sufficient time to make advance plans and arrangements for the future and the Division would be able to prepare its staffing adjustments accordingly. The Commission observed that this would uphold one of its goals which is to support live racing in Colorado, although the disadvantage would be that some kennels would most likely fail or leave the state and some Division staff members would not be retained.
- 3) The Commission noted that it could decline to approve the 2008 race date requests as submitted and, by so doing, apply pressure to an association or group to come forward with a proposal to race during the "off-season". However, the Commission observed that the disadvantage to this approach is that there would not be any race dates in place and no assurance that any organization would present an alternative request for race dates.

Mr. Manning inquired whether, if he could persuade members of the Board of Directors of Cloverleaf to consent to submitting a race date request, the Commission would be willing to consider it. The Commission endorsed this possibility and expressed its willingness to look favorably upon any request for race dates made by an association

eligible to obtain a license. Other suggestions for possible remedies were offered, including holding a race meet at the Rocky Mountain Post Time (Colorado Springs) location, conducting the Cloverleaf meet at the Mile High Greyhound Park location, continuing to pursue legislative relief from the cash funding burden, developing a “shared” operation of a race meet between the kennel operators and the association and undertaking a dialogue between all sectors of the racing industry, including the regulators, in an attempt to develop constructive and realistic approaches for perpetuating live racing in Colorado. The industry recognized that the welfare of the greyhounds could be seriously compromised and intervention and remedies would need to be found in order to prevent the animals from suffering. Also, financial assistance would need to be arranged for those kennel operators who would be either marginalized or completely forced out of racing.

Mr. Hartman observed that, for the past three years, the Division, with the support of the Department of Revenue, has sponsored legislative initiatives to redress the cash funding crisis, but has been unsuccessful in having any of them enacted. He expressed his hope that the entire industry will work cooperatively and constructively to affect the necessary legislative changes to save the racing industry. Mr. Hartman stated that all members of the racing community have six months to make plans and decisions about what course of action to take and he urged everyone involved to communicate with each other and make every effort to seek constructive and realistic solutions to address the current situation.

The Commission implored the members of the racing community to communicate and work with the racetrack operators to develop strategies, pursue any reasonable ideas or approaches and develop additional legislative initiatives to preserve racing in Colorado. Further, the Commission recognized that it has an obligation to recognize the race date requests that are before it, but it would encourage the racetrack and kennel operators to apply whatever pressure is possible and/or necessary to compel an association to apply for the open dates. The Commission assured those present that it would look favorably upon any licensable association that would come forward and ask for race dates. Additionally, the Commission acknowledged that BLB has made a business decision based upon its position that it would not be financially desirable to conduct live racing year-round, but emphasized that everyone who is connected in any capacity to the industry, including the Division and the Commission, would be affected by a loss of racing activity. The Commission and Division agreed to facilitate dialogues and strategy sessions among all affected parties in an effort to strengthen communications and seek solutions to the variety of problems, issues and concerns raised at this meeting.

A motion was made by Commissioner Pretti, seconded by Commissioner Grant and unanimously carried to approve the following envelopes of 2008 race dates for the Northern Circuit greyhound race meets, specifically, Interstate Kennel Club, Mile High Greyhound Park and Arapahoe Park, subject to availability of funding and staffing. Approval was given to Arapahoe Park’s 2008 date request on a contingency basis subject to submission of actual race dates and upon availability of 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, 2008 and September 30, 2008, but the conditions set forth above apply to any specific dates of racing.):

INTERSTATE KENNEL CLUB  
(Commerce City)

MARCH 1 – JUNE 28, 2008  
(Saturday) (Saturday)  
(Envelope of 120 days)

MILE HIGH GREYHOUND PARK  
(Commerce City)

JUNE 30 – OCTOBER 27, 2008  
(Monday) (Monday)  
(Envelope of 120 days)

ARAPAHOE PARK  
(Unincorporated Arapahoe County)

MAY – SEPTEMBER, 2008\*

\*\* - Actual race days and exact number of days to be determined

(ALL APPROVALS GRANTED SUBJECT TO AVAILABILITY OF DIVISION FUNDING AND STAFFING)

There being no further race date requests to consider, the 2008 Race Dates Hearing was adjourned at 11:20 a.m.

Status Report – Arapahoe Park’s 2007 Live Race Meet – Robert “Duke” Mann

Mr. Robert “Duke” Mann, Horse Racing Coordinator, reported that, through Sunday, July 8, 2007, the twenty-first day of the current Arapahoe Park meet, the on-track handle of \$987,590 and the in-state handle of \$1,213,476 are higher than for the same period in 2006. However, Mr. Mann noted that the out-of-state handle of \$974,672 is lower than that for the same period last year and the total combined mutuel handle of \$2,188,148 is \$7,821 lower than for this period last year. Mr. Mann observed that the on-track attendance is slightly higher this year than last.

Mr. Mann offered a summary of activity at Arapahoe Park through June 28, 2007:

- 1,336 starts;
- thirty-six scratches;
- three catastrophic injuries, but no career-ending injuries;
- 260 blood and 243 urine samples taken; and
- 18 rulings issued with one medication violation (higher than allowable level of Phenylbutazone).

Mr. Mann stated that the Board of Stewards has been capably handling any problems when they occur.

He commented that there has been a great deal of turnover among the security personnel, necessitating considerable training.

The Commission thanked Mr. Mann and accepted his report as presented.

Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 11:25 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, August 14, 2007 in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

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DAVID LYNN HOFFMAN, CHAIRMAN

The undersigned hereby approve the foregoing Minutes.

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MARILYN ALKIRE, VICE-CHAIR

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C. DREW GRANT, MEMBER

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JACK PRETTI, MEMBER

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, August 14, 2007 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. Chairman David Lynn Hoffman called the meeting to order at 9:40 a.m.

### Members Present

David Lynn Hoffman, Chairman  
Marilyn Alkire, Vice-Chair  
Jack Pretti, Member

Commissioner Drew Grant arrived subsequent to the commencement of the meeting.

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Richard Mattson, Greyhound Racing Coordinator  
Robert "Duke" Mann, Horse Racing Coordinator  
Naomi Smith, Division Auditor  
Leland Bebee, Division Legal Assistant  
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 July 10, 2007

A motion was made by Commissioner Pretti, seconded by Commissioner Alkire and unanimously carried to approve the minutes of July 10, 2007 as submitted.

### End of Meet Report – Pueblo Kennel Association's 2007 Live Race Meet - -Richard Mattson

Mr. Richard Mattson, Greyhound Racing Coordinator, presented his end of meet report concerning the 2007 Pueblo Kennel Association race meet conducted at Mile High Greyhound Park, which commenced on February 7, 2007 and concluded on June 6, 2007 for a total envelope of 120 days with eighty-seven (87) days of live racing and eighty-seven (87) performances. Mr. Bruce Seymore, Director of Racing Operations for Mile High Racing & Entertainment, appeared on behalf of the Association.

Mr. Mattson observed that the total mutuel handle for the meet was \$11,604,407. He stated that Cloverleaf Kennel Club had traditionally conducted its live race meet during this period and, because there was such a great difference reflected in the number of live race days, performances and live races between Pueblo's meet and Cloverleaf's 2006 meet, it was not possible to provide comparable statistical data for each meet. He noted that the only figure that could be used for purposes of comparison was the amount wagered per live race. For Cloverleaf's 2006 live meet, the average handle per live race was \$11,046 and for Pueblo's 2007 meet, the figure was \$8,336.

Mr. Mattson reported that the total purses paid amounted to \$868,473, all of which was derived from out-of-state imports and the live in-state handle. He advised that nothing was added from out-of-state simulcasting per agreement between the Kennel Operators and the Association.

Mr. Mattson commented that the Division veterinary staff had found very few problems in the operation of the paddock despite the fact that there were shortages of grooms on numerous occasions throughout the meet. Mr. Mattson complimented Racing Secretary/Director of Racing Gil Romero and his staff for their cooperation and helpfulness in addressing problems and issues as they arose.

Additionally, Mr. Mattson stated that there were no problems involving security during the meet. He observed that security was adequate in the grandstand area and security personnel were present at both gates to the paddock on a regular basis. Further, he commented that no problems occurred at the kennel compound where twenty-four-hour-a-day security was provided throughout the meet. Mr. Mattson noted that the Commerce City Police made daily on-site visits to the facility.

Mr. Mattson observed that there were 1,390 official pari-mutuel races and 190 official schooling races during this meet for a total of 1,580 races run before the Pueblo Board of Judges. A total of 88 derogatory comments were issued for various infractions related to the running of the races. Further, there were 164 scratches requiring the greyhounds to school in front of the Board of Judges prior to being allowed to enter into official races. Mr. Mattson stated that there were no program cancellations this season and two "no races" during the meet, both of them due to problems with the starting box.

In his report, Mr. Mattson commented that Mr. Raul Sanchez, the Lure Operator, performed his duties very well. Mr. Mattson stated that he operated the lure in a consistent manner, keeping it at a proper distance ahead of the lead greyhound in every race.

Mr. Mattson observed that the racetrack surface remained very consistent throughout the season and that race times were normally within the range projected by management prior to the commencement of the meet. He advised that the number of injuries was down considerably for the time of the year. Mr. Mattson stated that former Commission Veterinarian Earl Carlson, DVM, had reported that the injury rate of less than one per one thousand starts was the lowest that he had witnessed during his tenure with the Division. Mr. Mattson expressed his belief that this decrease in the injury level could, in large part, be attributed to the program implemented by the Division Veterinarian(s). Mr. Mattson commented that this program requires that measurements be taken around the racetrack on the cushion depth from the inside to the outside rail. Afterward, the findings are provided to track maintenance personnel so that maintenance routines can be adjusted accordingly. On behalf of the Division, especially the veterinary staff, Mr. Mattson thanked the track maintenance staff for addressing problems as they arose and for performing their duties in an exemplary manner.

Mr. Mattson stated that, although there were no complaints received regarding the operation of the mutuel department, there was a concern regarding the number of vouchers that were left in mutuel machines. He observed that determining the true ownership of a voucher required a great deal of time and effort by Division investigators.

Mr. Mattson reported that, during the meet, ninety (90) license transactions were completed with license and fingerprint fees totaling \$2,745.00. Additionally, there were nineteen (19) citations issued for racing violations resulting in fines totaling \$875.00. He apprised the Commission that twenty (20) human drug/alcohol tests were conducted during the meet with one person refusing to take the test whereupon a fourteen (14)-day suspension was imposed. (The person did not return after the term of suspension.) Further, Mr. Mattson advised that there were two (2) positive test results. (Both individuals tested negative following their fourteen-day (14) suspensions.) Three (3) tests were performed "for cause", all results of which were negative. The Board of Judges issued two (2) rulings during the meet.

In his report, Mr. Mattson observed that American Teletimer, the provider of photo finish and official timing services, experienced very few problems during this meet. He stated that, having the Presiding Judge, who is also a very experienced photo operator, operate the photo finish camera instead of an employee of American Teletimer has continued to work very well. Mr. Mattson explained that having control of the photo

finish equipment has proved to be a great benefit to the Board of Judges in that they are able to review a photo without having to contact another individual for assistance. The Board is, thereby, able to expedite the process of making a race official.

Mr. Mattson commented that the personnel of both United Tote Company, the provider of pari-mutuel services and equipment, and International Sound, the supplier of video surveillance of the races, performed their duties in a very professional manner.

Mr. Mattson informed the Commission that there were numerous errors made in the daily racing programs. He expressed his belief that the personnel operating the print shop were unaware of how greatly racetrack patrons and racetrack employees rely upon the accuracy of the information supplied in the daily program. As an example of such errors, Mr. Mattson reported that, on numerous occasions, the schooling entries were not published in the program despite that fact that schooling was regularly conducted on Wednesdays and Saturdays. Based upon the significant impact that program errors can and do have upon the wagering public and racetrack and Division personnel, Mr. Mattson recommended that Mile High Racing & Entertainment management ensure that, in the future, the print shop staff make all necessary changes to the program, maintain a current list of racing officials and publish all entries whether as schooling races or race performances.

In response to Commissioner Alkire's query regarding the disparity between the 2007 Pueblo meet handle and the 2006 Cloverleaf live meet handle, Mr. Seymore responded that there were several contributory factors involved. He cited the differences in statistics between the two meets: 102 live race days for Cloverleaf versus 87 for Pueblo, reflecting fifteen (15) more race days for Cloverleaf than Pueblo; 139 performances versus 87 for Pueblo, reflecting fifty-two (52) more performances for Cloverleaf than Pueblo and 2,083 live races for Cloverleaf versus 1,390 for Pueblo, reflecting 693 more races for Cloverleaf than Pueblo. Further, Mr. Seymore commented that the inclement weather conditions that persisted throughout Pueblo's live racing season had had a significant negative impact on the handle and attendance figures. He stated that he is making a concerted effort to ascertain how to raise the point levels and to find out whether, by adjusting Mile High Greyhound Park's post time beginning on Labor Day, the handle and attendance could be improved. He commented that he is very disturbed by the loss of on-site customers, but noted that this is a nationwide concern and not one isolated to Colorado racetracks. Mr. Seymore noted that, with respect to patronage, it is axiomatic that horse bettors do not generally wager on greyhound races, although the reverse appears to be true.

Mr. Gary Bryan, President of the Colorado Greyhound Kennel Association, stated that he believes that Mr. Seymore has done well in increasing the simulcasting levels, but has not succeeded in promoting live racing. Mr. Seymore voiced his objection to this view, stating that he has expanded the volume of advertisements that have been broadcast this year over last, has increased the number of on-site promotions and has held a greater number of special events this year than last. He cited the upcoming Timberline Stake to be held on Saturday, August 18, 2007 at Mile High as an example of an event that has been and will continue to be regularly advertised in the media and one that will be accompanied by a variety of pre-race activities and promotions. Additionally, Mr. Seymore commented that Mile High has been distributing coupon books to visitors and has been offering free admission this season in an effort to attract patrons.

Mr. Seymore mentioned the one-hour program offered by Comcast concerning both horse and greyhound racing. He explained that the program had been instrumental in encouraging visitors to venture to a racetrack, noting that its impact on the attendance for the final day of Arapahoe Park's 2007 meet was considerable. Mr. Seymore stated that Arapahoe Park recorded the second largest crowd in its history (between 7,000 and 8,000 persons in attendance).

Mr. Seymore explained that he has been attempting to increase the out-of-state handle and hopes, by adjusting Mile High's post time to 12:30 p.m. from 1:00 p.m., to appeal to various venues on the east coast.

Mr. Mattson extended his thanks to Mr. Seymore and his staff for their cooperation throughout the meet.

A motion was thereupon made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to accept the end of meet report for Pueblo Kennel Association's 2007 live race meet as presented.

Consideration of Request to Modify Mile High Greyhound Park's Racing Schedule and Post Time – Bruce Seymore and Dan Hartman

Division Director Dan Hartman informed the Commission that he was in receipt of a formal written request from Mr. Gil Romero, Director of Racing for Mile High Racing & Entertainment, to change the number of races and the post time at Mile High Greyhound Park as of Monday, September 3, 2007 (Labor Day). Mr. Romero proposed in his letter to conduct twelve-race matinee performances on Monday, Wednesday, Thursday and Friday and a sixteen-race matinee program on Saturday with post time at 12:30 p.m. instead of the current 1:00 p.m.

Mr. Bruce Seymore, Director of Racing Operations for Mile High Racing & Entertainment, explained that the modified racing schedule and post time are similar to those that would be in effect during the upcoming Interstate Kennel Club, which is to commence in October. He reiterated his previous remarks about seeking to attract east coast simulcast venues by adjusting the post time, noting that the live on-site handle tends to decline after Labor Day.

Discussion ensued regarding the proposed amended racing schedule and post time. Mr. Dick Figurilli, representative of the National Greyhound Association, voiced his beliefs that 1) Mile High should increase the number of races to be offered on Friday; 2) that Mile High Racing & Entertainment has failed to promote its live racing product as well as it should; 3) that, in light of the closure or imminent cessation of racing at several greyhound racecourses throughout the country, Mile High should conduct as many races as possible in an effort to avert a similar result; and 4) Mile High should reflect upon the large volume of greyhounds that will be displaced because of the aforementioned closures. Mr. Seymore observed that Mile High Racing & Entertainment had been willing to host a race meet when Cloverleaf elected to forego racing, a meet that had been financially problematical and had suffered from low attendance. Mr. Seymore stated that the industry needed to realize that the popularity of greyhound racing has been steadily declining and it is doubtful that its former status could be revived whatever efforts were made to do so.

Commissioner Alkire inquired of Mr. Seymore whether he would consider adding races to the proposed racing schedule if he observed improvements in the handle and attendance figures. Mr. Seymore commented that he would be willing to entertain this possibility if increases in handle and attendance justified doing so.

A motion was thereupon made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to approve Mile High's request to modify its racing schedule and post time as presented; and, further, to delegate authority to Division Director Hartman to approve whatever changes to Mile High Greyhound Park's racing schedule would be advantageous and allow him to adjust the schedule to accommodate up to sixteen races per day on any day and to add racing programs as warranted. Mr. Hartman noted that he has actual authority to make decisions regarding changes to any given racing schedule, but believed that it was desirable for the Commission to review Mr. Romero's request and allow it to be publicly discussed. Mr. Seymore concurred with Mr. Hartman's view.

Mr. Gary Bryan, President of the Colorado Greyhound Kennel Association, commented that patrons become confused when changes are made to racing schedules.

Concerns were voiced regarding the anticipated upcoming hiatuses from greyhound racing. Mr. Bryan and Mr. Figurilli expressed their frustration that no Association has requested to race in January and February 2008 and voiced their belief

that the Kennel Operators would not return to race in Colorado unless a live meet was scheduled. The Commission stressed that it is also very concerned about the proposed cessation of racing and hopes that ways are found to address this dilemma. Mr. Figurilli referred to the volume of greyhounds that are going to be displaced if something is not done in the immediate future. He spoke again of the number of recent racetrack closures and the number of racecourses that may be closing in the near future.

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

Mr. Robert “Duke” Mann, Horse Racing Coordinator for the Division of Racing Events, advised the Commission that, on August 3, 2007, Race Review Committees had met and had conducted two hearings. One of them was in the matter of the objection of Trainer Jon Arnett to the decision of the Arapahoe Park Board of Stewards in Ruling #07-27 issued on July 22, 2007, wherein the Board had disqualified the horse “Smatris”, which ran in post position #9 in the tenth race on July 14, 2007. Mr. Mann presented the following background information relating to this matter for Commission consideration:

- 1) That on July 22, 2007, the Board of Stewards at Arapahoe Park issued Ruling #07-27, “Disqualification Based Upon Running of a Race”;
- 2) That the Board in the Disqualification Ruling disqualified the horse, “SMATRIS”, racing in the 10<sup>th</sup> Race at Arapahoe Park Racetrack on July 14, 2007 and established a new official order of the finish for the Race.
- 3) That, on July 17, 2007, Jon Arnett, trainer of “SMATRIS”, filed a Statement of Objection with respect to the Disqualification Ruling.
- 4) In response to the Objection, the Division established the Committee and set the hearing for August 3, 2007 at 1:00 p.m. at the Office of the Board of Stewards at Arapahoe Park.
- 5) The Director of the Division of Racing Events established the Committee with the following members: Robert J. (“Duke”) Mann (Horse Racing Coordinator, Division of Racing Events), Kenneth B (“Bruce”) Seymore, Director of Racing Operations for Mile Hi Racing and Entertainment, and Shannon D. Rushton (Colorado Horse-Racing Association).
- 6) Robert J. (“Duke”) Mann acted in the role of the Chairperson of the Committee.
- 7) Other interested parties present at the Committee Hearing were as follows:
  - a. Travis Wales, Jockey
  - b. Jon Arnett, Trainer
  - c. Harry Veruchi, Owner
- 8) The Division has implemented the Race Review Committee Hearing on an expedited basis, pursuant to the “Waiver of Two-week Notice Requirement”, executed by the Trainer, and in order to make it possible for the Commission to act on the Report at its August 14, 2007 Meeting.

Mr. Mann presented the following Conclusions of Law and the Recommendation of the Race Review Committee to the Commission for its review:

Conclusions of Law

1. The horse, “SMATRIS”, did not cause the foul.
2. The original order of finish is correct. The original order of finish in the race shall be the following:
  - First Place: “Smatris”, in Post Position #9
  - Second Place: “Pure Elegance”, in Post Position #11
  - Third Place: “My Honey & Spice”, in Post Position #3
  - Fourth Place: “Fastalkingchris”, in Post Position #6
  - Fifth Place: “Flashingone”, in Post Position #7
  - Sixth Place: “Frigid”, in Post Position #4
  - Seventh Place: “La Revelde”, in Post Position #10
  - Eighth Place: “Free and Sassy”, in Post Position #5
  - Ninth Place: “Jessie’s Diamond”, in Post Position #1

## Recommendation

The Race Review Committee has concluded that the Trainer's Objection has set forth a meritorious claim. Therefore, the Committee recommends that the Colorado Racing Commission overrule the Board and replace the Board's Ruling with the Committee's results, as set out in this Report.

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 Grant, seconded by Commissioner Pretti and unanimously carried to adopt the Report and Recommendation of the Race Review Committee in the matters of the horse, "Smatrix" (Case Number 07-0785).

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

The following Commission Order was issued and disseminated:

BEFORE THE COLORADO RACING COMMISSION  
STATE OF COLORADO

Case Number: 07-0771

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### **COMMISSION ORDER # 07-05**

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IN THE MATTER OF RULING NO. 07-27  
BOARD OF STEWARDS, ARAPAHOE PARK

In Re: the Horse, "SMATRIS,"  
Upon the Objection of Jon G. Arnett, Trainer, License # 201010394

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This matter came before the Colorado Racing Commission (hereafter, the "Commission") pursuant to the provisions of C.R.C.R. # 6.401 and the "Race Review Committee Policy and Procedural Directive," under exigent circumstances requiring expedited review of the Report and Recommendation of the Race Review Committee (hereafter, the "Committee").

1. On July 22, 2007, the Board of Stewards of Arapahoe Park (hereafter, the "Board") issued Ruling # 07-27, "Disqualification Based Upon Running of a Race," (hereafter the "Disqualification Ruling"), pursuant to C.R.C.R. #'s 4.228, 7.780, 7.714 and 7.718.
2. The Board in the Disqualification Ruling disqualified the horse, "SMATRIS," racing in the 9<sup>th</sup> post position in the 10<sup>th</sup> Race at Arapahoe Park Racetrack on July 14, 2007 (hereafter, the "Race"), and established a new official order of the finish for the Race.
3. On July 17, 2007, Jon G. Arnett, trainer of "SMATRIS," filed a "Statement of Objection Under C.R.C.R. 6.401" (hereafter, the "Objection") with respect to the Disqualification Ruling.

4. In response to the Objection, the Division established the Committee and set the hearing for August 3, 2007 at 2:30 P.M. at the Office of the Board of Stewards at Arapahoe Park.
5. On August 3, 2007, the Committee heard the case, deliberated, and issued to the Commission its Race Review Committee Report and Recommendation.
6. At the request of the Trainer and other interested parties, and for good cause of exigency shown, the Division implemented the Race Review Committee Hearing and the Commission review of the Committee's Report on an expedited basis.

### **Conclusions of Law**

Having considered the facts and arguments presented and having been fully advised in the premises, the Commission hereby concludes:

1. The Commission has jurisdiction over this matter under the provisions of C.R.C.R. # 6.401 and the "Race Review Committee Policy and Procedural Directive."
2. C.R.S. § 12-60-205 (1) (h) permits the Division and the Commission to act under emergency procedures due to exigent circumstances in this matter.
3. C.R.C.R. 6.401 (5) in relevant part sets substantive jurisdictional limits on the Commission's review of the Committee's report: "The race review committee and the Commission may only address the issues raised in the appeal filed."
4. Section III (J)(1) 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."
5. The Trainer's Objection has progressed through the Committee process to Commission review.
6. The Committee's obligations under the Race Review Policy and Procedure have been completed correctly, and the Commission did not need to address any questions of the Scope of the Committee's Hearing. Therefore, it is appropriate for the Commission to accept the Committee's recommendation to overrule the Board's Ruling #07-27 in this matter and make the original order of finish in the Race the Official Order of Finish.

### **Order**

The Commission hereby orders:

1. The Committee's recommendation to overrule the Board's Ruling # 07-27 and make the original order of finish in the Race the Official Order of Finish is hereby adopted;
2. The Official Order of Finish in the Race shall be the following:

First Place:	"Smatrix," in Post Position # 9
Second Place:	"Pure Elegance," in Post Position # 11
Third Place:	"My Honey & Spice," in Post Position # 3
Fourth Place:	"Fastalkingchris," in Post Position # 6
Fifth Place:	"Flashingone," in Post Position # 7
Sixth Place:	"Frigid," in Post Position # 4
Seventh Place:	"La Revelde," in Post Position # 10
Eighth Place:	"Free and Sassy," in Post Position # 5
Ninth Place:	"Jessie's Diamond," in Post Position # 1

3. This action constitutes the final action of the Division of Racing Events on this matter.
4. The Race Review Committee established for this matter is hereby discharged and released of all further obligations regarding this matter.

DONE this 14<sup>th</sup> day of August, 2007.

**FOR, AND BY ORDER OF,  
THE COLORADO RACING COMMISSION**  
s/\_\_\_\_\_  
**DANIEL J. HARTMAN, DIRECTOR**  
**COLORADO DIVISION OF RACING EVENTS**

Continuance of "Commission Review of Race Committee Recommendation to Uphold Board Ruling" and Notice – In the Matter of the Horse "Aburn Angel" – Robert "Duke" Mann

Mr. Robert "Duke" Mann, Horse Racing Coordinator, informed the Commission that, on August 10, 2007, Ms. Lora Arlene Phillips, the Trainer of the Horse, "Aburn Angel" had submitted a request for a continuance of the Review of the noted matter by the Colorado Racing Commission. After evaluating the reasons that Ms. Phillips provided to request the continuance, it was determined by Division Director Dan Hartman that a good-faith basis exists to grant the said request and, therefore, he approved the continuance for good cause. Notice was taken that the date by which the Division of Racing Events must receive the Trainer's Written Objection shall be Friday, August 31, 2007 and that the date established for the Commission's Review of this matter is hereby continued until its September 11, 2007 meeting.

The Commission took no action on this matter at this time.

Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 10:20 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, September 11, 2007 in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

\_\_\_\_\_  
DAVID LYNN HOFFMAN, CHAIRMAN

\_\_\_\_\_  
MARILYN ALKIRE, VICE-CHAIR

\_\_\_\_\_  
C. DREW GRANT, MEMBER

\_\_\_\_\_  
JACK PRETTI, MEMBER

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, September 11, 2007 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado.

Prior to the commencement of the meeting, a moment of silence was observed.

Chairman David Lynn Hoffman called the meeting to order at 9:45 a.m.

### Members Present

David Lynn Hoffman, Chairman  
Marilyn Alkire, Vice-Chair  
Drew Grant, Member  
Jack Pretti, Member

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Richard Mattson, Greyhound Racing Coordinator  
Robert "Duke" Mann, Horse Racing Coordinator  
Naomi Smith, Division Auditor  
Leland Bebee, Division Legal Assistant  
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 August 14, 2007

A motion was made by Commissioner Grant, seconded by Commissioner Pretti and unanimously carried to approve the minutes of August 14, 2007 as submitted.

### Scheduled Appeal Hearing – In the Matter of the Disqualification of the Horse "Aburn Angel"

The scheduled appeal hearing was called to order by Chairman David Lynn Hoffman at 9.47 a.m. Trainer Lora Arlene Phillips, the Appellant, was present via teleconference call, but was not represented by legal counsel. Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, appeared on behalf of Ms. Phillips. Mr. Robert "Duke" Mann represented the Division of Racing Events.

Mr. Mann and Mr. Rushton addressed the Commission regarding Ms. Phillips' written "Response to the Race Review Committee Report and Recommendation" respective to the Arapahoe Park Board of Stewards' decision in the matter of the disqualification of her horse "Aburn Angel", running in post position #6, from its original second-place finish to sixth place during the running of the ninth race on July 15, 2007.

The Commission took notice that, in Ms. Phillips' written response, it was stated by Mr. Rushton that Ms. Phillips "is requesting that the Commission reverse the Stewards decision due to the fact that Arlene [Ms. Phillips] and her Jockey's rights were not handled properly in the decision making process." Also, the Commission considered Ms. Phillips' request in her original Objection to the Board's decision, to wit, "I would also like the committee to explain why my horse was disqualified when there was no inquiring or objection filed against my horse."

Discussion ensued during which Mr. Bruce Seymore, a member of the three-person Race Review Committee, addressed the Commission. The Commission noted that those serving on this Race Review Committee were Mr. Mann, its Chairman, Mr. Seymore, who represented Arapahoe Park, and Ms. Sandy Miller, who represented the Colorado Horse-Racing Association.

Commissioner Alkire summarized the rationale for the creation of the Race Review Committee, its responsibilities and the parameters of its authority.

During the course of the discussion and deliberation, Division Director Hartman set forth possible options available to the Commission, including remanding this matter back to the Race Review Committee for further consideration. Based upon the Commission's view that Ms. Phillips' request in her original written Objection should be construed liberally in the interest of justice, a motion was made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to order this matter to be remanded to the Race Review Committee for the Committee to review the race again, including all factors that bore upon the merits of the disqualification ruling.

Additionally, the Commission responded to Ms. Phillips' concern that her horse should not have been disqualified because the Board of Stewards had not announced by separately posting a "Stewards' Inquiry" that they were extending the scope of their heightened review of the Race beyond the terms of the Jockey's Objection. The Commission ruled that Ms. Phillips had lost no procedural rights because, once an Objection is posted, the Board of Stewards are obligated to review the entire Race with heightened scrutiny.

Mr. Seymore observed that the Race Review Committee could be summoned to meet on the morning of September 12, 2007 at Arapahoe Park to conduct the subject remand hearing.

The hearing concluded at 10:40 a.m.

The above proceeding was stenographically recorded by Ms. Angela Smith, Shorthand Reporter. A tape recording of the proceeding is on file in the Lakewood office of the Division of Racing Events.

The following Order was disseminated:

BEFORE THE COLORADO RACING COMMISSION  
STATE OF COLORADO

Case Number: 07-0773

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**COMMISSION ORDER # 07-06**

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IN THE MATTER OF RULING NO. 07-28  
BOARD OF STEWARDS, ARAPAHOE PARK

In Re: the Horse, "ABURN ANGEL,"  
Upon the Objection of Lora Arlene Phillips, Trainer, License # 201010220

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This matter came before the Colorado Racing Commission (hereafter, the "Commission") pursuant to the provisions of C.R.C.R. # 6.401 and the "Race Review Committee Policy and Procedural Directive" (hereafter, the "Policy") to review both 1) the "Race Review Committee Report and Recommendation" (hereafter, the "Report") prepared by the Race Review Committee (hereafter, the "Committee") convened in this Case and 2) the "Trainer's Response to Race Review Committee Report and Recommendation (hereafter, the "Trainer's Response").

Lora Arlene Phillips (hereafter, the “Licensee”) appeared telephonically from her home in Roswell, NM. Shannon Rushton, who appeared in person, assisted the Trainer in presenting her arguments. Daniel J. Hartman, Division Director, spoke on behalf of the Division. Committee Members Robert (“Duke”) Mann, Jr., and Kenneth B. (“Bruce”) Seymore both addressed the Commission when called upon.

### **Findings of Fact**

On July 22, 2007, the Board of Stewards of Arapahoe Park (hereafter, the “Board”) issued Ruling # 07-28, “Disqualification Based Upon Running of a Race,” (hereafter the “Disqualification Ruling”), pursuant to C.R.C.R. #'s 4.228, 7.780, 7.714 and 7.718.

1. The Board in the Disqualification Ruling disqualified the horse, “ABURN ANGEL,” racing in the 6<sup>th</sup> post position in the 9<sup>th</sup> Race at Arapahoe Park Racetrack on July 15, 2007 (hereafter, the “Race”), and established a new official order of the finish for the Race.
2. On July 15, 2007, Lora Arlene Phillips, trainer of “ABURN ANGEL,” filed a “Statement of Objection Under C.R.C.R. 6.401” (hereafter, the “Objection”) with respect to the Disqualification Ruling.
3. In response to the Objection, the Division established the Committee and set the hearing for August 3, 2007 at 2:30 P.M. at the Office of the Board of Stewards at Arapahoe Park.
4. At the request of the Trainer and other interested parties, and for good cause of exigency shown, the Division implemented the Race Review Committee Hearing on an expedited basis.
5. On August 3, 2007, the Committee heard the case, deliberated, and issued to the Commission its Report.
6. As detailed in the Report, the Committee made a Scope of Hearing Decision in which it determined that it lacked jurisdiction to consider the following statement in the Objection: “I would also like the committee to explain why my horse was disqualified when there was no inquiry or objection filed against my horse.”
7. On August 27, 2007, Shannon Rushton, on behalf of the Trainer, submitted the “Trainer’s Response” to the Report, focused upon the Committee’s noted Scope of Hearing Decision.
8. The Response stated the following:
  - a. “Arlene would like the Commission to address if it is proper and right for the Board to never notify the participants of their actions. No Stewards Inquiry was ever placed on the Tote Board. No announcement was given. Only, Arlene’s horse, the # 6 was taken down and replaced.”
  - b. “This action by the Stewards was not fair and proper for not giving the participants notification of their impending actions.”
  - c. “Arlene is requesting that the Commission reverse the Stewards decision due to the fact that Arlene and her Jockey’s rights were not handled properly in the decision making process. The Board at least has to notify the participants if they are thinking about making an important decision like disqualifying horses and taking their purse money away.”
9. Immediately following the Race, Ms. Phillips’ Jockey, John E. Rochabrun, lodged an Objection against another horse for foul riding.
10. The Board publicly posted the Jockey’s Objection and proceeded to review the Race in order to ascertain the merits of the Objection.

11. At some point in its review of the Race, the Board reached the conclusion that the Jockey's Objection lacked merit, but it did not immediately announce its decision on that Objection and remove the notice of that Objection from public view.
12. The Board continued its scrutiny of and deliberation over the Race beyond the scope of the Jockey's objection.
13. The Board did not publicly post that it was conducting an Inquiry beyond the scope of the Jockey's objection.
14. The Trainer argued at the Commission review that:
  - a. The Board should have given notice that it had concluded the review pursuant to the Jockey's Objection and then should have posted a Stewards' Inquiry, thereby effecting a notice that the Board was further reviewing the Race;
  - b. A posting of the noted Steward's Inquiry notice would have provided the Trainer and other interested parties with the opportunity to comment to the Board before the Board reached its final decision on the race;
  - c. Historically, at Arapahoe Park, the Board has posted an Inquiry whenever it has noted anything in its review of the Race that requires additional scrutiny before the Board announces the official order of finish;
  - d. The Board had apparently not noted any interference issues with regard to the Race because it had not posted any Stewards' Inquiry on the Race before it received the Jockey's Objection; and,
  - e. The Board should always be confined to the scope of a jockey's (or other relevant party's) objection at the end of a race, unless it posts a Stewards' Inquiry, too.
15. The Division argued that:
  - a. Once the Board has received an objection asserting foul riding or interference, it is obligated to clear up the facts around that objection. However, nothing in the Commission Rules states that the Board must stop its examination of the race when it has found it possible to resolve the outside objection;
  - b. The Board is not expected to have blinders on with regard to other matters that it may, upon the replay of the tapes of the race, or through other relevant fact-finding, discern. In fact, it would be irresponsible for the Board to ignore any foul riding or interference it may discern. The Board is responsible to reach the correct result on the Race;
  - c. The Commission's Rules, written policies, and written procedures are silent on the matter of posting the reason why the Board is engaging in heightened scrutiny of the Race before it reaches its determination of the official order of finish. By convention, when the Board has received an objection to a race, it has publicly posted the receipt of the Objection. Likewise, when it has begun its own heightened review based upon matters about which it has become concerned in its own right, it has publicly posted that heightened review as an "Inquiry"; and,
  - d. In the current Case, or any like case, it may be the better practice for the Board to announce that it has concluded its review of an Objection and is continuing its review of the race as a Steward's Inquiry. However, neither the Rules nor any other written policies or procedures require the Board to

make such an announcement, and the absence of such an announcement does not, in any way, deprive the interested parties of due process.

### **Conclusions of Law**

Having considered the facts and arguments presented and having been fully advised in the premises, the Commission hereby concludes:

1. The Commission has jurisdiction over this matter under the provisions of C.R.C.R. # 6.401 and the “Race Review Committee Policy and Procedural Directive.”
2. The Commission additionally has jurisdiction over this matter under its authority to interpret its own Rules, policies and procedures.
3. Section III (J)(1) 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.”
4. Section III (J)(1) of the Race Review Committee Policy and Procedural Directive also requires the Commission not to discharge the Committee, but to “remand the case to the Committee to rehear the matter and issue an Amended Report and Recommendation...in the event that the Commission determines that the Committee erred on one or more Scope decisions and that those Scope decision(s) prevented appropriate race review by the Committee.”
5. The Trainer’s Objection has progressed through the Committee process to Commission review.
6. The Board of Stewards must subject an entire race to heightened scrutiny whenever it receives an Objection to any aspect of the running of the race immediately following the completion of the race.
7. The Board of Stewards does not need to make a public announcement that it is conducting a Stewards’ Inquiry in addition to the public announcement that it is responding to an Objection, in the event that the Board’s review of a race initiated by an Objection has uncovered other possible occasions of foul riding or interference in a race.
8. That the Board of Stewards did not announce that it had concluded its scrutiny of the Race based upon the Jockey’s Objection and did not post public notice of a Stewards’ Inquiry before proceeding to subject the entire Race to additional scrutiny beyond that necessary to resolve the Jockey’s Objection, is without legal consequence under the Commission’s Rules, policies, and procedures.
9. Through its interpretation of the phrase, “I would also like the committee to explain why my horse was disqualified when there was no inquiry or objection filed against my horse,” the Committee unnecessarily restricted its Scope of Hearing. The Committee was free to interpret that phrase to include all factors that bore upon the merits of the Disqualification Ruling.
10. Therefore, the Committee’s obligations under the Race Review Policy and Procedure have not been completed within the Scope of the Trainer’s Objection, as properly interpreted, and it is appropriate for the Commission to remand the Case to the Committee for further review.

## **Order**

The Commission hereby orders:

1. The Case is remanded to the Committee for additional review and deliberations according to the terms of this Ruling, and for the issuance of an Amended Report and Recommendation to the Commission.
2. The Committee shall meet as soon as possible with its original members.

DONE this 11<sup>th</sup> day of September, 2007.

**FOR, AND BY ORDER OF,  
THE COLORADO RACING COMMISSION**  
s/ \_\_\_\_\_  
**DANIEL J. HARTMAN, DIRECTOR  
COLORADO DIVISION OF RACING EVENTS**

### Consideration of Proposal to Establish Greyhound Trust Account – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that he had engaged in discussions with representatives of Mile High Racing and Entertainment, the Colorado Greyhound Kennel Association and members of the Board of Directors of Cloverleaf Greyhound Track, regarding the foreseeable problems and issues that would arise in the event of a January/February 2008 hiatus from live greyhound racing. Mr. Hartman emphasized that it is imperative that some arrangements be undertaken in the immediate future to prepare for the possibility that no racing would take place during these months. To this end, he presented a proposal from the Racing Associations that a trust account be created for the purpose of accumulating funds to provide assistance to an Association to hold a live greyhound race meet or to the greyhound racing community for essential emergency care, such as feeding and housing of their animals, in the event that no live greyhound racing is to be conducted. Thereupon, Mr. Hartman recommended that the Commission place a condition on both the current Mile High Greyhound Park license and on the pending Interstate Kennel Club renewal application stipulating that an additional one percent (1%) is to be applied to the take-out rates on all wagers and that monies earned from this addition are to be deposited in a trust account which would be administered by the Association in accordance with a plan developed by the industry and approved by the Commission. Mr. Hartman also proposed that the receipts from the signal fees from out-of-state simulcasting that have previously been split between the kennel operators and the racetrack be deposited in this account as well.

Discussion ensued regarding this proposal. Mr. Hartman explained that, at this time, the formula for distributing the funds has not yet been developed, but that he would ask for Commission approval to proceed with the creation of the subject account. Certain concerns about the growth potential of the account and usage of the funds derived from it were voiced, but the industry and racetrack representatives in attendance expressed their universal support for the concept as outlined by Mr. Hartman on behalf of the Racing Associations.

Following discussion, a motion was made by Commissioner Alkire, seconded by Commissioner Grant and unanimously carried to approve the concept of a trust account as presented by Mr. Hartman; and to authorize the creation and establishment of this account; and, further, to request that Mr. Hartman work with the representatives of Mile High Racing and Entertainment, Cloverleaf Greyhound Track, the Colorado Greyhound Kennel Association and the greyhound racing community on specific details, criteria for distribution and the development of a distribution plan.

The following Commission Order with Conditions was issued:

BEFORE THE COLORADO RACING COMMISSION  
STATE OF COLORADO

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COMMISSION ORDER WITH CONDITIONS

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IN THE MATTER OF THE RETENTION OF AN ADDITIONAL ONE PERCENT  
TAKE-OUT FROM ALL WAGERS PLACED DURING THE REMAINDER OF MILE  
HIGH GREYHOUND PARK'S 2007 RACE MEET AND INTERSTATE KENNEL  
CLUB'S UPCOMING 2007 RACE MEET

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At its September 11, 2007 meeting, the Colorado Racing Commission approved the tracks' request for creation and establishment of a trust account derived from an additional one percent (1%) of the take-out rates on all wagers placed during the current Mile High Greyhound Park race meet and on all wagers to be placed during the upcoming Interstate Kennel Club race meet, and receipts from the signal fees for out-of-state simulcasting.

The payments to be made to this trust account, which is to be administered by the Association according to a plan developed by the industry and approved by the Commission, are for the purpose of accruing funds to provide assistance to the Association to hold a live greyhound race meet or to the greyhound racing community for essential, emergency care for the health, safety and welfare of their animals during such time as no live greyhound racing is being conducted in Colorado.

DATED this 19th day of September, 2007.

FOR, AND BY ORDER OF,  
THE COLORADO RACING COMMISSION

s/

\_\_\_\_\_  
Daniel J. Hartman, Director  
Colorado Division of Racing Events

Consideration of Renewal Application for the Second Portion of Interstate Kennel Club's 2007 Live Race Meet – Richard Mattson

Mr. Richard Mattson, Greyhound Racing Coordinator, presented the renewal application for the second portion of Interstate Kennel Club's 2007 live race meet with the dates of October 6, 2007 through December 31, 2007 for a total envelope of 84 calendar days, which falls within the envelope of dates approved by the Commission at its 2007 Race Dates Hearing. The Commission took notice that Interstate's envelope excludes Thanksgiving Day (Thursday, November 22), Christmas Eve (Monday, December 24) and Christmas Day (Tuesday, December 25) and no racing is to be conducted on those dates.

Mr. Bruce Seymore, Director of Racing Operations for Mile High Racing & Entertainment, appeared on behalf of the Racing Association.

Notice was taken by the Commission that Interstate is proposing to conduct five fifteen-race matinee performances per week for a total of seventy-five (75) races per week. Mr. Mattson reported that Interstate Kennel Club has submitted the following tentative racing schedule:

Sunday – Dark  
Monday – 15-race matinee  
Tuesday – Dark  
Wednesday – 15-race matinee  
Thursday – 15-race matinee  
Friday – 15-race matinee  
Saturday – 15-race matinee

Post time for each performance is 1:00 p.m.

Mr. Mattson noted that the list of racing officials submitted with the renewal application is primarily composed of persons who have previously served in their designated positions. Mr. Mattson observed that the two exceptions are Mr. Matthew Jewett, who will serve as the Starter, and Mr. Josh Piefer, who will serve as the Brakeman, both of whom have been receiving training in these positions this season at Mile High Greyhound Park.

The Commission took notice of the following items submitted as part of the renewal application: a) Interstate's proposed purse structure and point system which have been formally accepted by the Colorado Greyhound Kennel Association, the organization representing a majority of the kennel operators at the meet, per its written notification; b) Interstate's current financial statement; c) copies of current fire inspection and health/sanitation reports for both Havana Park, Interstate's off-track wagering facility, and the Mile High Greyhound Park facility; d) copies of the proposed wagering formats and the take-out structure; e) a copy of the current liability insurance binder from Maryland/Zurich Commercial Insurance Company valid through June 1, 2008; f) copies of required service contracts; g) copies of simulcast agreements provided via a compact disc; and h) request for retention of the outs tickets until May 1, 2008.

Division Auditor Naomi Smith and Commissioner Hoffman stated that they had reviewed Interstate's most recent financial statement and had taken notice that the current ratio of assets to liabilities is low, although Mile High Racing and Entertainment appears to be profitable. Commissioner Hoffman commented that the expenses of the Association are higher than they have been in previous years. He and Ms. Smith recommended acceptance of the financial statements as submitted.

Mr. Mattson observed that Interstate would be continuing to update its roster of simulcast venues and agreements via a compact disc that would be provided at least once a month during the meet. He reported that, since receipt of the renewal application, the number of out-of-state simulcast contracts had risen from 31 to 32, but that one entity had rescinded its contract while two others had submitted theirs.

Mr. Mattson stated that the take-out rates for the various wagers would be amended to reflect the addition of one percent to each rate for the purpose of funding the projected escrow account. The new rates are as follows:

Win, Place and Show wagers	23%
Quiniela, Exacta and Daily Double	25%
All other wagers	26%

Mr. Dick Figurilli, a representative of both the Colorado Greyhound Kennel Association and the National Greyhound Association, suggested to Mr. Seymore that the Association consider implementing a forced payout every two weeks on both the Twin Tri and the Tri Super wagers. Mr. Seymore stated that he would take this matter under advisement.

Mr. Seymore advised that, during the Interstate meet, coupon books would be offered to patrons as a promotion. He observed that there would not be any major stakes races held during Interstate's meet.

Mr. Mattson informed the Commission that the recommendations made in the end of meet report for Interstate's 2006/2007 race meet had been addressed by Mile High Greyhound Park/Interstate Kennel Club management prior to the 2007 Mile High Greyhound Park meet.

Following review and discussion and after acknowledging Mr. Mattson's affirmative recommendation, a motion was made by Commissioner Grant, seconded by Commissioner Alkire and unanimously carried to grant approval of Interstate Kennel Club's renewal application for its 2007 live race meet subject to the terms and conditions set forth in the following Notice of Issuance of Meet License with Conditions:

BEFORE THE COLORADO RACING COMMISSION

STATE OF COLORADO

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NOTICE OF ISSUANCE OF MEET LICENSE WITH CONDITIONS

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IN THE MATTER OF THE ISSUANCE OF A MEET LICENSE FOR:  
INTERSTATE RACING ASSOCIATION D/B/A INTERSTATE KENNEL CLUB  
6200 DAHLIA STREET  
COMMERCE CITY, COLORADO 80022

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Pursuant to Colorado Revised Statute 12-60-505, the Colorado Racing Commission has reviewed and conducted a public meeting concerning this application for a race meet license with live racing to commence on October 6, 2007 and conclude on December 31, 2007 for an envelope of 84 calendar days. Omitted from the envelope are Thanksgiving Day, Thursday, November 22, 2007, Christmas Eve, Monday, December 24, 2007 and Christmas Day, Tuesday, December 25, 2007.

The Colorado Racing Commission finds the application to be acceptable and orders said meet license to be issued to:

Interstate Racing Association D/B/A Interstate Kennel Club  
6200 Dahlia Street  
Commerce City, Colorado 80022

with the following conditions:

1. That all race official positions be filled no later than forty-eight (48) hours prior to the commencement of the race meet and a list of said officials shall be filed with the Division of Racing Events.
2. That all employees required to be licensed make application for and receive a license before commencing employment.
3. That a maintenance routine be established and approved by the Division to ensure the consistency required for formful racing and to ensure the safety of the racing greyhounds. The Colorado Racing Commission has charged the Division of Racing Events with the duty of requiring Interstate Racing Association d/b/a Interstate Kennel Club to modify its track maintenance routine, if deemed necessary, at any time during the live race meet. Further, the Colorado Racing Commission delegates to the Division of Racing Events, without the necessity of conducting a special meeting, the authority to direct Interstate Racing Association d/b/a Interstate Kennel Club to redefine its permanently approved racing schedule by decreasing the number of races on any given program or deleting an entire performance if such maintenance routine and/or equipment fails to maintain the racetrack in a proper and consistent manner.
4. That Interstate Racing Association's d/b/a Interstate Kennel Club's requested 2007 racing schedule of fifteen-race matinee performances on Monday, Wednesday, Thursday, Friday and Saturday for a total of seventy-five (75) races per week with no racing on Tuesday and Sunday. As noted above, no racing is to be conducted on Thursday, November 22, 2007 (Thanksgiving Day), Monday, December 24, 2007 (Christmas Eve) and Tuesday, December 25, 2007 (Christmas Day), be approved subject to the following conditions:

- a) That the Division of Racing Events' staff will closely monitor Interstate Racing Association's d/b/a Interstate Kennel Club's racing operations to ensure that a sufficient number of racing greyhounds are available for any given racing performance.
  - b) That Interstate management ensure that greyhounds will have a minimum of seventy-two (72) hours between starts.
  - c) That Interstate Racing Association d/b/a Interstate Kennel Club management agrees to and will ensure that there is a forty-five minute (45) period between matinee and evening performances throughout the entire race meet.
  - d) That notice was taken that an agreement was reached, with respect to purse structure, between Interstate Racing Association d/b/a Interstate Kennel Club and the Colorado Greyhound Kennel Association, the organization representing the majority of the kennel operators scheduled to race their greyhounds at the 2007 Interstate Racing Association d/b/a Interstate Kennel Club race meet.
5. That all simulcast contracts shall be submitted no later than forty-eight (48) hours prior to the commencement of simulcasting.
  6. That the racing secretary shall verify the vaccination records of all race participants before accepting any registration papers.
  7. That a schedule shall be provided to the staff of the Division of Racing Events for regular schooling races and weigh-in times.
  8. That Interstate management shall ensure that the paddock is adequately staffed for all functions that are performed therein. The Commission determined that all grooms should be given proper guidance in the performance of their duties and be shown a training video as part of their preliminary instruction.
  9. That adequate advance notice be given to all racetrack departments regarding special events and races and the staff of the Division of Racing Events shall be notified twenty-four (24) hours in advance of any additional schooling races.
  10. That all required facility improvements deemed necessary for the protection, health and safety of the public, the Division of Racing Events' employees and the race participants shall be completed before opening.
  11. That certified fire, health/sanitation inspection reports shall be submitted to the Division no later than five (5) days after commencement of the race meet.
  12. That the requirement that there be sufficient video surveillance cameras at Interstate Racing Association d/b/a Interstate Kennel Club be continued throughout the 2007 Interstate race meet.
  13. That the Commission delegated authority to the Division Director and/or his designee to review Interstate's proposal to send its signal to out-of-state venues and approve any requests if deemed acceptable.
  14. That the following take-out percentages will be in effect during the 2007 Interstate's race meet: For Win, Place and Show – 23%; for Quiniela, Daily Double and Exacta – 25% and for all other wagers – 26%. (These take-out rates reflect the additional one percent (1%) to be retained in a trust account, which was approved by the Commission at its September 11, 2007 meeting.) Also, the Commission approved the deposit into the trust account of the receipts from the signal fees for out-of-state simulcasting.

Failure to comply with the applicable conditions prior to or during the 2007 meet may result in a fine, suspension or revocation of the meet license for Interstate Racing Association d/b/a Interstate Kennel Club.

DATED this 12th day of September, 2007.

BY ORDER OF THE COLORADO RACING COMMISSION

s/

\_\_\_\_\_  
Dan Hartman, Director, Division of Racing Events

Approval of 2008 Commission Meeting Dates

Following review of the list of proposed 2008 Commission meeting dates, a motion was made by Commissioner Pretti, seconded by Commissioner Grant and unanimously carried to continue to hold the Commission's meetings on the second Tuesday of each month.

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, October 9, 2007 in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

\_\_\_\_\_  
DAVID LYNN HOFFMAN, CHAIRMAN

\_\_\_\_\_  
MARILYN ALKIRE, VICE-CHAIR

\_\_\_\_\_  
C. DREW GRANT, MEMBER

\_\_\_\_\_  
JACK PRETTI, MEMBER

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, October 9, 2007 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. Chairman David Lynn Hoffman called the meeting to order at 9:40 a.m.

### Members Present

David Lynn Hoffman, Chairman  
Marilyn Alkire, Vice-Chair  
Drew Grant, Member  
Jack Pretti, Member

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Richard Mattson, Greyhound Racing Coordinator  
Robert "Duke" Mann, Horse Racing Coordinator  
Naomi Smith, Division Auditor  
Leland Bebee, Division Legal Assistant  
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 September 11, 2007

A motion was made by Commissioner Alkire, seconded by Commissioner Grant and unanimously carried to approve the minutes of September 11, 2007 as submitted.

### Scheduled Adjudicatory Hearing – In the Matter of Licensee JON ARNETT

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that Mr. Jon Arnett had contacted him to request a continuance of today's hearing. Mr. Hartman reported that Mr. Arnett stated in his written request for continuance that he wished to obtain a split sample of urine from the horse "Rasmussen" and would need additional time for the sampling process to be conducted and test results to be received. Mr. Hartman reported that he had granted this request for a continuance for good cause shown. Mr. Hartman added that he had instructed Mr. Arnett that he would need to have the urine sample analyzed by a laboratory approved by the Division of Racing Events. This matter will be placed on the December Commission meeting agenda.

### Consideration of Report and Recommendation of Race Review Committee – Dan Hartman/Robert "Duke" Mann

Mr. Robert "Duke" Mann, Horse Racing Coordinator, advised the Commission that, pursuant to the Commission's directive issued at its September 11, 2007 meeting, the matter of the disqualification of the horse, "Aburn Angel", that ran in post position #6 in the ninth race at Arapahoe Park on July 15, 2007, was remanded to the Race Review Committee in order for the Committee to review the race again, including all factors that bore upon the merits of the original disqualification ruling. Thereafter, the Race Review Committee met and amended its initial Report and Recommendation.

Mr. Robert "Duke" Mann, Horse Racing Coordinator, presented a brief synopsis of all actions relating to this matter and the report and findings of the Race Review Committee. He informed the Commission as follows:

- 1) That, on July 15, 2007, after running of the ninth race at Arapahoe Park, the Board of Stewards disqualified the #6 horse "Aburn Angel" from its original second-place finish to sixth place and, thus, established a new order of finish (Ruling #07-28).
- 2) That, on July 15, 2007, Ms. Arlene Phillips, the trainer of the horse, "Aburn Angel", filed an appeal of this disqualification to the Race Review Committee.
- 3) That, on August 3, 2007, the Race Review Committee heard the appeal and recommended to the Commission that the decision of the Board of Stewards be upheld.
- 4) That, on September 11, 2007, testimony was taken at the Commission meeting concerning the Race Review Committee's recommendation report and consideration was specifically focused upon the scope of the Committee's decision regarding Arlene Phillips' appeal document.
- 5) That, after the Commission accepted the testimony from the Division and the Trainer's representative, Mr. Shannon Rushton, the Commission instructed the Race Review Committee to reconvene due to the fact that the Committee had not completed its review process within the Scope of the Trainer's Objection and was free to include all factors of the appeal document and the running of the race.
- 6) Thereafter, on September 12, 2007, the original members of the Race Review Committee reconvened at Arapahoe Park's Division Offices and reviewed the race. The Committee concluded that the horse "Aburn Angel" did not cause any foul and made a recommendation to the Commission that Stewards' Ruling #07-28 be overturned and that the original order of finish for the ninth race on July 15, 2007 be established for this race.

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 Amended Race Review Committee Report and Recommendation at this time.

After taking notice that no objections or comments were made, a motion was thereupon made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to adopt the Amended Report and Recommendation of the Race Review Committee in the matter of the horse, "Aburn Angel" (Case Number 07-0773) and to replace the Board's Ruling #07-28 with the results of the Race Review Committee's remand hearing.

Mr. Mann assured the Commission that he would notify Equibase, the national statistical/information database for race results, of this modification and that he would correct the Division's records accordingly.

Ms. Angela Smith, Shorthand Reporter, recorded the above proceeding stenographically. A tape recording of the proceeding is on file in the Lakewood office of the Division of Racing Events.

The following Order was disseminated:

BEFORE THE COLORADO RACING COMMISSION

STATE OF COLORADO

Case Number: 07-0773

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**COMMISSION ORDER # 07-07**

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IN THE MATTER OF RULING NO. **07-28**  
BOARD OF STEWARDS, ARAPAHOE PARK

In Re: the Horse, "ABURN ANGEL,"  
Upon the Objection of Lora Arlene Phillips, Trainer, License # 201010220

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This matter came before the Colorado Racing Commission (hereafter, the "Commission") pursuant to the provisions of C.R.C.R. # 6.401, the "Race Review Committee Policy and Procedural Directive," and Commission Order # 07-06 (hereafter, the "Remand Order"). The Race Review Committee (hereafter, the "Committee") had submitted to the Commission for its review and action the "Amended Report and Recommendation of the Race Review Committee" (hereafter, the "Amended Report").

1. On July 22, 2007, the Board of Stewards of Arapahoe Park (hereafter, the "Board") issued Ruling # 07-28, "Disqualification Based Upon Running of a Race," (hereafter the "Disqualification Ruling"), pursuant to C.R.C.R. #'s 4.228, 7.780, 7.714 and 7.718.
2. The Board in the Disqualification Ruling disqualified the horse, "ABURN ANGEL," racing in the 6<sup>th</sup> post position in the 9<sup>th</sup> Race at Arapahoe Park Racetrack on July 15, 2007 (hereafter, the "Race"), and established a new official order of the finish for the Race.
3. On July 15, 2007, Lora Arlene Phillips, trainer of "ABURN ANGEL," filed a "Statement of Objection Under C.R.C.R. 6.401" (hereafter, the "Objection") with respect to the Disqualification Ruling.
4. In response to the Objection, the Division established the Committee and set the initial Committee hearing (hereafter, the "Initial Hearing") for August 3, 2007 at 2:30 P.M. at the Office of the Board at Arapahoe Park.
5. On August 3, 2007, the Committee heard the case, deliberated, and issued to the Commission its Race Review Committee Report and Recommendation (hereafter, the "Original Report").
6. The Division implemented the Initial Hearing before the Board, as well as the Commission review of the Original Report, on an expedited basis, pursuant to the "Waiver of Two-week Notice Requirement," executed by the Trainer.
7. On August 27, 2007, the Trainer filed the "Trainer's Response to Race Review Committee Report and Recommendation" (hereafter, the "Trainer's Original Response").
8. On September 11, 2007, the Commission reviewed both the Original Report and the Trainer's Original Response and issued the Remand Order, in which it remanded the Case to the Committee for an additional Committee Hearing (hereafter, the "Remand Hearing") according to the terms of the Remand Order.
9. Pursuant to the Remand Order, the Committee convened the Remand Hearing with the original Committee members on September 12, 2007 at approximately 8:00 A.M. The Trainer, Lora Arlene Phillips, appeared telephonically.

10. On September 12, 2007, the Committee issued the Amended Report for Commission review and action.
11. The Amended Report reveals that the Committee has reviewed the Race pursuant to the Commission's Remand Order.

### **Conclusions of Law**

Having considered the facts and arguments presented and having been fully advised in the premises, the Commission hereby concludes:

1. The Commission has jurisdiction over this matter under the provisions of C.R.C.R. # 6.401 and the "Race Review Committee Policy and Procedural Directive."
2. C.R.S. § 12-60-205 (1) (h) permits the Division and the Commission to act under emergency procedures due to exigent circumstances in this matter.
3. C.R.C.R. 6.401 (5) in relevant part sets substantive jurisdictional limits on the Commission's review of the Committee's report: "The race review committee and the Commission may only address the issues raised in the appeal filed."
4. Section III (J)(1) 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."
5. The Trainer's Objection progressed through the Committee process to Commission review of the Original Report and the Trainer's Original Response, in the first instance, and of the Amended Report, based upon the Remand Order, in the second instance.
6. The Committee has appropriately reviewed the Race pursuant to the Commission's Remand Order.
7. The Committee's obligations under the Race Review Policy and Procedure have been completed correctly, and the Commission did not need to address any further questions of the Scope of the Committee's Remand Hearing.
8. Therefore, it is appropriate for the Commission to accept the Committee's recommendations in its Amended Report, i.e., to overrule the Board's Ruling #07-28 in this matter, to make the original order of finish in the Race the Official Order of Finish in the Race, and, to declare that John Rochabrun, the Jockey for "ABURN ANGEL," was not responsible for any foul.

### **Order**

The Commission hereby orders:

1. The Committee's recommendations in the Amended Report to overrule the Board's Ruling # 07-28, to make the original order of finish in the Race the Official Order of Finish in the Race, and to declare that John Rochabrun, the Jockey for "ABURN ANGEL," was not responsible for any foul, are hereby adopted;

2. The Official Order of Finish in the Race shall be the following:

First Place: "Justin's Girl", in Post Position # 7  
Second Place: "Aburn Angel", in Post Position # 6  
Third Place: "Cool Cutie", in Post Position # 3  
Fourth Place: "Rare American", in Post Position # 5  
Fifth Place: "Baby Supreme", in Post Position # 1  
Sixth Place: "David's Pride", in Post Position # 4  
Seventh Place: "Snowbound's Bonus", in Post Position # 2

3. This action constitutes the final action of the Division of Racing Events on this matter.
4. The Race Review Committee established for this matter is hereby discharged and released of all further obligations regarding this matter.

DONE this 10<sup>th</sup> day of October, 2007.

**FOR, AND BY ORDER OF,  
THE COLORADO RACING  
COMMISSION**

s/\_\_\_\_\_

**DANIEL J. HARTMAN, DIRECTOR  
COLORADO DIVISION OF RACING  
EVENTS**

End of Meet Report – Arapahoe Park's 2007 Live Race Meet – Robert "Duke" Mann

Mr. Robert "Duke" Mann, Horse Racing Coordinator, presented his end of meet report for Arapahoe Park's 2007 live race meet, along with the following explanatory exhibits: Exhibit A-the comprehensive veterinary report for the meet compiled on a weekly basis by Commission Veterinarian Joni Smith, and Exhibit B-the comprehensive Ruling Log for the meet compiled by the Board of Stewards. Mr. Bruce Seymore, Director of Racing Operations for Mile High Racing & Entertainment, and Mr. William Powers, Plant Facilities Manager/Director of Racing at Arapahoe Park, appeared on behalf of the Association.

Mr. Mann reported that the thirty-five day Arapahoe Park meet commenced on May 26, 2007 and concluded on August 12, 2007. Notice was taken that, on Saturday, July 28, 2007, a power outage forced the cancellation of the twenty-ninth ten-race performance. These ten races were run on Monday, July 30, 2007 as a twenty-race card. Additionally, a total of sixty-six (66) days of out-of-state horse simulcasting was offered during the meet. Live horse racing along with simulcast out-of-state horse races occurred on Saturday through Monday. On Wednesday, Thursday and Friday, out-of-state horse simulcasting alone was offered throughout Colorado.

Mr. Mann reviewed various audited statistics for the 2007 live race meet, including those for out-of-state horse simulcasting, along with comparative figures for the 2006 live and simulcast meet. Mr. Mann observed that this year's total mutuel handle, including simulcasting, of \$12,055,822 represented a decrease of 8% from last year, although he explained that it was difficult to make an accurate comparison since there were thirty-nine (39) days of live racing offered in 2006. He stated that the total number of live races in 2007 was 358 and that the total number of simulcast races during the live season was 5,314. The average number of live races per day in 2007 was ten.

Mr. Mann reported the following: 1) that the 2007 on-track live handle was \$4,234,777, a decrease of 7% from the \$4,557,941 generated in 2006; 2) that the 2007 in-state live handle was \$2,091,934, down 2% from last year; 3) that the out-of-state live portion was \$2,142,843, down 11% from 2006; 4) that the on-track live handle of \$1,656,921 was up 2% from last year; 5) that the total simulcast handle was \$7,821,045 represented a decline of 8% from 2006; and 6) that the total attendance of 68,082

represented an increase of 12% from 2006 and that the average daily attendance during 2007 was 1,945.

Mr. Mann offered the following average daily handle figures for 2007: 1) the average daily handle on-track was \$47,341, an increase of 9%; 2) the average daily handle in-state was \$59,770, an increase of 8.5%; 3) the average daily out-of-state handle was \$61,224, a decrease of 1.5%; and 4) that this season's average daily total handle was \$120,994, an increase of 3.5% from 2006. Mr. William Powers attributed the improvement in these tallies to successful marketing/promotional ventures, such as publication of coupons in local newspapers and a high return on vouchers.

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

	<u>Races</u>	<u>Purses Paid</u>	<u>Fees</u>
Quarter Horse	72 (20%)	\$438,900.00	\$331,345
Thoroughbred	243 (69%)	\$1,685,700.00	\$204,167
Arabian	37 (10%)	\$230,100.00	\$27,000
Paint/Appaloosa	6 (1%)	\$32,350.00	\$41,100
Totals	<u>358</u>	<u>\$2,387,050.00</u>	<u>\$594,672</u>

In response to Commissioner Alkire's query, Mr. Tony Gasich, Vice-President of the Race Division of the Rocky Mountain Quarter Horse Association (hereafter "RMQHA", explained that the reason that the RMQHA members pay substantially higher nomination fees than the members of the Colorado Thoroughbred Association (hereafter "CTBA") is that the quarter horse association does not receive as much stakes money to supplement races as does the thoroughbred association. Mr. Gasich stated that he hopes for additional monies to be paid to the RMQHA from the Colorado Bred Stakes Program in 2008.

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>2005</u>	<u>2006</u>	<u>2007</u>
Total Starts	2918	2903	2567
Total Injuries	82	51	45
Career-ending injuries	1	1	2
Catastrophic	9	6	3

**TESTING:**

Mr. Mann commented that, for the 2007 race meet, the veterinary staff took 501 total samples from all winning and randomly selected horses from the racetrack.

**MEDICATION VIOLATIONS:**

Mr. Mann reported as follows:

There were seven (7) medication violations as reported by Industrial Laboratories during the 2007 Meet. Of these,

- Five (5) violations were of CRCR #5.312(a) concerning high Phenylbutazone levels (all trainers stipulated to the test results reported by Industrial Laboratories).

- One (1) violation was of CRCR #5.312(e) concerning the detectable level of the NSAID, Ketoprofen. None was found in the post race sample. A written warning was issued to the trainer.
- One (1) violation was of CRCR #5.301 - Unauthorized Medication. A post-race sample contained the unauthorized ARCI Class IV drug Neproxen. This case is still in the process of being administratively adjudicated.

#### **REGARDING REPORTED USE OF AUTHORIZED MEDICATION -- LASIX:**

During the 2007 race meet, the authorization and reported use of Lasix was still confusing to the practicing veterinarians, trainers and Racing Office staff. The Division veterinary staff uses two (2) forms to comply with CRC Rules for the use of Lasix, the 'Bleeder Form' and the 'Lasix List Form'. In his report, Mr. Mann asserted that he believes that confusion arises as a result of the new rules concerning Lasix that were promulgated in 2005 and, also, due to the number of new trainers licensed this year as well as new racing office personnel. The Division, through its veterinary staff and the Stewards' office, will continue to inform all parties of the use of these forms and enforce the rules regarding entering horses with Lasix and authorized use of Lasix administration.

#### **REGARDING ADMINISTRATIVE MATTERS AND DIVISION OF RACING EVENTS PERSONNEL:**

The Board of Stewards for 2007 was composed of: Senior State Steward Pat Bovenzi, Presiding State Steward Michael Pearson and Association Steward Gale Davey. The Board issued thirty-nine (39) administrative rulings. Of those rulings, twenty-two (22) rulings ordered a penalty and/or racing license suspension. Total fines for the meet amounted to \$4,950.00. Additionally, there were five (5) disqualification/replacement rulings issued (two out of the five were overturned) and eighteen (18) citations issued. Total fines for the meet amounted to \$2,050.00.

#### **REGARDING LICENSING ACTIVITY:**

The Division of Racing Events issued 584 new or renewal licenses and collected \$10,014.85 in license fees.

#### **REGARDING DRUG AND ALCOHOL TESTING:**

The Division of Racing Events performed random drug testing pursuant to CRCR Rule #3.437 during Arapahoe Park's 2007 race meet. The policy was the same as last year with a representative from the Colorado Horse-Racing Association or Arapahoe Park serving as the witness to the drawing of the names. Five lists were generated from the license validation files:

- Trainers, Assistant Trainers, Owner/Trainer
- Jockeys
- Exercise Rider, Pony Person, and Miscellaneous
- Grooms
- Racing Officials

From these five lists, one name was drawn for each of the five days, Thursday through Monday, for the five (5) different job categories. There were two (2) violations of CRCR #3.437 in the administration of the random drug-testing program. One licensee refused to submit a sample and the other tested positive. Both licensees have been restored to good standing. Also, there were three (3) violations of CRCR #3.437 – being over the limit for alcohol during the performance of their duties. One of the violations required immediate ejection pursuant to CRCR #3.436.

### **REGARDING THE RACETRACK SURFACE:**

Mr. Mann observed that Arapahoe Park resurfaced the racetrack in 2005. He reported that the Track Superintendent, Mr. Billy Byers, continued to add gypsum to the racetrack surface to maintain moisture throughout the summer. Mr. Mann also noted that, on each race day, Mr. Byers reported to the public that the racetrack cushion was three inches in depth. Mr. Mann commented that the racetrack surface was worked and watered on a consistent basis and that there were no water well issues reported during the meet.

Mr. Mann stated that, several records were broken during the 2007 season. Overall injuries were down. Although some flooding rains fell during the summer, the racetrack remained safe. No major complaints concerning the surface were reported to the racing officials or to the Division.

Mr. Mann emphasized that Arapahoe Park has an established full-time maintenance program that is performed on a regular basis and that the Track Superintendent and his staff are ensuring that weekly measurements of the cushion depth are performed and reported to Division personnel.

### **REGARDING THE RACING OFFICE:**

- Again this season, incorrect entries were a problem with far too many errors being published in the “overnight” and distributed to the horsemen. Mr. Mann reported that some of the mistakes would appear in the Official Program and, as a result, announcements had to be made. He advised that it is his understanding that the Association may purchase a new software program for horse entries and publication of the program next year. This should be helpful in making the entry process more “user-friendly” in accepting accurate entries of horses.
- 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.
- Arapahoe Park provided an office in the building for the Board of Stewards during entries. This arrangement increased the availability of the Stewards and improved their availability to the Racing Office staff and horsemen. Questions arising with reference to entries, medication and racing were answered more expeditiously than in the past.
- For the 2007 race meet, the Commission waived part of Rule #7.200, allowing Jockey Agents to enter horses. The Racing Offices needs to review the entries made by Jockey Agents scrupulously in the event that this waiver is requested for future race meets. (Mr. Mann commented that, frequently, Jockey Agents were unsure of what medications were being administered to the horses that they were entering, thus, creating considerable confusion.) Mr. Mann recommended and the Commission concurred that this rule should be brought forward during the upcoming rule review/rule-making process.
- For the 2007 race meet, the Commission waived Rules #7.232 and #7.236 concerning the uncoupling of same owner entries. Mr. Mann observed that, overall, due to the number of horses participating in racing this season, the waiver of these rules was beneficial to Arapahoe Park in that it helped to increase field sizes and, in turn, the average handle per race. Additionally, he noted that some of the large stables benefited as well. The Commission expressed its desire to have these rules made part of the rule review/rule-making packet.

### **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 their 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 their needs to the video operators in capturing the running of the race. The operators were also given the opportunity to ask questions and educate themselves concerning horse racing. On the whole, the Audio Visual crewmembers handled their duties in a capable manner and were very cooperative. Mr. Mann stated that, despite some turnover in staffing, the video camera operators performed their duties in a competent manner.

### **REGARDING ARAPAHOE PARK SECURITY:**

- **Stable Gate:** As recommended by the Commission's memorandum for Arapahoe Park's 2007 meet license issuance, the security department staffed the stable gate with two guards during the restricted access period. There were several times during the meet when the Security Director was unable to staff the gate with two guards due to licensing issues, guards failing to come to work, scheduling and communication issues. Arapahoe Park depended on security guards from Mile High Greyhound Park to fill staffing needs. Arapahoe Park closed the stable gate at 10:00 p.m. to all vehicle traffic.
- Mr. Mann explained to the Commission that Mr. Jess Mora, the Security Director at Mile High Greyhound Park, served in this capacity at Arapahoe Park. Although Mr. Mora performed his duties very ably, it was not possible for him to maintain simultaneous oversight of both racetracks and Mr. Mann urged that the Association consider hiring a single Security Director to serve at each track site during the live meets.
- The stable gate personnel handled the log-in process and departure of horses from the stable area very poorly this season. Guards checked to see if entrants had validated licenses on a sporadic basis at best. When the Security Director was on the grounds, the stable gate staff would perform their duties as assigned. However, when the Security Director was away from the grounds, the stable gate guards would sometimes ignore their duties. Mr. Mann stated that he believed that there was at least a seventy percent (70%) turnover of guards, either because they quit or were terminated. Arapahoe Park found it very difficult to hire guards as the meet neared its end.
- **Grandstand and Paddock:** No serious incidents were reported to the Division from either the grandstand or the paddock this season. However, again this year, it was a problem for the Association to maintain sufficient staffing at the paddock gate. A Division investigator was assigned to work in the paddock during live racing to ensure compliance with regulations governing the restricted area and assist in the transfer of claimed horses.
- Arapahoe County Sheriff's Office continued to provide an off-duty officer on the live race days for grandstand security. The Sheriff's Office also allowed patrol deputies to visit the barn area during the evening hours.

In summation, Mr. Mann offered the following lists of recommendations for improvements to be made prior to the 2008 Arapahoe Park live race meet:

### **RECOMMENDATIONS FOR TEST BARN MAINTENANCE:**

- That new dirt and ground rubber continue to be added to the walking surface in order to repair ruts and soften the walking surface for the horses and their handlers.
- That Arapahoe Park continues to maintain proper water drainage behind the wash rack areas.
- That Arapahoe Park makes essential repairs to the Test Barn office screen door. The screen is ripped and it allows flies and mosquitoes to enter the office area.

### **RECOMMENDATIONS FOR THE RACING OFFICE:**

- That the Racing Office ensures that only authorized persons are allowed behind the counter during the time that entries are being taken. All access to the racing office restricted area during the entry period should only be made via 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 while entries are being taken. The Racing Secretary should only allow visitors to his office by escort.
- That the Racing Office continues to maintain and post to the licensees the written schooling lists for the Starter, Paddock, Stewards and Veterinarian.
- That the Racing Secretary continues to train and supervise racing office staff in the proofing of entries, especially entries made by Jockey Agents.

### **RECOMMENDATION FOR VIDEO PATROL:**

- That the Association continues to hold a pre-meet meeting with the Board of Stewards, Arapahoe Park management and the video operators to address the needs and expectations of the Board for their race review.

### **RECOMMENDATIONS CONCERNING THE SECURITY DEPARTMENT:**

- That Arapahoe Park management reviews the Security Director position for future live racing meets. It is the Division's recommendation that this position be solely dedicated to Arapahoe Park during the live meet.
- That Arapahoe Park management strongly encourages the Security Director to accept and provide training for himself and the security staff from the Division Enforcement personnel and other sources that management deems necessary to enforce the rules and policies of the Colorado Racing Commission and to provide a safe environment for the licensees, racing animals and patrons.
- That Arapahoe Park revisits its stable gate staffing to ensure proper coverage. The Division recommends that Arapahoe Park employ a full-time supervisor who can be available as needed to oversee the stable gate in order to ensure proper coverage of this area.
- That Arapahoe Park continues 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, Mr. Bruce Seymore, Mile High Racing and Entertainment's Manager of Racing Operations, Mr. Sean Beirne, Vice-President of Simulcast Operations, and Mr. Shannon Rushton, Executive

Director of the Colorado Horse-Racing Association, as well as all of the breed organizations, for their support, assistance and cooperation during Arapahoe Park's 2007 race meet. Mr. Mann stated that, overall, Arapahoe Park's 2007 season was quite successful thanks to all concerned.

A motion was made by Commissioner Pretti, seconded by Commissioner Alkire and unanimously carried to accept the end of meet report for Arapahoe Park's 2007 live racing season as presented. The Commission complimented Mr. Mann on the comprehensiveness of his report.

#### Announcement Regarding Possibility of Live Racing in January and February 2008 – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, observed that he had engaged in consultations and discussions with representatives of the Board of Directors of Cloverleaf Greyhound Track and principals of BLB LLC (Mile High Racing and Entertainment) regarding the possibility that either association would apply to conduct live racing in January and February 2008. He reported that, although it appears that BLB LLC is on the verge of agreeing to apply to race during this time frame, the Division has not received any application for this purpose and would need to receive one no later than November 1, 2007 in order to comply with existing statutory requirements. Mr. Hartman explained that, since time is of the essence, the Division would only be able to accept an application from an existing licensed entity since it would be impossible for the Division to conduct the full-scale investigations and the requisite background checks necessitated by submission of a new race meet license application. Based upon these criteria, Mr. Hartman observed that Cloverleaf Greyhound Track, Pueblo Kennel Association or Post Time could absorb the months in question. Mr. Hartman noted that, since no other racing facility would be prepared to open for live racing in a timely enough manner, the subject race meet would need to be conducted at Mile High Greyhound Park despite the name of the license applicant. Mr. Hartman commented that the matter of license designation should be left to Mr. Seymore's discretion.

Additionally, Mr. Hartman stated that the Commission would need to create a race dates envelope for January and February 2008, since this period was exempted from the 2008 Race Dates Hearing and, thus, was not made part of the 2008 Race Dates Calendar. The Commission considered giving Mr. Hartman the option to decide what racing association would be granted a race dates envelope.

Mr. K. Bruce Seymore, Director of Racing Operations for Mile High Racing and Entertainment, requested that the Commission grant an envelope of race dates beginning January 1, 2008 through February 29, 2008 to Post Time, noting that the actual racing days have yet to be determined. He stated that he would attempt to continue negotiations with representatives of the Board of Directors of Cloverleaf Greyhound Track to conduct a live meet, although, to date, such efforts have proved to be frustrating. He encouraged the Commission to grant Mr. Hartman the ability to transfer the race dates envelope to another association if one comes forward with a request for it.

After considering these matters, a motion was made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to create an envelope of race dates from January 1, 2008 through February 29, 2008. A motion was then made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to grant the subject envelope of race dates to Post Time at this time with the proviso that Mr. Hartman is hereby given the ability at his discretion to transfer these dates to any other currently licensed entity in the State of Colorado if one comes forward to request the envelope.

#### Commencement of Rule Review Process and Time Frame for Submission of Rule Proposals – Dan Hartman

Mr. Dan Hartman, Division Director, advised the Commission that the Division of Racing Events intends to commence its annual rule review process and to schedule a rule review workshop in order to afford all interested parties the opportunity to engage in a

discussion of current and prospective rules and proposed rule amendments. He announced that a rule review workshop has been scheduled on Thursday, November 15, 2007 for the purpose of commencing the annual review of rule proposals. He invited anyone wishing to submit recommendations for rule changes, additions or deletions to provide them to him by or before Friday, November 2, 2007. He stated that proposed new rules or proposed rule changes could be submitted in very abbreviated form.

He stated that the Division would make every effort to compile a packet of rules proposed for adoption, amendment or repeal, including the previously cited rules that have been waived, for distribution at the November 13, 2007 Commission meeting. Mr. Hartman stated that he anticipates that a Rule-Making Hearing would be held in January or February 2008.

#### Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 10:30 a.m.

#### Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, November 13, 2007 in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

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DAVID LYNN HOFFMAN, CHAIRMAN

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MARILYN ALKIRE, VICE-CHAIR

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C. DREW GRANT, MEMBER

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JACK PRETTI, MEMBER

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, November 13, 2007 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. Vice-Chairman Marilyn Alkire called the meeting to order at 9:30 a.m.

### Members Present

Marilyn Alkire, Vice-Chair  
Drew Grant, Member  
Jack Pretti, Member

Commission Chairman David Lynn Hoffman was excused from the meeting.

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Richard Mattson, Greyhound Racing Coordinator  
Robert "Duke" Mann, Horse Racing Coordinator  
Leland Bebee, Division Legal Assistant  
Mark Brown, Division Enforcement Coordinator  
Marci Colton, Division Interim Auditor  
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 October 9, 2007

A motion was made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to approve the minutes of October 9, 2007 as submitted.

### Scheduled Referral Hearing – In the Matter of Licensee LORNA MORGAN

Mr. Dan Hartman, Director of the Division of Racing Events, advised the Commission that, on September 28, 2007, the Mile High Greyhound Park Board of Judges had issued Ruling #07-01 which found Ms. Loran Dean Morgan in violation of a License Stipulation and had assessed a 120-day suspension of her license. The Board included in its Ruling a Referral to the Colorado Racing Commission and, in effect, informed the Commission that the Board had concluded that Ms. Morgan's violation of the License Stipulation merited a more severe penalty than the Board could assess.

Mr. Hartman explained that Ms. Morgan had submitted an Appeal of the subject Ruling to the Division of Racing Events. The Division of Racing Events scheduled a Referral and Appeal hearing to be held at today's meeting and duly and properly notified Ms. Morgan of the date, time and location of the hearing.

Subsequent to issuance of the Notice of Referral and Appeal Hearing, the Division was made aware that Ms. Morgan had been incarcerated in the Logan County Jail in Sterling, Colorado for a period of six months and, therefore, would be unable to attend the scheduled hearing. It was further ascertained by Division personnel that Ms. Morgan would not be available to attend and participate in a hearing before the Colorado Racing Commission until its April 2008 meeting. Mr. Hartman recommended that the Commission continue the Referral and Appeal Hearing until its April 8, 2008 meeting and, additionally, continue Ms. Morgan's suspension until such time as the hearing could be conducted.

A motion was made by Commissioner Grant, seconded by Commissioner Alkire and unanimously carried to continue the Referral/Appeal Hearing in the matter of Ms. Lorna Dean Morgan until its April 8, 2008 meeting and, further, that the suspension of Ms. Morgan's license is to remain in effect until the April 2008 Commission meeting at which time the Commission will have the ability to consider this matter. No further action was taken at this time.

Ms. Angela Smith, Shorthand Reporter, recorded the above matter stenographically. A tape recording of it is on file in the Lakewood office of the Division of Racing Events.

#### Presentation of Settlement Stipulation – In the Matter of Licensee JON ARNETT

Mr. Dan Hartman, Director of the Division of Racing Events, presented three documents relating to the matter of Licensee Jon Glenn Arnett to the Commission for its review. Mr. Hartman explained that each document would require a separate action by the Commission.

Mr. Hartman tendered to the Commission for its consideration a document entitled "Motion for Expedited Review of Settlement Stipulation", the first of the three documents in question. Mr. Hartman informed the Commission that the Respondent, Jon Glenn Arnett, by means of this document, is requesting that the Commission review and act upon a proposed Settlement Stipulation at this meeting rather than at a hearing scheduled on December 11, 2007. Mr. Hartman enumerated the reasons contained in the subject document for the expedited review:

- 1) That the Respondent has freely entered into the proposed Settlement Stipulation aware of its terms and freely makes this motion in furtherance of the terms of the proposed Settlement Stipulation.
- 2) That, after the December 11, 2007 hearing was scheduled, the Respondent and the Division negotiated the terms of a possible settlement and mutually reached a proposed Settlement Stipulation to place before the Commission for its review and possible approval.
- 3) That the Settlement Stipulation includes November 21, 2007 and November 22, 2007 as specifically negotiated dates for the Respondent's license to be suspended.
- 4) That the Commission must review and approve a Settlement Stipulation before its terms can become effective.
- 5) That, if the Settlement Stipulation under its current terms is to have any chance of becoming effective, the Commission will need to review and approve it before the two designated days of the Respondent's license occur.
- 6) That the Respondent understands that, should the Commission not agree to the proposed Settlement Stipulation, the Case would still be heard on December 11, 2007.

After considering the terms and conditions set forth in the aforementioned document and after ascertaining from Division personnel that Mr. Jon Glenn Arnett did not have a history of the same or a similar violation in this or any other racing jurisdiction, a motion was made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to accept the document entitled "Motion for Expedited Review of Settlement Stipulation" in the matter of Licensee Jon Glenn Arnett, Case No. 07-0912.

Mr. Hartman observed that, after considering the costs and uncertainties of pursuing further sample testing in this matter, the Licensee and the Division of Racing Events had entered into a mutually agreeable Settlement Stipulation that was signed by Mr. Jon G. Arnett and Mr. Hartman on November 9, 2007. Mr. Hartman tendered the subject "Settlement Stipulation" to the Commission for its review with his recommendation for approval and presented the following background information relating to the Division's issuance of this document:

- On August 29, 2007, the Colorado Racing Commission provided a Notice of Hearing to Mr. Jon Glenn Arnett in which the Commission recited evidence of possible violations of certain rules of the Commission. On August 31, 2007, the Licensee responded to this Notice with a request for Split-sample independent testing, which was granted. The Division of Racing Events received the Split-sample test results on September 26, 2007.
- The findings of Industrial Laboratories the Commission's official chemist, were that the horse, "Rasmussen", trained by Mr. Jon Glenn Arnett, which ran in the eighth race on August 12, 2007 at Arapahoe Park and finished first in the Race, tested positive, both by means of blood and urine sampling, for the authorized medication Furosemide (also known as Lasix) upon which "Rasmussen" was approved to run as well as for the unauthorized medication, Naproxen, a non-steroidal anti-inflammatory drug. Further, the horse, "Rasmussen", was also found to have Phenylbutazone and its metabolite, Oxyphenbutazone, in its system. The horse, "Rasmussen" was approved to run in the race in question under the influence of Phenylbutazone and its metabolite, Oxyphenbutazone, as long as the concentration of either of these did not exceed 5 micrograms/ml. However, the Commission Veterinarian had not approved "Rasmussen" to run in the Race under the influence of more than one non-steroidal anti-inflammatory drug.
- The Pennsylvania Equine Toxicology and Research Laboratory located at West Chester University, West Chester, Pennsylvania was the Division-approved split-sample laboratory chosen by Mr. Arnett to perform the split-sample test. The Split-Sample Laboratory Report provided both qualitative and quantitative results confirming the presence of Naproxen in the Sample.
- The Division of Racing Events and the Licensee, Jon Glenn Arnett agree that the Licensee's Colorado racing license shall be suspended for a period of seven (7) days and that the Licensee shall be fined the sum of two thousand five-hundred dollars (\$2,500) based upon the presence of Naproxen, an unauthorized drug that could have altered the racing condition or the performance of the horse, "Rasmussen". Therefore, pursuant to violation of Colorado Racing Commission Rule 5.502, a redistribution of the purse respective to the Race shall be ordered and the horse, "Rasmussen" shall be declared unplaced for every purpose except pari-mutuel wagering.
- The terms of the Settlement Stipulation assert as follows:
  - With respect to the seven-day suspension of Mr. Arnett's Colorado racing license:
    - That Mr. Arnett will serve two (2) days of the seven-day suspension on November 21, 2007 and November 22, 2007 and that the five (5) remaining days of the suspension will be held in abeyance through the end of Arapahoe Park's 2008 race meet, after which time, if no horse trained by Mr. Arnett has run under any unauthorized substance in Colorado, the five (5) days will be canceled.
  - With respect to the two thousand five hundred dollar (\$2,500) fine:
    - That one thousand dollars (\$1,000) of the fine assessment is due and payable within twenty calendar days of the date of notification and that the remainder of one thousand five hundred dollars (\$1,500) shall be held in abeyance through the end of Arapahoe Park's 2008 race meet, after which time, if no horse trained by Mr. Arnett has run under any unauthorized substance in Colorado, the fine balance of one thousand five hundred dollars (\$1,500) will be canceled.

Mr. Hartman explained that Mr. Arnett, who is currently training racehorses in New Mexico, would serve the two-day suspension there. He observed that New Mexico recognizes reciprocity with other racing jurisdictions.

A motion was thereupon made by Commissioner Pretti, seconded by Commissioner Alkire and unanimously carried to accept the signed Settlement Stipulation in the matter of Licensee Jon Glenn Arnett with the provisions provided by the Division of Racing Events pertaining to Case Number 07-0912.

Mr. Hartman presented the third document entitled “Ruling #07-09; Purse Redistribution – Rasmussen” for Commission consideration, noting that, per Colorado Racing Commission Rule #5.502, the redistribution of a purse is mandatory when “. . .the chemical analysis of a sample indicates the presence of an unauthorized drug which could affect the racing condition or the performance of an animal in a race. . .” A motion was made by Commissioner Pretti, seconded by Commissioner Alkire and unanimously carried to find that, pursuant to the acceptance of the Settlement Stipulation in Case No. 07-0912, a redistribution of the purses for the eighth race on August 12, 2007 at Arapahoe Park is hereby ordered reflecting that the horse “Rasmussen” is disqualified from first place and declared unplaced.

Ms. Angela Smith, Shorthand Reporter, recorded the above matter stenographically. A tape recording of it is on file in the Lakewood office of the Division of Racing Events.

End of Meet Report –Mile High Greyhound Park’s 2007 Live Race Meet – Richard Mattson

Mr. Richard Mattson, Greyhound Racing Coordinator, presented the end of meet report for the Mile High Greyhound Park’s 2007 live racing season, which commenced on June 8, 2007 and concluded on October 5, 2007. Mr. Mattson advised that there were 86 days of live racing with 99 performances.

Mr. Mattson offered the following statistical comparisons between the 2007 and 2006 Mile High meet:

	<u>2007</u>	<u>2006</u>
Total Live Handle	\$10,656,071	\$18,522,144
Handle per Performance	\$ 107,637	\$ 153,076
Import Handle	\$ 3,650,905	\$ 6,891,778
Total In-State Handle	\$7,005,166	\$11,630,366
Live Race Days	86	87
Total Performances	99	121

Mr. Bruce Seymore, Director of Racing Operations for Mile High Racing & Entertainment, appeared on behalf of the Association.

Mr. Mattson commented in his report that the Division veterinary staff had found the overall operation of the paddock area to be acceptable and were pleased with the cooperation shown by the Association paddock personnel. However, Mr. Mattson noted that, for several performances, there were shortages of grooms, which necessitated the intervention of other racing officials. Mr. Mattson recommended that, for future meets, the Association develop a plan that will ensure that there is adequate staffing in the paddock for all performances. He complimented Racing Secretary Gilbert Romero and the staff of the Racing Department for their cooperation and helpfulness in addressing problems and issues when they arose.

Mr. Mattson stated that, on several occasions, persons who were either unlicensed or were not in possession of their license badges gained access to the backlot. This matter was brought to the attention of the Director of Security. Security reports were provided to the Division staff in a timely manner. Mr. Mattson commented that the presence of a uniformed Commerce City police officer appeared to have minimized the

occurrence of such incidents involving patrons. Mr. Mattson recommended that access to the backlot by unlicensed persons and/or licensees who are not in possession of their badges be strictly prohibited.

Mr. Mattson observed that there were a total of 1,243 races, down from the 1,810 pari-mutuel races offered in 2006. There were 199 schooling races, down from 348 in 2006. A total of 143 greyhounds were placed on the schooling list for various infractions related to the running of the races. Further, there were 112 scratches requiring the greyhounds to school in front of the Board of Judges prior to being allowed to enter into official races. Mr. Mattson stated that there was one program cancellation and two "no races" during this meet. He reported that the cancellation was due to a power outage; one of the "no races" resulted from a problem with the starting box and the other was due to interference with the running of the race caused by grooms attempting to remove a fallen greyhound from the racecourse.

He advised that the total number of injuries was down during this meet, but not to the extent that it was last year. The incidence of injuries occurred at a rate of 2.31 per 1,000 starts in 2006 compared to 3.15 per 1,000 starts this year. Mr. Mattson commented that, despite the increase in the injury level this year over last, the volume of injuries that occurred in 2007 was still lower than in years prior to 2006. He observed that the charting of the depth of the cushion has been very helpful to the track maintenance staff in determining their maintenance routine. Discussion ensued regarding possible reasons for the "spike" in the injury level with various views, opinions and arguments being voiced concerning the matter. Comments relating to this matter included, but were not limited to, the following: 1) that periodic lack of experienced maintenance personnel was contributory and problems associated with this occurred when Mr. Arthur Sweet, Track Superintendent, was away; 2) that, due to heavy rainfall, there were periods when the condition of the racing surface was inconsistent; 3) that veterinary personnel changes resulted in a lack of supervision, coordination and aggressive oversight; and 4) that lower grades of greyhounds were racing this past season at Mile High and their inexperience was reflected in a higher-than-anticipated volume of injuries. Mr. Seymore disputed some of the contentions, stating that every effort was made to ensure that the maintenance routines were adequate to address any problems with the racing surface when they arose. He commended Mr. Sweet's competency in handling all matters relating to the racing surface and advised that Mile High is in the process of cross-training employees to substitute for him on occasions when he is not available.

Mr. Hartman advised the Commission that the Division is actively seeking a full-time Veterinarian and hopes to complete the hiring process in the near future.

Additionally, Mr. Mattson stated that there were no significant problems involving the operations of either the Mutuel Department or the Totalisator System.

Mr. Mattson reported that a total of 92 license transactions were completed with fees totaling \$2,865. Additionally, there were thirteen citations issued for various racing violations resulting in fines totaling \$775.00. There were sixteen human drug/alcohol tests conducted during the meet. There was one positive test result. Also, one person refused to take the test and this was treated as a positive result. All Breathalyzer tests resulted in negative test results.

In his report, Mr. Mattson observed that International Sound continued to improve its video service. He noted that, on a few occasions, racing was delayed when a slow-motion replay of the greyhounds breaking from the starting box had to be produced.

Mr. Mattson reported that, during this meet, American Teletimer, the provider of the photo finish and official timing services, did not operate their equipment. Instead, the Presiding Judge and former employee of American Teletimer, Tom Tamura, operated the photo finish camera. Mr. Mattson advised that this arrangement has continued to work very well and it has proved to be a benefit to the Judges to have control of the photo finish equipment. The Board has been able to view the photo without having to contact another individual to highlight specific areas of the photo. The process of making a race official has thereby been expedited.

Mr. Mattson extended his thanks to Mr. Seymore and Mr. Bruce Fraser, Executive Vice-President of Operations for BLB USA, Inc., for their cooperation during this meet.

The Commission inquired whether Mr. Seymore had any views or opinions regarding the decline in the mutuel handle. Mr. Seymore stated that the problem is not isolated to Colorado, but is a matter of nationwide concern. He advised that four greyhound racecourses have ceased operations in the past twelve months. Mr. Seymore commented that, if there had been no simulcasting of races, the handle would have been worse than it was. He stated that Mile High Racing & Entertainment has attempted to generate revenue by reducing the number of races per performance, the length of a meet and the number of performances during a meet, but acknowledged that the amount of money that each kennel is receiving is being lessened.

A motion was made by Commissioner Grant, seconded by Commissioner Pretti and unanimously carried to accept the end of meet report for Mile High Greyhound Park's 2007 live race meet as presented.

#### Consideration of Proposed Modification to 2008 Race Dates Calendar – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, advised the Commission that he had been notified that Pueblo Greyhound Park intends to conduct a live race meet beginning on October 30, 2008 and continuing through December 31, 2008 with an envelope of sixty days. He stated that it would be necessary for the Commission to create a race dates envelope for the end of October and the months of November and December 2008, since this period was exempted from the 2008 Race Dates Hearing and, thus, was not made part of the 2008 Race Dates Calendar. A motion was made by Commissioner Pretti, seconded by Commissioner Alkire and unanimously carried to create an envelope of race dates from October 30, 2008 through December 31, 2008.

#### Update – Status of Race Meet License Application – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that he was in receipt of a renewal license application for Pueblo Greyhound Park to conduct a live race meet at Mile High Greyhound Park from January 1, 2008 through February 29, 2008 for an envelope of sixty days. He advised that Pueblo Greyhound Park's renewal license application hearing would be conducted at the Commission's December 11, 2007 meeting.

#### 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, introduced himself and his colleagues, Dr. Laurie Goodrich, a specialist in equine surgery and lameness, and Dr. Ashley Hill, an epidemiologist and participant in the development of a stall-side Strangles test, 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 thirty-fold to obtain grant funding for various research projects. He observed that the Commission's 2006 financial contribution of approximately \$103,500 has been applied to pilot research projects in horses at Colorado State University. Dr. Nett commented that research grant expenditures have totaled \$1,900,465 for 2007. He observed that Colorado State University's equine research projects have also benefited from funding derived from substantial endowments. Dr. Nett apprised the Commission that, this year, the following equine research projects that have benefited from funding by the Colorado Racing Commission are: 1) Advanced Age Alters Meiotic and Fertilization Competency of Oocytes in Mares (this is a continuation of work being performed at the Equine Reproduction Laboratory); 2) In vitro Model of Equine Spinal Cord Vasculature – Blood

Barrier Model to Study the pathogenesis of Equine Herpesvirus Type 1 Infections; 3) The Effect of Adenovirus Mediated Co-expression of Combined Bone Morphogenetic Protein-2 and -7 on Osteoblastic Differentiation of Equine and Human Bone Marrow-Derived Mesenchymal Stem Cells; 4) Colorado Racehorse Postmortem Evaluation Project; and 5) EHV-1 Down Modulation of Cellular Immune Responses. Dr. Nett commented that one major problem that affects the postmortem results is the difficulty in obtaining information from racetrack veterinarians. Dr. Nett expressed his appreciation to the Commission for its ongoing support of and contribution to equine research at Colorado State University.

Dr. Goodrich reported on the use of gene therapy in producing protein to improve the condition of bone and cartilage and, thereby, advancing the healing process in both humans and horses. She observed that cartilage injury in athletes is a common problem. Dr. Goodrich explained that healing focal defects remains an unsolved problem. She advised that current strategies being used to promote the development of healthy bone and cartilage aim at inducing chondrogenic pathways in repair tissue through gene therapy. Dr. Goodrich elaborated on aspects of gene therapy, such as locating the ideal vector and the ideal gene, targeting cells for gene transfer and genetically modifying joint tissues with Adeno-associated virus ("AAV").

She presented the study's hypothesis, which is that the cells of joint tissues can be genetically modified to produce elevated levels of a growth factor, insulin-like growth factor-1, using a recombinant Adeno-associated viral vector for the eventual enhancement of cartilage repair through gene therapy, along with its prospective conclusions. Dr. Goodrich expressed her hope that, within the next three to four years, gene therapy would be widely used to achieve bone and cartilage repair.

She noted that the Colorado Racing Commission grant provided important seed money that resulted in: 1) a grant submission for an National Institute of Health Mentored Clinical Scientist Development Award (K08); 2) a submission for a National Institute of Health R21 grant; and a manuscript currently being prepared for the Journal of Gene Therapy.

Dr. Ashley Hill discussed her research relating to the development of a stall-side Strangles test. She explained that Strangles (*Streptococcus equi*) is an age-old disease that continues to be a major problem for the equine industry, noting that, during 2007, there had been significant outbreaks of the disease in Florida and Kentucky. It is a bacterial infection that is highly contagious to susceptible horses, the clinical signs of which are nasal exudate, fever, lymph node swelling/abscess in head/neck region, with potential resultant complications of colic, myositis and immune-mediated disease. Dr. Hill observed that each year, 4.8% of equine operations experience an outbreak of Strangles. The transmission occurs via contact with infected nasal/abscess exudates directly or via fomites, water. As a result of this, 70-100% of naïve horses are affected in an outbreak of which 20% develop complications and 4%-10% die. She reported that, in order to control the outbreak of Strangles, it is necessary to 1) limit the exposure to horses shedding the bacteria, A) to detect new infections promptly (within two to three days) and B) to isolate infected horses; and 2) to vaccinate against the disease, although vaccination alone is not sufficient and reduces the disease by 30%-70%.

Dr. Hill stated that the goal of the subject research is to develop a rapid stall-side test to detect *Streptococcus equi* in nasal discharge or abscess material with results available in minutes, noting that the earlier a diagnosis could be made, the earlier isolation could be achieved and the less spreading would occur. She reported on the detection of the unique antigen of *Streptococcus equi*, the steps in test development and the current status of testing as well as the next steps to be undertaken (laboratory aspects and validation of the test).

Both Drs. Goodrich and Hill illustrated their comments with slide presentations.

Drs. Nett, Goodrich and Hill 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.

Announcement Regarding Scheduling of Rule Review Workshop – Dan Hartman

Mr. Dan Hartman, Division Director, announced that a rule review workshop has been scheduled on Thursday, November 15, 2007 for the purpose of commencing the annual review of rule proposals. He invited anyone wishing to participate in the rule review process to attend this discussion session, noting that a packet of rules had been compiled and was available to any interested parties. Mr. Hartman assured the Commission that he would send an electronic reminder of the date, time and location of the workshop to notice recipients.

Report on the 2007 Breeders' Cup – Robert "Duke" Mann

Mr. Robert "Duke" Mann, Division Horse Racing Coordinator, reported on his participation as a member of the investigative and security team serving at the 2007 Breeder's Cup races held at Monmouth Park (New Jersey) from October 16 through October 27, 2007. Mr. Mann explained that, due to the size and significance of the event, it was necessary for a team of twenty-two highly trained and experienced investigators with racing expertise from throughout the United States to be assembled to oversee security during the conduct of the Breeder's Cup.

Mr. Mann commented on some of the duties and responsibilities of the investigators, such as searching for and confiscating any illegal medications/drugs, accompanying veterinarians on pre-testing rounds and maintaining continuous backstretch/stall security. He noted that horses participating in the variety of Breeder's Cup races represented many countries, including but not limited to Ireland, Argentina and Spain. Additionally, Mr. Mann expressed his views concerning the catastrophic injury that occurred during the Classic.

The Commission congratulated Mr. Mann on being selected to serve at this prestigious event.

Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 11:45 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, December 11, 2007 in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

(EXCUSED)  
\_\_\_\_\_  
DAVID LYNN HOFFMAN, CHAIRMAN

\_\_\_\_\_  
MARILYN ALKIRE, VICE-CHAIR

\_\_\_\_\_  
C. DREW GRANT, MEMBER

\_\_\_\_\_  
JACK PRETTI, MEMBER

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, December 11, 2007 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. Chairman David Lynn Hoffman called the meeting to order at 9:45 a.m.

### Members Present

David Lynn Hoffman, Chairman  
Marilyn Alkire, Vice-Chair  
Charles Vail, DVM, Member

Commissioners Drew Grant and Jack Pretti were excused from the meeting.

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Richard Mattson, Greyhound Racing Coordinator  
Robert "Duke" Mann, Horse Racing Coordinator  
Leland Bebee, Division Legal Assistant  
Ashley Ulberg, Division Investigator  
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.

### Introduction of Newly Appointed Commissioner Charles Vail, DVM

Chairman David Lynn Hoffman introduced Dr. Charles Vail, who was recently appointed by Governor Ritter to serve a four-year term as Commission member through July 1, 2011. Dr. Vail, a Veterinarian with the Littleton Large Animal Clinic, offered a brief biographical sketch in which he advised that, during the summers of 1958 and 1959, he had been employed by the Colorado Racing Commission as an Assistant Veterinarian with Dr. Gene Bierhaus at the Brush and Centennial Racetracks. Dr. Vail commented that, in 1962 and 1963, he had served as the Track Veterinarian at Centennial Racetrack.

Each of the Commissioners welcomed Dr. Vail and congratulated him on his appointment.

### Report – University of Arizona Symposium on Racing – Commissioner David Lynn Hoffman

Commissioner David Lynn Hoffman reported that he and Division Director Dan Hartman had recently attended the University of Arizona Symposium on Racing held in Tucson, Arizona. Commissioner Hoffman stated that he had appreciated the opportunity to meet with regulators from other racing jurisdictions and become exposed to the various political issues impacting them. He had ascertained from these encounters that other racing jurisdictions, both in the United States and abroad, are also attempting to deal with the same problems, issues, concerns and dilemmas that are affecting Colorado racing industries, such as the preservation of integrity in racing, the ongoing development of new forms of illegal medications and substances for administration to racing animals, the proliferation of new forms of gambling, the presence of different types of gambling at racetrack venues and difficulties in regulating internet wagering. Commissioner Hoffman commented that he had been especially impressed by the review and discussion sessions pertaining to the adoption of the Model Rules and had brought copies of the rule proposals for further consideration by the Commission and Division. Commissioner Hoffman expressed his appreciation for the opportunity to attend and participate in the Symposium.

## Approval of Minutes of November 13, 2007

A motion was made by Commissioner Alkire, seconded by Commissioner Hoffman and unanimously carried to approve the minutes of November 13, 2007 as amended.

## Scheduled Referral Hearing – In the Matter of Licensee AMBER CEPRE SMITH

The scheduled referral hearing in the matter of Licensee Amber Cepre Smith was convened by Commission Chairman David Lynn Hoffman at 9:55 a.m. Ms. Smith was not present and was not represented by legal counsel. As a preliminary matter, the Commission took notice that Ms. Smith had been duly and properly notified of the hearing to be held on this date and at this time and location.

Ms. Ashley Ulberg, an Investigator for the Division of Racing Events, who was assigned responsibility for investigating this case, set forth the history of the case.

- On September 18, 2007, Ms. Ulberg reviewed Ms. Amber Cepre Smith's case file and ascertained that, on July 16, 2007, Ms. Smith, who was then employed as a Mutuel Teller at Arapahoe Park Racetrack, had wagered while on duty. Pursuant to the alleged violation of Rule #3.424 of the Colorado Racing Commission Rules, Citation #2203 was issued to Licensee Amber Cepre Smith by the Colorado Division of Racing Events on September 20, 2007.
- In Citation #2203, Ms. Smith was assessed a fine of one hundred dollars (\$100), which was due and payable within twenty (20) calendar days after the notice, i.e., on or before October 10, 2007. The citation explained that, unless a hearing was requested, the fine would be due and payable as indicated.
- On October 5, 2007, Ms. Smith left a voice mail message with Ms. Ulberg, the Division representative who had issued Citation #2203. In the message, Ms. Smith averred personal financial hardship and requested that the Division permit her to pay the fine in two separate installments of fifty dollars (\$50) apiece. On October 12, 2007, Ms. Ulberg agreed orally to permit Ms. Smith to pay an installment of fifty dollars (\$50) immediately with a second installment of fifty dollars (\$50) to be paid no later than the close of business on Friday, November 2, 2007.
- On October 16, 2007, after Ms. Smith had failed to pay the initial installment "immediately", Ms. Ulberg contacted Ms. Smith. In response to Ms. Ulberg's inquiries, Ms. Smith related that she was experiencing ongoing financial hardship due to other financial obligations and indicated that she was now uncertain when she would be able to pay the fine.
- Also, on October 16, 2007, Ms. Ulberg notified Ms. Smith, both verbally and in writing, that the Division would extend the payment date for the first installment of fifty dollars (\$50) one more time. The initial installment was made due no later than the close of business on October 22, 2007, with the second installment remaining due on November 2, 2007. Ms. Ulberg informed Ms. Smith explicitly in both oral and written communications made on October 16, 2007, that Ms. Smith had to honor the terms of this final installment payment agreement in order to avoid the legal consequences related to late payment. As of the close of business on October 22, 2007, Ms. Smith had not paid to the Division of Racing Events the initial installment of fifty dollars (\$50). By failing to pay the initial installment as agreed, Ms. Smith breached the initial payment provisions of the October 16, 2007 agreement between the Division of Racing Events and herself. Based upon the condition set forth in the Division of Racing Events' letter to Ms. Smith dated October 16, 2007, non-payment of the first installment of the agreement would constitute breach of the entire installment agreement. Therefore, the Division determined that Ms. Smith had not paid the fine within the allotted time.

- Due to Ms. Smith's failure to comply with the payment plan, the original fine of one hundred dollars (\$100) was doubled to two hundred dollars (\$200) and Ms. Smith's racing licenses were suspended for a period of up to one hundred twenty (120) days from October 24, 2007, the date of issuance of Director's Order #07-08, or until such time as the fine and penalty totaling two hundred dollars (\$200) had been paid in full.

Mr. Dan Hartman, Director of the Division of Racing Events, recommended that the current 120-day suspension of any and all licenses issued to Ms. Smith be continued until such time as Ms. Smith pays the entire fine and penalty amounts or until the end of her license term, and that, under no circumstances, is she to be considered eligible for relicensure until full restitution has been made.

Following deliberation of the Division's findings and conclusions as presented by Ms. Ulberg, a motion was made by Commissioner Alkire, seconded by Commissioner Hoffman and carried that, pursuant to Director's Order #07-08 in the matter of Ms. Amber Cepre Smith, all licenses issued to Ms. Smith by the Colorado Division of Racing Events be deemed hereby suspended until such time as the total fine/penalty assessment in the amount of two hundred dollars (\$200) has been paid in full, and, additionally, that the Division not issue any new/renewal license to Ms. Smith until the fine/penalty assessment has been paid in full.

The hearing concluded at 10:05 a.m.

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

The following Commission Order was disseminated:

BEFORE THE COLORADO RACING COMMISSION  
STATE OF COLORADO

Case Number: RAC 07-0937

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**COMMISSION ORDER # 07-10**

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IN THE MATTER OF:

AMBER CEPRE SMITH

License Types: Groom; Mutuel Employee  
License Number: 200813611; 201010309

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This matter came on for hearing on December 11, 2007 before the Colorado Racing Commission (hereafter, the "Commission"), as a referral from the Division of Racing Events (hereafter, the "Division") under the provisions of C.R.C.R. # 6.700.

The referral arose out of the "Director's Order # 07-08 and Notice of Hearing" (hereafter, the "Director's Order") issued by the Director of the Division (hereafter, the "Director") to the Licensee, AMBER CEPRE SMITH (hereafter, the "Licensee"), on October 24, 2007. The Licensee did not appear. Ashley D. Ulberg, Investigator, reviewed the Case on behalf of the Division. Daniel J. Hartman, Director, responded to questions from the Commission. The Commission had the Director's Order before it.

**Findings of Relevant Facts**

1. On September 20, 2007, the Division of Racing Events (hereafter, the "Division") issued citation # 2203 (hereafter, the "Citation") to the Licensee, Amber Cepre Smith (hereafter, the "Licensee").

2. The Citation was mailed to the Licensee on September 20, 2007, by first-class mail, postage prepaid to the Licensee's address in the Division's electronic system, i.e., 4375 Jericho St., Denver, Colorado 80249.
3. The United States Postal Service did not return the Citation to the Division as undeliverable.
4. The Citation alleged a violation on July 16, 2007, of Commission Rule # 3.424 by the Licensee, a mutual department employee at the time.
5. The Citation contains the following language: "Failure to pay the scheduled fine or request a hearing within 10 days will result in the fine automatically being doubled and the Licensee being suspended until the fine is paid."
6. By the close of business on October 1, 2007, the Licensee had not requested a hearing on the Citation.
7. The Citation fined the Licensee one hundred dollars (\$100.00), due and payable within twenty (20) calendar days after the notice, i.e., on or before October 10, 2007.
8. The Licensee called the Division on October 5, 2007 and, citing financial hardship, requested a payment arrangement to satisfy the fine. Subsequently, the Licensee and the Division mutually agreed upon a payment plan with fixed dates for partial payments to satisfy the Licensee's obligation to pay the fine.
9. As of October 24, 2007, the Licensee had not paid any portion of the one hundred dollar (\$100.00) fine assessed in the Citation, in violation of the payment plan.
10. On October 24, 2007, the Division issued the Director's Order to the Licensee.
11. On October 25, 2007, the Division mailed the Director's Order by first-class mail, postage prepaid, to the Licensee at the Licensee's address in the Division's electronic system, i.e., 4375 Jericho St., Denver, Colorado 80249.
12. The United States Postal Service did not return the Director's Order to the Division as undeliverable.
13. The Director's Order did each of the following in response to the Licensee's failure to pay the Citation's fine according to the payment schedule as memorialized in the Division's letter to the Licensee dated October 16, 2007:
  - a. assessed a penalty of one hundred dollars (\$100.00), bringing the total for the fine and the penalty to two hundred dollars (\$200.00);
  - b. suspended both of the racing licenses of the Licensee "for the lesser of either 120 days from the date of this Order or until the fine and penalty totaling two-hundred dollars (\$200.00) has been paid in full"; and,
  - c. referred the Case to the Commission "for a hearing to consider possible additional disciplinary action, unless by no later than the date and time of the hearing the fine and penalty totaling two hundred dollars (\$200.00) has been paid in full...."
14. As of the date and time of the Commission Hearing, the Licensee had not paid any portion of the two hundred dollar (\$200.00) total fine and penalty assessed in the Director's Order and had not made a request to continue the Commission Hearing.

## **Conclusions of Law**

Having considered the facts and arguments presented and having been fully advised in the premises, the Commission hereby concludes:

1. The Commission has jurisdiction over the Licensee because the Licensee is licensed by the Commission at the time of this Order, and was licensed by the Commission at all times relevant to the Case.
2. The Commission exercised its authority to hear the Case under the provisions of C.R.C.R. # 6.700.
3. The Commission afforded the Licensee timely and proper notice of the Hearing before the Commission.
4. In its issuing of both Citation # 2203 and the "Director's Order # 07-08 and Notice of Hearing," the Division complied with applicable Rules, policies, and procedures, including the required efforts to provide advance notice to the Licensee of all proceedings.
5. The Division's determination in "Director's Order # 07-08 and Notice of Hearing," to enlarge the Citation's fine with an equivalent additional penalty, to suspend each of the Licensee's licenses, and to refer the Case to the Commission, were each appropriate actions under the circumstances.
6. C.R.C.R. #6.700 permits the Commission to evaluate a referred Case when a Licensee "fails to pay a fine and/or a penalty within the time required," and to take additional disciplinary action, "including denial, suspension or revocation of a license, and/or exclusion of a licensee," as appropriate under the circumstances.
7. As of the date of this Order, the Licensee owes the total of the fine (\$100.00) and the total of the penalty (\$100.00), for a grand total of \$200.00, and her licenses remain suspended, pending the Commission's review and further determination.
8. It is appropriate, under the circumstances, for the Commission to uphold the established fine, penalty, and suspensions, and to take additional action.

## **Order**

The Commission hereby orders:

1. Citation # 2203 is upheld.
2. "Director's Order # 07-08 and Notice of Hearing" is upheld.
3. The Licensee's licenses shall remain suspended until the Licensee has paid the fine established in Citation # 2203 (i.e., one hundred dollars (\$100.00)) together with the penalty assessed in "Director's Order # 07-08 and Notice of Hearing" (i.e., one hundred dollars (\$100.00)) for a total of fine and penalty of two hundred dollars (\$200.00).
4. In the event that either or both of the Licensee's licenses should expire before the Licensee has made full payment of the fine and penalty amounts, the Division shall not permit the Licensee to reapply for a racing license of any kind in Colorado until such time as the foregoing fine and penalty shall have been paid in full.

DONE this 14<sup>th</sup> day of December 2007.

FOR, AND BY ORDER OF,  
THE COLORADO RACING COMMISSION

s/

\_\_\_\_\_  
DANIEL J. HARTMAN, Director  
Colorado Division of Racing Events

Consideration of Request to Schedule Formal Rule-Making Hearing – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, requested that the Commission proceed with the scheduling of its annual Rule-Making Hearing. He advised the Commission that the Division of Racing Events has prepared 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 anticipates receipt of additional rules for incorporation into this packet. Mr. Hartman stated that copies of this material would be available in the near future via electronic messaging for those on the agenda mailing list and in printed form for distribution at the January Commission meeting. Mr. Hartman also reported that rule review workshops had been conducted in accordance with standard procedure at which interested parties had been afforded an opportunity to review and discuss rule proposals and present additional rules for consideration.

Mr. Hartman stated that any additional rule proposals must be submitted to the Division of Racing Events no later than Friday, December 21, 2007.

Based upon Mr. Hartman's request, a motion was made by Commissioner Hoffman, seconded by Commissioner Alkire and unanimously carried to direct the Division to schedule a formal Rule-Making Hearing during the Commission's February 12, 2008 meeting, which will be held in Conference Room 110 (Gaming Conference Room) at 1881 Pierce Street, Lakewood, Colorado.

Budget Presentation – Overview of Fiscal Year 2008 and Fiscal Year 2009 Request – Debbie Allen

Mr. Dan Hartman, Director of the Division of Racing Events, introduced Ms. Debbie Allen, Budget Analyst for the Division of Racing Events, to the Commission. Ms. Allen explained to the Commission that the annual budget preparation for State agencies begins approximately one year prior to the effective date of the budget. She stated that during this phase, the budget is developed based upon a particular agency's assumptions about its fiscal needs and usage levels.

Ms. Allen provided a slide overview depicting the Division of Racing Events' Fiscal Year 2008 appropriation breakout and its Fiscal Year 2009 request, including the following budget line items: personal services, (health, life and dental benefits, short term disability), operating expenses, laboratory services, Commission meeting costs, legal services, vehicle costs, racetrack applications and purses and breeders awards. Ms. Allen also reported on the direct and indirect costs that the Division of Racing Events is assessed to support State government operations, noting that these expenditures do not have to be reflected in appropriations.

A motion was made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried to approve the budget for Fiscal Year 2008 and the budget request for Fiscal Year 2009 as presented.

The Commission thanked Ms. Allen for the informative presentation.

Mr. Hartman responded to a query regarding the Division's laboratory services contract with Industrial Laboratories. He stated that the State Legislature specifies the amount of the allocation for laboratory testing and no adjustments to it could be made without legislative authorization. Mr. Hartman assured the Commission that he believes

the volume of sample testing performed by the Division at this time is adequate, noting that, each year, the Division expends most of its laboratory services allotment.

Additionally, Mr. Hartman commented that he has been consulting with representatives of Industrial Laboratories regarding some proposed modifications to existing sampling protocols. Mr. Hartman informed the Commission that, as a result of these discussions, an Executive Session would need to be conducted in order to consider some adjustments to sample testing regimes and sample preservation methods prior to the commencement of Arapahoe Park's 2008 live race meet.

#### Consideration of Renewal License Application – Pueblo Greyhound Racing at Mile High – Richard Mattson

Mr. Richard Mattson, Greyhound Racing Coordinator for the Division of Racing Events, who was primarily responsible for reviewing the race meet license application for the Pueblo Greyhound Racing meet to be conducted at Mile High Greyhound Park, presented his report to the Commission. Mr. Mattson observed that the Pueblo Greyhound Racing meet is scheduled to commence on Tuesday, January 1, 2008 and conclude on Friday, February 29, 2008, for a total envelope of 60 calendar days.

Mr. Bruce Seymore, Director of Racing Operations for Mile High Racing & Entertainment, appeared on behalf of the Racing Association. Mr. Seymore requested that the Commission consider granting the entire complement of 120 days of live racing for Pueblo Greyhound Racing, including the period of October 30, 2008 through December 31, 2008. Based upon Mr. Hartman's recommendation, a motion was made by Commissioner Alkire, seconded by Commissioner Hoffman and unanimously carried to approve the second portion of Pueblo Greyhound Racing's live race meet on a tentative basis with the understanding that, prior to the commencement of this meet, there will be a review of Pueblo Greyhound Racing's updated renewal application in order to confirm that the liability insurance policy has been renewed, to verify the racing envelope and racing schedule, to review the marketing plan and to make any modifications as may be deemed necessary. This matter will be placed on the Commission's October meeting agenda.

The Commission took notice that Pueblo's meet January 1, 2008 through February 29, 2008 meet includes five race days per week with 15 races per performance totaling 75 races per week.

Mr. Mattson reported that Pueblo Greyhound Racing's proposed racing schedule is as follows:

Sunday – Dark  
Monday – 15-race matinee  
Tuesday – Dark (with the exception of a 15-race matinee on New Year's Day)  
Wednesday – 15-race matinee  
Thursday – 15-race matinee  
Friday – 15-race matinee  
Saturday – 15-race matinee

Post time for all performances is to be 1:00 p.m.

Mr. Mattson noted that the list of racing officials for the upcoming Pueblo meet remains unchanged from the list submitted for the current Interstate Kennel Club meet.

The Commission took notice that the following documents were submitted as part of the renewal license application packet: a) copies of the most recent health/sanitation inspection reports; b) a copy of the fire inspection report; c) copies of the proposed wagering formats, purse structure and take-out structure; d) copies of required service contracts; e) copies of nineteen simulcast agreements with ten yet to be received. (Mr. Mattson observed that Pueblo would be continuing to update its roster of simulcast venues and agreements); f) a copy of the signed agreement between Pueblo Greyhound Racing and the Colorado Greyhound Kennel Association relating to the point structure;

and g) a copy of the liability insurance binder set to expire on June 1, 2008; and h) a request for retention of the outs tickets until one hundred sixty (160) days after the close of the meet.

Mr. Mattson advised the Commission that Pueblo had not been requested to provide an updated financial statement with this application. Commissioner Hoffman explained that he had reviewed the most recent consolidated financial statement submitted for the current Interstate Kennel Club meet and had found it to be acceptable. The Commission took notice that the marketing plan for Pueblo's meet is in the process of being reviewed and will be discussed at an upcoming meeting. Commissioner Hoffman observed that the proposed marketing plan includes some creative approaches to promoting and publicizing the race meet.

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that he had engaged in conversations with Mr. Jeff True, President of United Totalisator Company, regarding an imminent relocation of the hub from the Mile High Greyhound Park facility to an unspecified out-of-state location. Mr. Hartman assured the Commission that the Division would carefully monitor the status of this change. Mr. Hartman stated that he did not anticipate that any serious problems would occur as long as the totalisator system remained in full compliance with the Division's Totalisator Standards and all conditions set forth in the Colorado Racing Commission Rules.

The Commission commended BLB LLC and Mile High Racing and Entertainment for their willingness to conduct the upcoming Pueblo meet.

Following review and discussion and after acknowledging Mr. Mattson's affirmative recommendation, a motion was made by Commissioner Alkire, seconded by Commissioner Hoffman and unanimously carried to grant approval of Pueblo Greyhound Racing's renewal license application for a live race meet to be conducted at Mile High Greyhound Park from January 1, 2008 through February 29, 2008 subject to the terms and conditions set forth in the following Notice of Issuance of Meet License with Conditions:

BEFORE THE COLORADO RACING COMMISSION

STATE OF COLORADO

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NOTICE OF ISSUANCE OF MEET LICENSE WITH CONDITIONS

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IN THE MATTER OF THE ISSUANCE OF A MEET LICENSE FOR:  
PUEBLO GREYHOUND RACING at MILE HIGH  
6200 DAHLIA STREET  
COMMERCE CITY, COLORADO 80022

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Pursuant to Colorado Revised Statute 12-60-505, the Colorado Racing Commission has reviewed and conducted a public meeting concerning this application for a race meet license. The Commission approved Pueblo's request to commence its first 2008 live race meet on January 1, 2008 and conclude it on February 29, 2008 for an envelope of 60 calendar days and gave tentative approval for Pueblo to commence its second live meet on October 30, 2008 and conclude it on December 31, 2008 for an envelope of 60 calendar days.

The Colorado Racing Commission finds the application to be acceptable and orders said meet license to be issued to:

Pueblo Greyhound Racing at Mile High  
6200 Dahlia Street  
Commerce City, Colorado 80022

with the following conditions:

1. That all race official positions be filled no later than forty-eight (48) hours prior to the commencement of the race meet and a list of said officials shall be filed with the Division of Racing Events.
2. That all employees required to be licensed make application for and receive a license before commencing employment.
3. That a maintenance routine be established and approved by the Division to ensure the consistency required for formful racing and to ensure the safety of the racing greyhounds. The Colorado Racing Commission has charged the Division of Racing Events with the duty of requiring Pueblo Greyhound Racing to modify its track maintenance routine, if deemed necessary, at any time during the live race meet. Further, the Colorado Racing Commission delegates to the Division of Racing Events, without the necessity of conducting a special meeting, the authority to direct Pueblo Greyhound Racing to redefine its permanently approved racing schedule by decreasing the number of races on any given program or deleting an entire performance if such maintenance routine and/or equipment fails to maintain the racetrack in a proper and consistent manner.
4. That Pueblo Greyhound Racing's requested 2008 racing schedule of fifteen-race matinee performances on Monday, Wednesday, Thursday, Friday and Saturday for a total of 75 races per week with no racing on Sunday and Tuesday, with the exception of a fifteen-race matinee on Tuesday, January 1, 2008 (New Year's Day), and the exemption of Thursday, November 27, 2008 (Thanksgiving Day), Wednesday, December 24, 2008 (Christmas Eve) and Thursday, December 25, 2008 (Christmas Day), which were excluded from the racing schedule, be approved subject to the following conditions:
  - a) That the Division of Racing Events' staff will closely monitor Pueblo Greyhound Racing's racing operations to ensure that a sufficient number of racing greyhounds are available for any given racing performance.
  - b) That Pueblo's management ensure that greyhounds will have a minimum of seventy-two (72) hours between starts.
  - c) That, in the event of ongoing shortages of active greyhounds, the Commission delegates to the Division of Racing Events, without the necessity of conducting a special meeting, the authority to direct Pueblo Greyhound Racing to redefine its permanently approved racing schedule by either decreasing the number of races on any given program or deleting an entire performance.
  - d) That Pueblo Greyhound Racing management agrees to and will ensure that there is a forty-five minute (45) period between matinee and evening performances should Pueblo decide to add doubleheaders to their schedule during the race meet.
  - e) That notice was taken that an agreement was reached, with respect to purse structure, between Pueblo Greyhound Racing and the Colorado Greyhound Kennel Association, the organization representing the majority of the kennel operators scheduled to race their greyhounds at the 2008 Pueblo Greyhound Racing race meet.
5. That all simulcast contracts shall be submitted no later than forty-eight (48) hours prior to the commencement of simulcasting.
6. That the racing secretary shall verify the vaccination records of all race participants before accepting any registration papers.

7. That a schedule shall be provided to the staff of the Division of Racing Events for regular schooling races and weigh-in times.
8. That Pueblo's management shall ensure that the paddock is adequately staffed for all functions that are performed therein. The Commission determined that all grooms should be given proper guidance in the performance of their duties and be shown a training video as part of their preliminary instruction.
9. That adequate advance notice be given to all racetrack departments regarding special events and races and the staff of the Division of Racing Events shall be notified twenty-four (24) hours in advance of any additional schooling races.
10. That all required facility improvements deemed necessary for the protection, health and safety of the public, the Division of Racing Events' employees and the race participants shall be completed before opening.
11. That current certified fire, health/sanitation inspection reports were submitted to the Division as required.
12. That the requirement that there be sufficient video surveillance cameras at Pueblo Greyhound Racing be continued throughout the 2008 Pueblo race meet.
13. That the Commission delegated authority to the Division Director and/or his designee to review Pueblo's proposal to send its signal to out-of-state venues and approve any requests if deemed acceptable.
14. That the following take-out percentages will be in effect during the 2008 Pueblo's race meet: For Win, Place and Show – 22.0%; for Quiniela, Daily Double and Exacta – 24.0%, and for all other wagers (Twin-Trifecta, Tri-Super, Quiniela Double, Trifecta, Superfecta) – 25.0%.
15. That the Division is to be apprised of all matters relating to the relocation of the hub to an out-of-state site. The Division will monitor and be able to make all necessary tests and verification checks to ensure full compliance with all conditions set forth in the Division's Totalisator Standards and the Colorado Racing Commission Rules.
16. That, pursuant to its tentative approval of the second live race meet, the Commission directed that, at its October 2008 meeting, there be a review of Pueblo Greyhound Racing's updated renewal application in order to confirm its racing envelope, racing schedule and renewal of its liability insurance policy, to review of its marketing plan and, also, to make any necessary modifications prior to commencement of the second live race meet.

Failure to comply with the applicable conditions prior to or during the 2008 meet may result in a fine, suspension or revocation of the meet license for Pueblo Greyhound Racing.

DATED this 13th day of December, 2007.

BY ORDER OF THE COLORADO RACING COMMISSION

s/

\_\_\_\_\_  
Dan Hartman, Director, Division of Racing Events

## Consideration of Distribution of 2008 Greyhound Simulcast Dates – Dan Hartman

Mr. Dan Hartman, Manager of Racing Operations, stated that, for the 2008 calendar year, full equitable distribution of the quota of days is statutorily mandated. He explained that, for calendar year 2007, the Commission approved allotment of the entire complement of 250 simulcast days to each racetrack among the BLB/Mile High Racing & Entertainment greyhound racetracks (Interstate Kennel Club, Mile High Greyhound Park and Pueblo Greyhound Racing) for use during a live meet on weeks that meet statutory requirements.

Mr. Hartman recommended that the Commission approve the same apportionment of the entire complement of 250 simulcast days for 2008 as was granted for calendar year 2007. In this way, an equitable distribution of simulcast days among all active racetracks is assured. Mr. Hartman noted that the BLB/Mile High Racing & Entertainment racetracks would not be able to use simulcast days when no race meet is being conducted. Further, Mr. Hartman recommended that the Commission delegate authority to the Division of Racing Events the ability to approve the actual schedule of days during the season. Notice was taken that BLB/Mile High Racing & Entertainment has complied with the Commission's directive and provided its 2008 simulcast schedule to the Division.

Based upon Mr. Hartman's recommendation, a motion was made by Commissioner Alkire, seconded by Commissioner Hoffman and unanimously carried to allocate the full complement of 250 simulcast days to the active BLB/Mile High Racing & Entertainment race meets for the live seasons and, further, to delegate to the Division of Racing Events the ability to approve the actual schedule of days during the season subject to submission of each racing association's racing schedule.

## Notification of Cessation of Operations and Permanent Closure of Cloverleaf Kennel Club – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, advised the Commission that he was in receipt of formal written notification from Mr. Harry Hess, President of Cloverleaf Kennel Club, that Cloverleaf Kennel Club had ceased its simulcast operations on Monday, December 3, 2007, one year after discontinuing live greyhound racing. Mr. Hartman reported that, on Friday, December 7, 2007, Division staff members Robert "Duke" Mann and Marci Colton had assisted remaining Cloverleaf personnel in performing the final accounting reconciliations and statistical verifications as required by law. He stated that it is probable that the property will be sold for development.

The Commission expressed its regret regarding the closure of Cloverleaf Kennel Club, noting that the decision of the Board of Directors reflects the desperate state of the racing industry.

## Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 11:00 a.m.

## Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, January 8, 2008 in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

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DAVID LYNN HOFFMAN, CHAIRMAN

\_\_\_\_\_  
MARILYN ALKIRE, VICE-CHAIR

(EXCUSED)  
\_\_\_\_\_  
C. DREW GRANT, MEMBER

(EXCUSED)  
\_\_\_\_\_  
JACK PRETTI, MEMBER

\_\_\_\_\_  
CHARLES VAIL, DVM, MEMBER