

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, January 8, 2008 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
Drew Grant, Member
Jack Pretti, Member – Present via teleconference call

Commissioners Marilyn Alkire and Charles Vail, DVM, were excused from the meeting.

Staff Present

Dan Hartman, Director, Division of Racing Events
Leland BeBee, Division Legal Assistant
Ashley Ulberg, Division Investigator
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 December 11, 2007

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

Scheduled Referral Hearing – In the Matter of Licensee JOSEPH RAY STONER

Commission Chairman David Lynn Hoffman convened the scheduled referral hearing in the matter of Licensee Joseph Ray Stoner at 9:40 a.m. Mr. Stoner was not present and was not represented by legal counsel. As a preliminary matter, the Commission took notice that Mr. Stoner had been duly and properly notified of the hearing to be held on this date and at this time and location.

Mr. Dan Hartman, Director of the Division of Racing Events, apprised the Commission of the following allegations in this matter:

1. That Mr. Joseph Ray Stoner is currently under revocation in another racing jurisdiction (Arizona) pursuant to the Findings of Fact, Conclusions of Law and Order of the Director of the Department of Racing, State of Arizona, in Arizona Case No. 06A-021-DOR dated August 16, 2006.
2. That, on June 23, 2007, the Arapahoe Park Board of Stewards in Ruling No. 07-09 recognized the Arizona case and suspended the Colorado Racing licenses of Mr. Joseph Ray Stoner for the one hundred twenty day (120) limit of the Board's jurisdiction pending Mr. Stoner's restoration to good standing in Arizona.
3. That the Arizona Department of Racing has confirmed that Mr. Joseph Ray Stoner has not been restored to good standing in its jurisdiction and his racing license remains revoked under the terms of Arizona Case No. 06A-021-DOR.

Following presentation and discussion of the Findings of Fact, Conclusions of Law and Order in Arizona Case No. 06A-021-DOR, a motion was made by Commissioner Hoffman, seconded by Commissioner Grant and unanimously carried to uphold the decision of the Arapahoe Park Board of Stewards in Ruling No. 07-09; and to continue the suspension of any and all of Mr. Joseph Ray Stoner's Colorado racing license(s) until such time as he is restored to good standing in the State of Arizona; and, further, that if his Colorado racing license(s) expire(s) prior to his restoration to good standing in Arizona, he is not to be considered eligible for licensure in the State of Colorado until he has resolved any pending matters in Arizona and has been restored to good standing there.

The hearing concluded at 9:45 a.m.

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

The following Commission Order was disseminated:

**BEFORE THE COLORADO RACING COMMISSION
STATE OF COLORADO**

Case Number: 05-0320

COMMISSION ORDER # 08-01

IN THE MATTER OF:

Joseph Ray Stoner
License Type: Exercise Rider/Assistant Starter
License number: 200813135

Licensee.

This matter came on for hearing before the Colorado Racing Commission (hereafter, the "Commission") on January 8, 2008. Based upon information from the State of Arizona's Department of Racing and upon Ruling Number 07-09 of the Board of Stewards of Arapahoe Park (hereafter, the "Board"), the Division of Racing Events (hereafter, the "Division") on December 4, 2007 issued a Notice of Hearing to Joseph Ray Stoner (hereafter, the "Licensee"), invoking the Commission's jurisdiction to consider extending the suspension of the Licensee's Colorado Racing Licenses.

The Licensee did not appear. Daniel J. Hartman, Division Director, presented the Case on behalf of the Division. The Division had before it the Notice of Hearing with its attachment entitled, "Findings of Fact, Conclusions of Law, and Order" of the Director of the Department of Racing, State of Arizona, in Arizona Case No. 06A-021-DOR (hereafter, the "Arizona Case"), dated August 16, 2006.

Findings of Fact

1. The Licensee is, and, at all times relevant to this case has been, a licensee of the State of Colorado.
2. On December 5, 2007, the Division mailed by first class postage prepaid the December 4, 2007 "Notice of Hearing" to the Licensee at the last address furnished by the Licensee to the Commission as his official address, i.e., "Box 15, Mills, WY 82644."
3. The United States Postal Service did not return the December 4, 2007 "Notice of Hearing" to the Division as an undeliverable item.

4. The Licensee is currently under revocation in the State of Arizona pursuant to the Arizona Case.
5. On June 23, 2007, in Ruling Number 07-09, the Board recognized the Arizona Case and suspended the Licensee's Colorado Racing License, within the 120-day limit of the Board's jurisdiction pending the Licensee's restoration to good standing in Arizona.
6. The Licensee has not been restored to good standing in Arizona.
7. The 120-day limit of the Board's jurisdiction in Ruling Number 07-09 has been reached.

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 January 8, 2008 under the provisions of C.R.C.R. # 6.614.
4. The Licensee, Joseph Ray Stoner, 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-021-DOR.
5. The Board appropriately exercised its authority pursuant to C.R.C.R. # 3.302 to recognize and to give effect to the Arizona Case to the limits of the Board's penal jurisdiction.
6. The Commission has the authority, pursuant to C.R.C.R. # 3.302, to continue to recognize and to give effect to the Arizona Case within the Commission's penal jurisdiction.
7. It is appropriate, under the circumstances, for the Commission to uphold Board ruling # 07-09, to continue to recognize and give effect to the Arizona Case, and to extend the suspension of the Licensee's Colorado racing licenses within the Commission's penal jurisdiction.

Order

The Commission hereby unanimously orders:

1. The Licensee's Colorado racing licenses shall continue to be suspended until such time as the Licensee is restored to good standing in the State of Arizona; and,
2. In the event that the Licensee's Colorado racing licenses expire prior to the Licensee's restoration to good standing in Arizona, the Licensee shall not be considered eligible for licensure in Colorado until the Licensee has resolved any pending matters in Arizona and been restored to good standing there.

DONE this 14th day of January 2008.

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

s/

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

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

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that a formal written request had been received from Mr. Sean Beirne, Vice-President of Racing and Simulcasting for Mile High Racing & Entertainment, to amend the race dates envelope for the second portion of Pueblo Greyhound Park's 2008 live race meet in order to afford Mile High Racing & Entertainment the opportunity to continue its simulcast operations during the week that Mile High Greyhound Park's live meet concludes and Pueblo's meet commences.

Following review of the request submitted by Mr. Sean Beirne, and, after taking notice that the number of days in the racing envelope would not be affected by the alteration, a motion was made by Commissioner Grant, seconded by Commissioner Hoffman and unanimously carried to approve the following greyhound race dates for the second portion of Pueblo Greyhound Park's 2008 live race meet:

PUEBLO GREYHOUND PARK
(Commerce City)

OCTOBER 29 – NOVEMBER 24, 2008
(Wednesday) (Monday)
(Envelope of 27 days)

NOVEMBER 26, 2008
(Wednesday)
(Envelope of 1 day)

NOVEMBER 28 – DECEMBER 23, 2008
(Friday) (Tuesday)
(Envelope of 26 days)

DECEMBER 26 – DECEMBER 31, 2008*
(Friday) (Wednesday)
(Envelope of 6 days)

* - November 27 (Thanksgiving Day), December 24 (Christmas Eve) and December 25 (Christmas Day) omitted from racing envelope

Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 9:50 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, February 12, 2008 in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

DAVID LYNN HOFFMAN, CHAIRMAN

(EXCUSED)

MARILYN ALKIRE, VICE-CHAIR

C. DREW GRANT, MEMBER

(PRESENT VIA TELECONFERENCE)

JACK PRETTI, MEMBER

(EXCUSED)

CHARLES VAIL, DVM, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, February 12, 2008 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. Chairman David Lynn Hoffman called the meeting to order at 9:35 a.m.

Members Present

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

Commissioner Drew Grant 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, Enforcement Coordinator
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 Guests Matt Cook and Timothy Weber

Division Director Dan Hartman introduced Mr. Matt Cook, Director of the Enforcement Line of Business for the Department of Revenue, and Mr. Timothy Weber, Deputy Director of the Department of Revenue, to the Commission. The Commission and Mr. Hartman welcomed them and thanked them for attending today's meeting.

Introduction of Newly Appointed Division Veterinarian, Dr. Jennifer Davis – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, introduced Dr. Jennifer Davis, newly appointed full-time Division Veterinarian, to the Commission. Dr. Davis apprised the Commission that she had graduated from high school in Rifle, Colorado and, afterward, had obtained both her undergraduate and graduate degrees from Colorado State University. Dr. Davis stated that, prior to joining the Division staff, she had been employed in private veterinary practices serving both large and small animals.

Mr. Hartman stated that, although Dr. Davis would be primarily working at greyhound racetracks, she would also be spending one day a week at the main Division office reviewing and preparing reports and assisting on special projects. The Commission congratulated Dr. Davis on her new position and welcomed her to the Division.

Approval of Minutes of January 8, 2008

A motion was made by Commissioner Pretti, seconded by Commissioner Vail and unanimously carried to approve the minutes of January 8, 2008 as submitted.

Continuation of Scheduled Rule-Making Hearing

Mr. Dan Hartman, Director of the Division of Racing Events, announced that the scheduled Rule-Making Hearing would be continued until the March 11, 2008 Commission meeting at 9:30 a.m. in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado and that all necessary notices would be filed in a timely manner.

A motion was thereupon made by Commissioner Vail, seconded by Commissioner Alkire and unanimously carried to continue the Division's Rule-Making Hearing until its March 11, 2008 meeting at the same time and location indicated on the original Notice of Rule-Making Hearing.

Consideration of 2008 Renewal Application – Mile High Greyhound Racing – Richard Mattson

Mr. Richard, Mattson, Greyhound Racing Coordinator, presented Mile High Greyhound Racing's 2008 renewal application with the dates of Saturday, March 1, 2008 through Saturday, June 28, 2008. 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 includes five (5) performances per week with twelve (12) races per performance for a total of sixty (60) races per week:

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

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

Mr. Seymore stated that he and his associates were in the process of considering whether it would be feasible to add a twelve-race Saturday evening performance to the racing schedule at some future time. Mr. Gary Bryan, President of the Colorado Greyhound Kennel Association and Mr. Dick Figurilli, representative of the National Greyhound Association, expressed their concern about the reduction to a sixty-race per week schedule and strongly urged Mr. Seymore to offer the additional Saturday program as soon as possible. The Commission also encouraged Mr. Seymore to accommodate the extra performance. Mr. Seymore stated that he would take this matter under advisement. Mr. Hartman recommended that, in the event that Mile High seeks to add a performance to its racing schedule, the Commission specify in its motion that the Division is to be authorized to approve this change with the proviso that there be sufficient greyhounds available to race in the program and, further, that the change in racing schedule be reported to the Commission.

Mr. Mattson reported that Mile High's renewal application was accompanied by the following: 1) a copy of the wagering format; 2) a copy of the current liability insurance binder in effect until June 1, 2008 (automatic renewal is to be submitted to the Division of Racing Event prior to expiration); 3) copies of current service contracts; 4) a list of racing officials and officers; 5) a copy of the certified fire inspection report for Mile High Racing and Entertainment dated August 16, 2007; 6) a copy of the certified health/sanitation inspection report for Mile High Racing and Entertainment dated January 3, 2008; and 7) copies of current certified inspection reports for The Reserve at Cherry Creek, Rocky Mountain Post Time, Havana Park and Pueblo Kennel Association simulcast facilities; 8) a soil sample analysis dated February 4, 2008; and 9) 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/point structure was provided to the Division subsequent to receipt of the application.

Mr. Mattson stated that, to date, only simulcast agreements for 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. Seymore assured the Division and Commission that these documents would be forthcoming. Mr. Mattson asserted that all simulcast agreements must be submitted at least three days 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 that Mile High Greyhound Racing'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 Racing has requested this take-out structure, it desires to be able to request an adjustment of the take-out rates in the event that sufficient funds are not collected at these rates to cover the cash funding regulatory fee.

Mr. Mattson advised the Commission that, to date, the most recent financial statement for Mile High Greyhound Racing has not been submitted to the Division for review. Mr. Dan Hartman, Director of the Division of Racing Events, observed that Mile High Racing and Entertainment is in the process of consolidating its financial statements, so that only financial activities relating to the Colorado operations would be reflected on the statement. He explained that the consolidation of the financial statement has necessitated a change in format, thus, causing a delay in its submission to the Division. He recommended that a condition for relicensure be that Division Auditor Naomi Smith reviews and accepts the financial statement for the Association. Additionally, Mr. Hartman commented that, in the event that any financial issues require clarification or change or prove to be problematical, the Division would bring these to the attention of the Commission for its consideration at the March meeting.

Mr. Mattson reported that Mile High Greyhound Racing has yet to provide a proposed marketing plan to the Division. Mr. Hartman recommended that Mile High Greyhound Racing submit this document to the Division as soon as possible, so that the Commission and Division would have the ability to complete review of it prior to the commencement of the live race meet.

Following review and discussion and after acknowledging Mr. Mattson's affirmative recommendation, a motion was made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried to grant approval of Mile High Greyhound Racing's renewal application for its 2008 live race meet contingent upon 1) receipt and review of the current financial statement and Mile High Greyhound Racing's proposed marketing plan; and 2) receipt of all outstanding simulcast contracts; and, further, that in the event that Mile High desires to offer an additional performance, the Division is authorized to approve the request and, thereafter, is to advise the Commission accordingly. All other terms and conditions of the approval of Mile High Greyhound

Racing's 2008 renewal application as well as these are set forth in the following Notice of Issuance of Meet License with Conditions:

BEFORE THE COLORADO RACING COMMISSION

STATE OF COLORADO

NOTICE OF ISSUANCE OF MEET LICENSE WITH CONDITIONS

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

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 Racing
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 Racing to modify its track maintenance routine, if deemed necessary, at any time during the live race meet.
3. That Mile High Greyhound Racing, which is approved to conduct live racing from Saturday, March 1, 2008 through Saturday, June 28, 2008, (comprising an envelope of 120 days) has requested the following racing schedule: 12-race matinee performances on Monday, Wednesday, Thursday, Friday and Saturday for a total of five performances, twelve races per performance for a total of sixty 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 Racing'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 Racing 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 Racing's management shall provide at least a seventy-two (72) hour period between starts for any greyhound.
 - d) That Mile High Greyhound Racing'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 seventy-two (72) 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 Racing'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 the requirement that there be sufficient operational video surveillance cameras at Mile High Greyhound Racing be continued throughout the 2008 Mile High Greyhound Racing race meet.
 10. That Mile High Greyhound Racing'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.)
 11. That Mile High Greyhound Racing is to receive 84 of the total 250-day allotment of greyhound simulcast days for use on live race days during calendar year 2008 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.
 12. That the Commission and Division complete their review of Mile High's proposed marketing plan prior to the commencement of the live race meet.
 13. That the updated liability insurance binder be provided to the Division of Racing Events upon its June 1, 2008 expiration.
 14. That Mile High Greyhound Racing'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 2008 meet may result in a fine, suspension or revocation of the meet license for Mile High Greyhound Racing.

DATED this 12th of February, 2008.

BY ORDER OF THE COLORADO RACING COMMISSION

s/ _____

Dan Hartman, Director
Division of Racing Events

End of Meet Report – Interstate Kennel Club’s Fall 2007 Live Race Meet – Richard Mattson

Mr. Richard Mattson, Greyhound Racing Coordinator, presented the end of meet report for Interstate Kennel Club’s Fall 2007 live racing season, which commenced on October 6, 2007 and concluded on December 31, 2007 with sixty (60) days of live racing and sixty (60) performances. He reported that the total mutuel handle for the 2007 Fall live racing season was \$6,915,358, a significant decline from the 2006/07 total handle of \$15,554,215 for its eighty-five days of live racing. Mr. Seymore stated that the decreased handle is attributable to an apparent lack of interest in greyhound racing, not a seasonal or atypical situation. He reported that he had analyzed mutuel handle statistics and had found that there had been a 39% decline in handle over a five-year period.

Discussion ensued regarding the impact of internet and account wagering on live racing handles. Mr. Hartman asserted that efforts to compel legitimate operators from activity in Colorado have been successful, although it is extremely difficult, if not impossible, to prevent illegal wagering from taking place. Mr. Hartman contended that, absent a Formal Attorney General’s Opinion to find that it is a prosecutable offense to conduct or participate in internet wagering of any kind, it is very difficult to take action against possible violators. Mr. Hartman observed that he has received an Informal Attorney General’s Opinion, but, despite his requests, has not obtained a Formal Attorney General’s Opinion. Ms. Tina Bowman, Assistant Attorney General for the Division of Racing Events, stated that she would ascertain the status of Mr. Hartman’s request and report her findings to the Commission at its March meeting. Additionally, members of the Commission, representatives of the racing community, Mr. Hartman and Mr. Seymore expressed views and opinions relating to whether the introduction of legalized internet and account wagering into Colorado would be beneficial or detrimental to the racing industry and, if approved, what controls and regulatory oversight would be necessary to ensure honesty and integrity in its usage. The Commission noted that several states have already permitted the introduction of account wagering and might serve as models for its inception in Colorado. Mr. Hartman observed that the Association of Racing Commissioners International has focused upon the implementation of programs to verify compliance with State regulations and certify Secondary Pari-Mutuel Organizations (“SPMOs”), but, to date, has not developed the necessary protocols to accomplish this goal. The Commission acknowledged that this subject, as well as other proposals to assist the racing industry, needed to be brought forward and that legislative initiatives would need to be promoted in order to enable the racing industry to survive.

In his report, Mr. Mattson provided the following additional statistical information: 1) the average daily handle/average handle per performance for the meet was \$115,256; and 2) the average handle per live race was \$9,209. He advised that \$559,992 was paid in purses during the 2007 live racing season with \$17,592 added-in from out-of-state simulcasting.

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 there was a shortage of grooms for a few performances, but, on those occasions, other paddock officials set aside their own work and assisted to ensure that there were no problems with the conduct of the races.

Additionally, Mr. Mattson stated that there were no problems involving security during the meet. He advised that security staffing was adequate in the grandstand area and security personnel were present on a regular basis at both gates to the paddock. Further, Mr. Mattson reported that there were no problems at the kennel compound where security was provided on a twenty-four hour a day basis throughout the meet. He noted that Mile High Racing and Entertainment ensured that Commerce City police officers visited the track on a daily basis.

Mr. Mattson stated that, although there were no complaints received regarding the operation of the mutuel department, the quantity of vouchers left in mutuel machines and the amount of time and effort that Division investigators must spend in order to determine the true ownership of these vouchers is a matter of concern.

Mr. Mattson observed that there were 798 pari-mutuel races and 135 schooling races during this meet for a total of 933 official races. A total of 74 derogatory comments were issued for various infractions related to the running of the races. Further, there were 62 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 three program cancellations due to inclement weather and three "no races" due to problems with the 5/16ths starting box 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 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 1.67 per 1,000 starts, which was very low. He noted that this low volume of injuries is attributable 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 twice each week. 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 ensuring that the racing surface was consistently maintained throughout the meet. The Commission expressed its appreciation for the care and attention given to the track conditions by track maintenance personnel that has resulted in the low injury rate.

Mr. Hartman and Mr. Mattson observed that, in order to prepare for Mile High's upcoming live meet, the Association should consider undertaking general track maintenance work, repairs to the starting boxes and other types of routine upgrades that have not been performed in the past few years.

Mr. Mattson reported that, during the meet, forty (40) license transactions were completed with license and fingerprint fees totaling \$1,090.00. Additionally, there were seven (7) citations issued for racing violations resulting in fines totaling \$285.00. There were twelve (12) human drug/alcohol tests conducted during the meet. Eleven tests were negative. On the twelfth occasion, two persons whose names were drawn had been tested within the previous thirty days and the third person whose name was drawn was not working that day. Although the Board of Judges conducted three (3) hearings regarding financial responsibility at Arapahoe Park and issued rulings pertaining to these matters, they did not issue any rulings issued for this 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. Commissioner Vail inquired whether having the Presiding Judge act as the Photo Finish Operator could be perceived as a conflict of interests. Mr. Gary Bryan, President of the Colorado Greyhound Kennel Association, acknowledged the validity of such a concern, he stated that, to date, no problems have resulted from the linkage of these positions.

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 Vail, seconded by Commissioner Pretti and unanimously carried to accept the end of meet report for Interstate Kennel Club's 2007 live race meet as presented.

Presentation Regarding Distribution of Owners/Breeders Awards and Supplemental Purse Fund Monies for Calendar Year 2007 – 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 2007.

Ms. Smith reported that: 1) the total earnings from wagering in 2007 amounted to \$740,985.42; 2) that the total earned from uncashed tickets on both live and simulcast races was \$362,457.47, which was approximately \$100,000 higher for 2007 than 2006; 3) that the interest earned for 2007 was \$32,575.09 and, after the bank fee of \$3,500 was subtracted, the total Owners'/Breeders' Awards and Supplemental Purse Fund accrual for 2007 was \$1,132,517.98.

Ms. Smith explained that difference between the total amount of the accrual and the total amount to be distributed/retained in escrow (\$1,008,517.98) reflects the \$124,000 advance that was approved by the Commission in April 2007 for release to the Colorado Thoroughbred Breeder's Association in July 2007.

Commissioner Alkire voiced her concern about the lack of a mechanism for disbursing the monies accumulating the harness escrow account and strongly urged that a legislative remedy be sought to address this situation.

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 2007, a motion was made by Commissioner Vail, seconded by Commissioner Pretti 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.

Colorado Thoroughbred Breeder's Association	\$782,014.39
Rocky Mountain Quarter Horse Association	120,836.06
Colorado Owners and Breeders of Racing Arabians	51,886.22
Rocky Mountain Paint Racing Club	7,247.99

The amount of \$2,206.08 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 \$44,327.24 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.

Status Report on Legislation – Dan Hartman/Bruce Seymore

Mr. Dan Hartman, Director of the Division of Racing Events, apprised the Commission that the Division had not brought forward any legislative proposals this year, although he observed that, in light of the statutory mandate that a sixty-day live horse race meet be conducted in 2008, the industry may be planning to submit a measure for legislative consideration that would reduce the number of days that Arapahoe Park would be required to race.

Mr. Hartman explained that Arapahoe Park is required by law to provide a renewal application to the Division of Racing Events sixty days prior to the commencement of its meet that reflects that it intends to conduct a sixty-day live race meet in 2008 in order for simulcasting to continue after April 21, 2008 unless a change is enacted to the Racing Statute. He stated that the Commission does not have to approve the renewal application at the time of submission, but only take note that it has been provided to the Division.

Discussion ensued during which Mr. Bruce Seymore, Director of Racing Operations for Mile High Racing & Entertainment, informed the Commission that he intends to comply with the statutory requirement pertaining to the renewal application, but does not intend to conduct sixty days of live horse racing. He stated that BLB has assembled a team of consultants and lobbyists who are in the processing of determining what course of action to take regarding a legislative proposal. Mr. Seymore commented that he is confident that the sixty-day requirement would be repealed. He declined to discuss any aspects of the possible legislative initiative at this time, noting that he has discussed the matter with members of the racing industry. No action was taken by the Commission.

Consideration of Distribution of Monies Accrued in Greyhound Trust Account – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, advised that, in September, 2007, the Commission had unanimously approved the creation and establishment of a greyhound trust account 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 was being conducted in Colorado. He reported as follows: 1) the account was funded by the application of an additional one percent (1%) to the take-out rates on all wagers made during the remainder of the 2007 Mile High Greyhound Park meet and the 2007 Interstate Kennel Club Fall meet; 2) the monies earned from this addition were then deposited in a trust account that was administered by the Association in accordance with a plan developed by the industry and approved by the Commission; and 3) as part of the Commission's approval, the receipts from the signal fees from out-of-state simulcasting that were previously split between the kennel operators and the racetrack were deposited in the greyhound trust account as well.

Mr. Hartman explained that, at the time that the greyhound trust account was established, it was uncertain whether any live greyhound racing would be offered during January and February 2008. He stated that, since Pueblo Greyhound Racing agreed to conduct a live race meet during these months, the fund accrual that has grown to approximately \$56,000, has not been utilized. Mr. Hartman stated that, since a distribution plan for these funds was not developed, he would recommend that the Commission authorize Pueblo Greyhound Racing to use the \$56,000 trust account monies to subsidize the operation of its current meet. A motion was made by Commissioner Vail, seconded by Commissioner Alkire and unanimously carried to grant permission to

Pueblo Greyhound Racing to use the \$56,000 that has accumulated in the greyhound trust account for the purpose of operating its current live race meet.

Adjournment

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

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, March 11, 2008 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

(EXCUSED)

C. DREW GRANT, MEMBER

JACK PRETTI, MEMBER

CHARLES VAIL, DVM, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, March 11, 2008 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. Chairman David Lynn Hoffman called the meeting to order at 9:30 a.m.

Members Present

David Lynn Hoffman, Chairman
Marilyn Alkire, Vice-Chair
Drew Grant, Member
Jack Pretti, Member
Charles Vail, DVM, 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
Tina Bowman, Assistant Attorney General
Sherry Gunnell, Assistant to the Director

Also Present

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

Approval of Minutes of February 12, 2008

A motion was made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to approve the minutes of February 12, 2008 as submitted.

Follow-Up Reports – 1) Mile High Greyhound Racing's Proposed Racing Schedule; 2) Temporary Cessation of Live Racing at Pueblo Greyhound Racing for Maintenance and Repairs – Dan Hartman; 3) Comments Regarding Consolidated Financial Statement and Marketing Plan for Mile High Greyhound Racing and Arapahoe Park – Naomi Smith/Commissioner Hoffman

- 1) The Commission noted that, in the February minutes, reference was made to the possibility that a twelve-race Saturday evening performance might be added to Mile High Greyhound Racing's racing schedule. Mr. Dan Hartman, Director of the Division of Racing Events, reported that, although Mile High Greyhound Racing has offered some additional races, no request for an additional performance has been submitted to the Division. He advised that he would provide any information relating to this matter to the Commission whenever it becomes available.
- 2) Mr. Hartman advised the Commission that, since racetrack maintenance and various other repairs were undertaken at the Mile High Greyhound Racing track site, the condition of the Mile High racing surface has improved. He explained that, during the time that the racetrack was not conducting live racing, simulcast operations continued and revenue was thereby generated to compensate for the closure.
- 3) Ms. Naomi Smith, Division Auditor, informed the Commission that she had received and reviewed the consolidated financial statement for Mile High USA, Inc., the parent company for all Colorado racing associations and for Mile High Soccer. Ms. Smith observed that a consolidated statement combines all of the financial information relating to the Colorado facilities affiliated with BLB into a single report. Further, she noted that, although the document that was provided to her was in preliminary form, Mile High USA,

Inc.'s Controller had advised her that no subsequent changes had been made to the report. She explained that an "unqualified auditor" had reviewed the statement as well and had no issues with any of the accounts.

Ms. Smith commented that, in 2007, the company experienced significant losses in revenue. However, BLB, the parent company of Mile High USA, Inc., had agreed to continue to support the Colorado enterprises for the foreseeable future.

Commissioner Hoffman acknowledged receipt of Mile High Racing and Entertainment's marketing plan for its current and upcoming meets.

Scheduled Referral Hearing – In the Matter of Licensee RAMON GERARDO MARQUEZ-GONZALEZ

Commission Chairman David Lynn Hoffman convened the scheduled referral hearing in the matter of Licensee Ramon Gerardo Marquez-Gonzalez at 9:38 a.m. Mr. Marquez-Gonzalez was not present and was not represented by legal counsel. As a preliminary matter, the Commission took notice that Mr. Marquez-Gonzalez had been duly and properly notified of the hearing to be held on this date and at this time and location.

Mr. Robert "Duke" Mann, Horse Racing Coordinator/Criminal Investigator for the Division of Racing Events, apprised the Commission of the following allegations in this matter:

1. That, on November 6, 2007, Mr. Ramon Gerardo Marquez-Gonzalez failed to appear at the appointed time for a Hearing before the Board of Judges at Mile High Greyhound Racing, although he had been duly and properly notified of the time, date and location of the Hearing. Neither did Mr. Marquez-Gonzalez request a continuance of the Hearing. Therefore, the Board entered into a Hearing to decide the case without the participation of the Licensee. The Board deliberated upon the available evidence, found the relevant facts, analyzed the pertinent law and rules respective to the relevant facts, reached its conclusions of law, made its determinations, and set forth its Order, accordingly.
2. That, on November 12, 2007, the Board of Judges at Mile High Greyhound Park issued Ruling #07-02, which found Mr. Marquez-Gonzalez in violation of Rule #3.416 of the Colorado Racing Commission Rules and assessed a one hundred twenty day (120) suspension of his license. Additionally, the Board included in its Ruling a Referral to the Colorado Racing Commission for such further sanction, including fine, suspension, or revocation of license privileges, as the Commission may deem appropriate.

Following presentation and discussion of the Findings of Fact, Conclusions of Law and Order in Colorado Case No. 07-0953, a motion was made by Commissioner Vail, seconded by Commissioner Pretti and unanimously carried to uphold the decision of the Mile High Greyhound Park Board of Judges in Ruling No. 07-02; to continue the suspension of any and all of Mr. Ramon Gerardo Marquez-Gonzalez' Colorado racing license(s) until such time as he has become financially responsible; and, further, in the event that Mr. Marquez-Gonzalez becomes financially responsible prior to the expiration of his Colorado racing license(s), he must appear before the Colorado Racing Commission to seek approval to validate his current license(s); but, in the event that Mr. Marquez-Gonzalez' Colorado racing license(s) expire(s) before he has become financially responsible, he shall not be eligible for licensure in Colorado until he has become financially responsible and has appeared before the Commission to seek approval for a new or renewed license.

The hearing concluded at 9:45 a.m.

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

The following Commission Order was disseminated:

**BEFORE THE COLORADO RACING COMMISSION
STATE OF COLORADO**

Case Number: 07-0953

COMMISSION ORDER # 08-02

IN THE MATTER OF:

RAMON GERARDO MARQUEZ-GONZALEZ

License Type: Trainer

License number: 200913524

Licensee

This matter came on for a referral hearing before the Colorado Racing Commission (hereafter, the "Commission") on March 11, 2008 based upon Ruling # 07-02, dated November 12, 2007, of the Board of Judges at Mile High Greyhound Park (hereafter, the "Board"). The Division of Racing Events (hereafter, the "Division") on February 8, 2008 issued a Notice of Referral Hearing to Ramon Gerardo Marquez-Gonzalez (hereafter, the "Licensee"), invoking the Commission's jurisdiction to extend the suspension of the Licensee's Colorado Racing License.

The Licensee did not appear. Robert J. ("Duke") Mann, Jr., Horse-racing Coordinator, presented the Case on behalf of the Division. The Commission had before it the Notice of Referral Hearing and Board Ruling # 07-02.

Findings of Fact

On October 17, 2007, the Division mailed by first class postage prepaid the November 6, 2007 "Notice of Hearing" for the Board hearing in the Case to the Licensee at the last address furnished by the Licensee to the Commission as his official address, i.e., "18055 Road 'G' Space 24, Ordway, Colorado 81063."

The United States Postal Service did not return the November 6, 2007 "Notice of Hearing" to the Division as an undeliverable item.

On November 13, 2007, the Division mailed by first class postage prepaid the November 12, 2007 "Ruling # 07-02" of the Board in the Case to the Licensee at the last address furnished by the Licensee to the Commission as his official address, i.e., "18055 Road 'G' Space 24, Ordway, Colorado 81063."

The United States Postal Service did not return the November 12, 2007 "Ruling # 07-02" to the Division as an undeliverable item.

1. On February 8, 2008, the Division mailed by first class postage prepaid the February 8, 2008 "Notice of Referral Hearing" of the Commission in the Case to the Licensee at the last address furnished by the Licensee to the Commission as his official address, i.e., "18055 Road 'G' Space 24, Ordway, Colorado 81063."
2. The United States Postal Service did not return the February 8, 2008 "Notice of Referral Hearing" to the Division as an undeliverable item.

3. In Ruling # 07-02, the Board made the following findings of fact:
 - a. At all times relevant to the case, Ramon Marquez-Gonzalez was licensed by the Division as a Trainer.
 - b. The Licensee entered into an agreement for veterinary services with Robert W. Moak, D.V.M., 3960 Little Valley Drive, Estes Park, Colorado 80517 (hereafter, the "Complainant") for services and treatments to be rendered across the time of the 2007 Arapahoe Park Live Horse Meet.
 - c. The Complainant has provided the Division with a signed written Complaint against the Licensee with respect to services and treatments rendered to the Licensee by the Complainant.
 - d. The Arapahoe Park Live Horse Meet ran from May 26, 2007 through August 12, 2007.
 - e. Between July 26, 2007, and August 5, 2007, at the Arapahoe Park Racetrack, the Complainant administered, with the Licensee's knowledge and consent, nine treatments to the horse, "COLORADO GRAY," and two treatments to the horse, "GO WITH THE WIND," both horses under the Licensee's trainership.
 - f. The Complainant kept track of the provision of services on behalf of the Licensee and issued to the Licensee multiple Statements of Account under Account # 001180.
 - g. On August 2, 2007, the Licensee made a payment of \$220.00 to the Complainant.
 - h. When Account # 001180 became past due according to the Licensee's business practices, the Complainant sent a certified letter on August 31, 2007, to the Licensee advising the Licensee of the arrearage and potential consequences of non-payment, but also offering the opportunity for the Licensee to contact the Complainant and make payment arrangements.
 - i. The Complainant's Statements of Account and its certified letter all went to 920 Louisiana SE # 99, Albuquerque, NM 87198, the last known address the Licensee provided to the Complainant, and the most recent invoices have been returned by the United States postal service as undeliverable at that address.
 - j. The Notice of Hearing for the Board Hearing in this Case was sent by United States mail, first-class postage prepaid, to 18055 road "G" Space 24, Ordway, CO 80163, the last known address in the Licensing System of the Division of Racing Events. The Notice was not returned as undeliverable.
 - k. The Complainant has attempted to reach the Licensee by telephone and has left voice mail messages requesting a return call. To date, the Licensee has not returned the Complainant's calls.
 - l. As of the date of the Board Hearing, the Complainant has not received a check or any other form of payment from the Licensee, and has had no further communication with the Licensee.
 - m. The total amount which remains due and owing respective to the eleven treatments noted above was \$209.00.
 - n. The Complainant appeared at the Board Hearing through his office manager, Linda Moak, who was sworn and who presented credible evidence to establish the financial information of the Case.
 - o. The Licensee contracted for veterinary services from the Complainant.

- p. The Licensee received veterinary services from the Complainant during July and August, 2007.
 - q. The Complainant provided the Licensee with tangible information to detail the charges to the Licensee for the veterinary services.
 - r. The Licensee has never disputed that the services as set out in the Statement of Account were not delivered or were wrongly charged.
 - s. By the Licensee's payment on account for some of the Complainant's veterinary services, the Licensee has affirmed that he was aware that he needed to pay what was owed to the Complainant.
 - t. The Licensee has failed to pay for the veterinary services he received.
4. The Board in Ruling # 07-02 suspended the Licensee's Colorado Racing License for "one-hundred and twenty (120) days, or until such time as he becomes financially responsible, whichever is less."
 5. The Licensee did not file a notice of appeal of Board Ruling # 07-02.
 6. As of the current date, the Complainant has not received a check or any other form of payment from the Licensee on the \$209.00 debt.

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. # 6.530.
3. The Commission afforded the Licensee timely and proper notice on February 8, 2008 of the referral hearing before the Commission under the provisions of C.R.C.R. # 6.612.
4. The version of C.R.C.R. # 3.416 utilized in this Case became effective on July 1, 2007.
5. The Board made all necessary determinations and appropriately exercised its authority to rule on a violation of C.R.C.R. # 3.416.
6. The Board appropriately exercised its penal authority within the limits of the Board's penal jurisdiction.
7. Pursuant to C.R.C.R. # 6.404, the Licensee's right to appeal the Board's Ruling # 07-02 to the Commission expired ten days after the announcement of the Board's Ruling, i.e., on November 23, 2007.
8. By the Licensee's failure to file a written notice of appeal of the Board's Ruling # 07-02, the Licensee permanently lost his right to appeal the Ruling to the Commission.
9. In the context of a referral hearing of a Case taking place after the right to appeal a Board's ruling in a Case has expired, it is appropriate for the Commission to adopt the Findings of Fact of the Board in the Board's Ruling in a Case.

10. It is appropriate for the Commission to approve and to adopt the Findings of Fact of the Board in Board Ruling # 07-02.
11. The Board in Ruling # 07-02 appropriately and correctly reached the following Conclusions of Law:
 - a. Relevant to this Case, all of the goods provided and all of the services rendered became provisions or services on or after July 1, 2007.
 - b. The goods provided or the services rendered by the Complainant to the Licensee were all directly racing-related.
 - c. By failing to make the payments for all of the goods provided and all of the services rendered by the Complainant, the Licensee cannot be considered financially responsible at this time, according to the provisions of C.R.C.R. # 3.416.
 - d. Therefore, the Licensee has violated C.R.C.R. # 3.416.
12. It is appropriate for the Commission to approve and to adopt the Board's Conclusions of Law in Board Ruling # 07-02.
13. It is appropriate for the Commission to approve and to uphold Board Ruling # 07-02 as a basis for the Commission's ruling.
14. It is appropriate for the Commission to extend the suspension of the Licensee's Colorado racing license within the Commission's penal jurisdiction.

Order

The Commission hereby unanimously orders:

1. The Findings of Fact and Conclusions of Law of the Board in Board Ruling # 07-02 are approved and adopted;
2. Board Ruling # 07-02 is approved and upheld;
3. The Licensee's Colorado racing licenses shall continue to be suspended until such time as the Licensee becomes financially responsible;
4. In the event that the Licensee becomes financially responsible prior to the expiration of his Colorado license, the Licensee must appear before the Colorado Racing Commission to seek approval to validate his current license; and,
5. In the event that the Licensee's Colorado racing license expires prior to the Licensee's having become financially responsible, the Licensee shall not be eligible for licensure in Colorado until the Licensee has become financially responsible and until the Licensee has appeared before the Commission to seek approval for a new or renewed license.

DONE this 14th day of March 2008.

FOR, AND BY ORDER OF,
THE COLORADO RACING
COMMISSION

s/

DANIEL J. HARTMAN, Director
Colorado Division of Racing Events

Closure of Regular Business Meeting

At 9:45 a.m., Commissioner Hoffman closed the regular business meeting for the purpose of convening the continued Rule-Making Hearing.

Continued Rule-Making Hearing

Pursuant to the published Notices of Rule-Making Hearing dated December 24, 2007, which are attached hereto and made a part of these minutes, Chairman Hoffman convened the scheduled Rule-Making Hearing at 9:45 a.m., which was continued on February 12, 2008 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, including submission of all rule proposals to the Office of the Secretary of State and the Department of Regulatory Agencies and publication of the Notices of Rule-Making Hearing in the Colorado Registry, 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 to allow industry participation in the initial phase of the rule review process and that rule proposals had been solicited and accepted from industry representatives for presentation during this Hearing.

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

Mr. Mann presented the following rules for individual consideration and Commission action.

- Consideration of Proposed Amended Rule 3.206: Mr. Mann reviewed the text of proposed amended rule 3.206. Following review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Vail, seconded by Commissioner Grant and unanimously carried to adopt the amended rule 3.206 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Amended Rule 3.418: Mr. Mann reviewed the text of proposed amended rule 3.418. Following review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Vail, seconded by Commissioner Hoffman and unanimously carried to adopt the amended rule 3.418 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Amended Rule 4.228: After being apprised by Mr. Dan Hartman, Director of the Division of Racing Events, that additional amendments would most likely be made to the text of this proposed Model Rule at the upcoming Association of Racing Commissioners' International Conference and, therefore, it would be his recommendation that the Commission continue the Rule-Making Hearing until its April 8, 2008 meeting and table any action on this rule until that time, a motion was made Commissioner Vail, seconded by

Commissioner Grant and unanimously carried to continue the Rule-Making Hearing until the Commission's regular April meeting and take no action on proposed amended rule 4.228 at this time.

- Consideration of Proposed Amended Rule 5.250: Mr. Mann reviewed the text of proposed amended rule 5.250. Discussion ensued during which the Commission deemed that there was inadequate justification for adopting the amended version of this rule and, additionally, took notice that the proposed amendment did not accord with the industry standard. Thereupon, a motion was made by Commissioner Vail, seconded by Commissioner Alkire and unanimously carried to decline to accept proposed amended rule 5.250.
- Consideration of Proposed Amended Rule 5.310: Mr. Mann reviewed the text of proposed amended rule 5.310. 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 Vail and unanimously carried to adopt the amended rule 5.310 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Amended Rule 5.317: Mr. Mann reviewed the text of proposed amended rule 5.317. Discussion ensued during industry representatives voiced their views and opinions. Following review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried to adopt the amended rule 5.317 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed New Rule 5.331: Mr. Dan Hartman, Director of the Division of Racing Events, reviewed the text of the proposed Model Rule. Discussion ensued regarding this proposal during which views, opinions and arguments were expressed for and against adoption of the proposed rule designed "to better define Colorado's animal drug-testing and violation regime with respect to androgenic-anabolic steroids (AAS)." Following consideration of the statements presented, a motion was made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried to adopt new rule 5.331 on a permanent basis with the understanding that this rule is dealing with an evolving field and, although the Commission endorsed the rule, it recognized that the conversation relating to it is only beginning. As part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed New Rule 5.444: Mr. Dan Hartman, Director of the Division of Racing Events, reviewed the text of the proposed Model Rule. Discussion ensued regarding this proposal during which questions were raised relating to the reasons for preserving and retaining frozen samples, the viability of samples over time and the longevity of samples. Views and opinions were voiced for and against adoption of this rule. Mr. Hartman expressed his belief that adoption of new rule 5.444 would be beneficial because of its potential deterrent effect. He observed that the rule would serve as a safeguard against use of unauthorized medication(s) and drug(s). Following consideration of the statements presented, a motion was made by Commissioner Hoffman, seconded by Commissioner Pretti and carried by a majority vote to adopt new rule 5.444 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. Commissioner Alkire voted against the motion.

- Consideration of Proposed Amended Rule 6.300: Mr. Mann reviewed the text of proposed amended rule 6.300. 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 Alkire and unanimously carried to adopt the amended rule 6.300 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Amended Rule 7.200: Mr. Mann reviewed the text of proposed amended rule 7.200. Following review and, after incorporation of an additional amendment, it was ascertained that there were no objections to formal action being taken at this time. A motion was thereupon made by Commissioner Alkire, seconded by Commissioner Grant and unanimously carried to adopt the amended rule 7.200 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Amended Rule 7.206: Mr. Mann reviewed the text of proposed amended rule 7.206. Following review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Grant, seconded by Commissioner Alkire and unanimously carried to adopt the amended rule 7.206 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Amended Rule 7.207: Mr. Mann reviewed the text of proposed amended rule 7.207. 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 Alkire and unanimously carried to adopt the amended rule 7.207 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Amended Rule 7.218: Discussion ensued regarding proposed amended rule 7.218 and the Division of Racing Events' proposed alternative version of the rule. During the discussion, it was determined that, prior to adoption, further consideration should be given to the language of the rule. Therefore, a motion was made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to table action on proposed amended rule 7.218 until the Continued Rule-Making Hearing to be conducted at the Commission's April 8, 2008 meeting and to direct that, in the meantime, any necessary changes be made to the current text of the rule.
- Consideration of Proposed Amended Rule 7.232: Mr. Mann reviewed the text of proposed amended rule 7.232. Following review and, after incorporation of an additional amendment, it was ascertained that there were no objections to formal action being taken at this time. A motion was thereupon made by Commissioner Alkire, seconded by Commissioner Grant and unanimously carried to adopt the amended rule 7.232 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Amended Rule 7.236: Mr. Mann reviewed the text of proposed amended rule 7.236. Following review and, after incorporation of an additional amendment, it was ascertained that there were no objections to formal action being taken at this time. A motion was thereupon made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to adopt the

amended rule 7.236 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.

- Consideration of Proposed Amended Rule 11.504: Mr. Mann reviewed the text of proposed amended rule 11.504. Following review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Alkire, seconded by Commissioner Grant and unanimously carried to adopt the amended rule 11.504 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Amended Rule 12.122: Ms. Naomi Smith, Division Auditor, reviewed the content of proposed amended rule 12.122 and explained that the reason for requesting the amendment to the rule was to permit sub-contracting, leasing or concessionaire activity of any part of the Mutuel Department, including the totalisator system, without the Commission's prior approval. Mr. Dan Hartman, Director of the Division of Racing Events, commented that this matter would be made part of the renewal application process. Following review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Alkire, seconded by Commissioner Grant and unanimously carried to adopt the amended rule 12.122 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Amended Rule 12.152: Ms. Naomi Smith, Division Auditor, presented a proposed alternative version of proposed amended rule 12.152. She explained that the reason for requesting adoption of a modified version of the rule was to clarify the intent of the rule and to bring the rule into conformity with the Association of Racing Commissioners' International Model Rules. During its discussion of both versions of the rule, the Commission requested that the "written policies established by the association" referenced in the alternative version of the rule be brought forward for Commission approval. Division Director Dan Hartman stated that they would be made available to the Commission at the time that Arapahoe Park's renewal application is presented. Ms. Smith advised the Commission that she would make these written policies part of her audit report on Arapahoe Park. 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 Alkire and unanimously carried to adopt the alternative version of amended rule 12.152 presented by Ms. Smith on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Amended Rule 12.154: Based upon the recommendation of Ms. Naomi Smith, Division Auditor, that proposed amended rule 12.154 remain in its existing form, a motion was made by Commissioner Alkire, seconded by Commissioner Grant and unanimously carried to endorse retention of current rule 12.154.
- Consideration of Proposed Amended Rule 12.190: Based upon the recommendation of Ms. Naomi Smith, Division Auditor, that proposed amended rule 12.190 remain in its existing form, a motion was made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to endorse retention of current rule 12.190.

- Consideration of Proposed Amended Rule 12.210: The Commission reviewed the text of proposed amended rule 12.210 and the proposed alternative version of the rule. After incorporation of an additional amendment into the alternative version and after ascertaining that there were no objections to formal action being taken at this time, a motion was thereupon made by Commissioner Alkire, seconded by Commissioner Grant and unanimously carried to adopt the alternative version of amended rule 12.210 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 presented the following group of related definitions and rules for Commission consideration:

- Consideration of Proposed Rule Structure for Citations (Proposed New Definitions of “Citation” and “Citation Violation List and Schedule of Penalties”, Proposed New Rules 6.112 and 6.124 and Proposed Amended Rules 6.120, 6.230, 6.232 and 6.240: Mr. Mann presented the two proposed new definitions and the various rules, both proposed new and amended, relating to the “proposed rule structure for citations” and reviewed the text of the rules. Division Director Dan Hartman explained the use of citations to the Commission and stated that the subject definitions and rules would provide a comprehensive, integrated framework for the Citation methodology long in use by the Division as an approved enforcement regime. Mr. Hartman informed the Commission that Division personnel would prepare an updated list of violations prior to the commencement of Arapahoe Park’s upcoming meeting. Following review and after ascertaining that there were no objections to formal action being taken at this time, a motion was made by Commissioner Alkire, 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 new definitions of “Citation” and “Citation Violation List and Schedule of Penalties”, new rules 6.112 and 6.124 and amended rules 6.120, 6.230, 6.232 and 6.240 on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statements of Statutory Authority, Basis and Purpose into each definition and rule. Copies of the subject definitions and rules are attached hereto and made a part of these minutes.

At 12:25 p.m., the Commission continued this Rule-Making Hearing until its April 8, 2008 meeting. The continued Rule-Making Hearing is scheduled to resume at 9:30 a.m. in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

Re-Opening of Regular Business Meeting

At 12:25 p.m., Commissioner Hoffman re-opened the regular business meeting.

Status Report on Legislation – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, apprised the Commission that, since the February Commission meeting, a measure had been introduced in the Senate by BLB to permit Arapahoe Park to conduct thirty rather than sixty days of live racing each year for a period of five years. Subsequently, the initiative was amended in committee to allow Arapahoe Park to offer thirty days of live racing until 2010 and was then passed by the Senate. Mr. Hartman that the, on Tuesday, March 18, 2008, Senate Bill 08-176 is docketed for consideration by the House of Representatives. Mr. Hartman assured the Commission and attendees that he would continue to monitor and report on the status of Senate Bill 08-176.

Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 12:30 p.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, April 8, 2008 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

CHARLES VAIL, DVM, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, April 8, 2008 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. Chairman David Lynn Hoffman called the meeting to order at 9:50 a.m.

Members Present

David Lynn Hoffman, Chairman
Drew Grant, Member
Charles Vail, DVM, Member

Commissioners Marilyn Alkire 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
Naomi Smith, Division Auditor
Mark Brown, Enforcement Coordinator
Ashley Ulberg, Division Investigator
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 March 11, 2008

A motion was made by Commissioner Grant, seconded by Commissioner Vail and unanimously carried to approve the minutes of March 11, 2008 as submitted.

Scheduled Appeal/Referral Hearing – In the Matter of LORNA DEAN MORGAN

Commission Chairman David Lynn Hoffman convened the scheduled appeal/referral hearing in the matter of Ms. Lorna Dean Morgan at 9:50 a.m.

At the outset of the hearing, Mr. Dan Hartman, Director of the Division of Racing Events, distributed copies of Ms. Lorna Morgan's undated request for continuance of this matter until the Commission's June 10, 2008 meeting. Mr. Hartman commented that this document had been sent via facsimile to the Division's Pierce Street office on the evening of April 7, 2008.

Mr. Hartman advised the Commission that it could accept or reject Ms. Morgan's request for a continuance of the hearing. He observed that she had been duly and properly notified of the date, time and location of today's hearing and that this matter had been previously postponed until this date due to Ms. Morgan's incarceration in prison. Mr. Hartman stated that the Division was in receipt of paperwork indicating that Ms. Morgan was no longer incarcerated in the Logan County Jail. He recommended that the Commission decline to accept Ms. Morgan's request for continuance and proceed with the subject hearing in her absence, noting that, due to her failure to appear, her appeal is null and void. A motion was made by Commissioner Vail, seconded by Commissioner Grant and unanimously carried not to grant a continuance in the matter of Ms. Lorna Dean Morgan and to proceed with the scheduled referral hearing.

The Commission called for Ms. Morgan and, due to lack of a response, ascertained that she was not present and was not represented by legal counsel.

Ms. Ashley Ulberg, an Investigator for the Division of Racing Events, who was assigned responsibility for investigating this case, informed the Commission that she would present the Division's case and would also be a witness for facts developed during the course of her investigation. At this time, Court Reporter Tammie Singer swore in Ms. Ulberg. Ms. Ulberg then proceeded to set forth the history of the case. Ms. Ulberg distributed copies of the Case Record Packet containing documents labeled "A" thru "F" in the matter of Ms. Morgan to the Commission and the Court Stenographer.

Ms. Ulberg informed the Commission that Ms. Morgan received all the Notice of this hearing that the law requires by means of hand-delivery to her personally. Ms. Ulberg referred the Commission's attention to Tab "F", the "Notice of Continuation of Hearing and Extension of Penalty" and, specifically, to the Certificate of Service by Hand Delivery signed by Logan County Investigator, Mary Ann Johnson, attesting to her personal service of said document to Ms. Lorna Morgan in the Logan County Jail on November 26, 2007. Further, the Commission took notice that Ms. Morgan had signed for receipt of the papers on November 26, 2007. Ms. Ulberg informed the Commission that Ms. Morgan had not requested that she be permitted to appear for today's hearing via telephone.

Ms. Ulberg commenced to summarize the Nature of the Case and its History. She stated that this is a simple case, both legally and factually. Ms. Ulberg continued as follows: Lorna Morgan entered into a license stipulation with the Division in order to obtain a racing license, but, thereafter, violated one of the conditions she had agreed to as part of that license stipulation. The license stipulation, among other things, required Ms. Morgan to notify the Division within ten (10) days of any contact whatsoever with any law enforcement agency. Ms. Morgan violated the license stipulation by failing to inform the Division within ten (10) days of having had contact with the Adams County Sheriff's Department. The Board of Judges determined that the license stipulation violation occurred and the Board both suspended Ms. Morgan's license to the limits of its jurisdiction (120 days) and referred the matter to the Commission for consideration of an additional penalty. Ms. Morgan appealed the Board's decision. A joint referral and appeal hearing was set, which was later continued by the Commission on the motion of the Division because Ms. Morgan was incarcerated at the time. The Commission extended Ms. Morgan's license suspension through this April 8, 2008 Commission meeting.

Ms. Ulberg then set out the jurisdictional bases of the case. She asserted that the Board of Judges had and the Commission has jurisdiction over Ms. Morgan in this case pursuant to the following:

- 1) Ms. Lorna Morgan was at all times relevant to this case and is now a Colorado racing licensee. Her trainer's license, license number 200913440, was issued on June 28, 2006 and her three-year license is due to expire on June 28, 2009.
- 2) The Division required Ms. Lorna Morgan to re-apply for her racing license on June 28, 2006 because the Division's routine license investigation revealed that she had failed to disclose criminal history information. Ms. Morgan correctly and completely disclosed her criminal history on the re-application dated September 16, 2006 and dealt with certain legal matters.
- 3) The Division determined that, only if Ms. Morgan would enter into a stipulation respective to her Colorado license, would the Division agree to support Ms. Morgan's having that license.
- 4) The Division and Ms. Morgan entered into a License Stipulation, which followed from Ms. Morgan's earlier failure to report criminal history. The License Stipulation specifically required Ms. Morgan to report any law enforcement agency contacts that she had.
 - a. The Commission took notice of the Stipulation and Agreement for Conditional License contained in the Case Record Packet (Tab A) signed by Ms. Morgan.
 - b. Further, the Commission took notice of paragraph "5" of the License Stipulation that states that Lorna Morgan understood the conditions with which she had to comply, and voluntarily entered into the Stipulation.

- c. The Commission also took notice of paragraph “4” of the License Stipulation that contains five subparagraphs, each specifying conditions with which Ms. Morgan agreed to abide.
- d. Ms. Ulberg read into the record subparagraph “e” in paragraph “4” of the License Stipulation which states: “Applicant agrees to notify the Division, in writing, of any racing violations, criminal arrests, criminal convictions, violations of court-ordered supervisions, and/or any contact with any law enforcement agency within ten (10) days of the incident.”
- e. Ms. Ulberg informed the Commission that paragraph “7” of the License Stipulation gave the Board and, also, gives the Commission jurisdiction over this Case. She read the following into the record: “Failure to comply with one or more of the conditions of this stipulation and agreement will result in an administrative or disciplinary action by the board of judges, a hearing officer, or the commission. Such action may include fine, suspension or revocation of the applicant’s license.”

Ms. Ulberg established, by means of evidence and sworn testimony, that the Division complied with timely and proper legal notice requirements that had been given at every stage of this Case. She observed that personal service by hand-delivery is always proper legal notice and informed the Commission that the Division had made personal service by hand-delivery of each Notice of Hearing or Continuation of Hearing as well as of the Board of Judges’ Ruling. She affirmed that the Division always provided the legal notice sufficiently prior to each Hearing as was required for the given type of Hearing. Ms. Ulberg referred specifically to each of the Certificates of Hand-Delivery that are part of each of the hearing notices and rulings contained in the Case Record Packet. Then, she drew the Commission’s attention to each of the Certificates of Hand-Delivery pertaining to the documents contained in the Case Record Packet that required such legal notice. The following documents are contained in the Case Record Packet:

- A. Stipulation and Agreement for Conditional License signed by Director Hartman on October 19, 2006 and mailed to Ms. Morgan on October 20, 2006;
- B. Notice of Hearing before the Board of Judges dated September 21, 2007;
- C. Ruling No. 07-01 of the Board of Judges dated September 28, 2007;
- D. Appeal Request of Lorna Morgan dated October 1, 2007;
- E. Notice of Referral and Appeal Hearing before the Commission dated October 30, 2007; and
- F. Notice of Continuation of Hearing and of Extension of Penalty by the Commission dated November 26, 2007

Thereupon, Ms. Ulberg proceeded to develop the case facts and reasoning:

- 1) Ms. Lorna Morgan entered into a License Stipulation with the Colorado Division of Racing Events, effective on the date of her signature, November 19, 2006.
- 2) According to official, verified information from the Colorado Counties, Adams and Logan, the Adams County Sheriff’s Office booked and arrested Ms. Lorna Morgan on August 9, 2007 after she had been apprehended on outstanding warrants. Ms. Ulberg stated that she had investigated this matter and had verified and confirmed this booking and arrest information. She testified that the sources providing this information in the several counties were credible and that the information is not subject to denial.
- 3) To reiterate, a condition of the License Stipulation signed by Ms. Morgan is that she is required to notify the Division in writing within ten (10) days of any contact with any law enforcement agency.
- 4) The Adams County Sheriff’s Office is indisputably a law enforcement agency and, further, that a booking or arrest can only happen in person and is, thus, indisputably a “contact”.

- 5) On August 9, 2007, Ms. Morgan was involved in a contact with a law enforcement agency under the terms of the License Stipulation.
- 6) Pursuant to the terms of paragraph "4", subparagraph "e" of the License Stipulation, Ms. Morgan had until the close of business ten (10) days after the aforementioned contact with the Adams County Sheriff's Office, which would have been August 20, 2007, to provide the Division with the required written notice of said contact. At no time did the Division receive any written notice of this law enforcement agency contact, and only very belatedly, learned of it completely independently from the Licensee, Ms. Morgan.
- 7) On the basis of the records and information obtained in the investigation of this Case by the Division, and on the absence of any timely communication from Ms. Lorna Morgan regarding the contact with the Adams County Sheriff's Office, Ms. Morgan violated paragraph "4", subparagraph "e" of the License Stipulation.

Ms. Ulberg then set forth the Division's recommendations for the Commission's ruling on the Case:

- A. The Division could have sought to deny Ms. Morgan's license at the time that it learned that Ms. Morgan had failed to disclose her criminal history on her application, which was June 28, 2006. However, the Division offered Ms. Morgan a chance to obtain the license through a License Stipulation.
- B. The Division was under no obligation to enter into the License Stipulation with Ms. Morgan, but it did so in the belief that Ms. Morgan intended, in good faith, to follow through on the conditions in the License Stipulation.
- C. The Division considered the License Stipulation to be a great opportunity for Ms. Morgan to prove that she had learned her lesson to comply with reporting requirements associated with the privilege of having a Colorado racing license.
- D. Ms. Morgan has apparently failed to learn her lesson about following reporting requirements based upon her non-disclosure of her contact with the Adams County Sheriff's Office, which is disturbingly similar to her non-disclosure of criminal history on her original application.
- E. The Division believes that Ms. Morgan's non-disclosure of the Adams County Sheriff's Office contact demonstrates a pattern of non-disclosure that should not be ignored or minimized by the Commission.
- F. The Board of Judges referred the Case to the Commission because the Board already recognized that Ms. Morgan's violation was serious enough to justify the imposition of a greater penalty than the Board could administer. The Board penalized Ms. Morgan to the limits of its authority, which is a one hundred twenty day (120) suspension.
- G. Based upon these factors and the testimony and evidence presented, the Division recommended that the Commission issue a ruling containing the following elements:
 - That the Commission upholds the Board of Judges' findings of fact, conclusions of law and penalty;
 - That the Commission revokes Lorna Dean Morgan's racing license immediately; and
 - That, in the event that Ms. Morgan at any time in the future should desire to hold a Colorado Racing license again, the Commission requires Ms. Morgan to appear before the Commission to request the Commission's explicit permission to re-apply for a license, before she submits any application to the Division.

Following deliberation of the testimony and evidence presented, a motion was made by Commissioner Vail, seconded by Commissioner Grant and unanimously carried to dismiss the appeal of Ms. Lorna Dean Morgan for failure to appear for today's hearing.

A motion was then made by Commissioner Vail, seconded by Commissioner Grant and unanimously carried to uphold the Board of Judges' Findings of Fact, Conclusions of Law and Penalty in its Ruling No. 07-01 dated September 28, 2007; to

revoke immediately the racing license of Ms. Lorna Dean Morgan; and to specify that, in the event that Ms. Morgan should desire to hold a Colorado racing license again at any time in the future, the Commission requires her to appear before it to request the Commission's explicit permission to re-apply for a license, before she submits any application to the Division.

The hearing concluded at 10:15 a.m.

Ms. Tammie Singer, 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: 07-0936

COMMISSION ORDER # 08-03

IN THE MATTER OF:

LORNA DEAN MORGAN

License Type: Trainer

License Number: 200913440

This matter came on for hearing on April 8, 2008 before the Colorado Racing Commission (hereafter, the "Commission"), as both an appeal by the Licensee, LORNA DEAN MORGAN (hereafter, the "Licensee") and a referral from the Division of Racing Events (hereafter, the "Division") under the provisions of C.R.C.R. # 6.530. The appeal and the referral arose out of "Ruling # 07-01" of the Board of Judges at Mile High Greyhound Park (hereafter, the "Board") issued on September 28, 2007.

The Licensee had submitted a signed, faxed request to continue the Hearing. The fax was to the attention of Daniel Hartman, Director of the Division of Racing Events (hereafter, the "Director"), who placed the matter before the Commission. Pursuant to the provisions of C.R.C.R. # 6.620, the Commission considered the specifics of the Licensee's request for a continuance. After deliberation, the Commission determined, in the exercise of its discretion, that the Licensee's request failed, under the circumstances, to present good cause to grant a continuance. Therefore, the Commission declined to continue the hearing to a later date.

Insofar as the Licensee was not present and the Commission had denied the Licensee's request for a continuance, the Commission moved ahead with the hearing. Pursuant to C.R.C.R. # 6.642, the Commission deemed that the Licensee had abandoned her appeal and had waived forever any right to an appeal of the Board's Ruling # 07-01.

The hearing proceeded solely as a referral hearing. The Commission had the Case Record before it. Ashley D. Ulberg, Division Investigator, reviewed the Case on behalf of the Division. The Court Reporter swore in Investigator Ulberg who also provided testimony. Daniel J. Hartman, Director, responded to questions from the Commission.

Findings of Relevant Facts

Based upon the Case Record and the evidence made available in the case, the Commission finds the following Facts:

1. At all times relevant to the case, Lorna Dean Morgan was licensed by the Division as a Trainer, with License # 200913440.
2. Lorna Dean Morgan is currently licensed by the Division, but is under suspension at this time, based upon Board Ruling # 07-01 and based upon the Notice of Continuation of Hearing and of Extension of Penalty by the Commission.
3. Daniel Hartman, Director of the Division of Racing Events, and Lorna Dean Morgan, entered into an agreement entitled “Stipulation and Agreement for Conditional License” (the “License Stipulation”).
4. The Division entered into the License Stipulation with the Licensee because the Licensee had failed in her initial application for a Racing License to reveal her criminal history on the application, as required.
5. The Licensee signed the License Stipulation on November 19, 2006.
6. The License Stipulation contains Paragraph # 4, subparagraph “e,” which reads:

Applicant agrees to notify the Division, in writing, of any racing violations, criminal arrests, criminal convictions, violations of court-ordered supervision, and/or any contact with any law enforcement agency within ten days of the incident.
7. The License Stipulation contains Paragraph # 5, which reads:

By Applicant's signature below, she further agrees that:

 - a. *Applicant understands the conditions with which she must comply; and*
 - b. *Applicant voluntarily enters into the terms and conditions set forth herein and further agrees that this Stipulation incorporates all agreements between the parties; and*
 - c. *Applicant understands that any other license for which she may apply shall be subject to the conditions outlined in this Stipulation.*
8. The License Stipulation contains Paragraph # 7, which reads:

Failure to comply with one or more of the conditions of this Stipulation and Agreement will result in an administrative or disciplinary action by the Board of Judges, a hearing officer, or the Commission. Such action may include fine, suspension or revocation of the applicant's license.
9. The Adams County Sheriff's Office booked and arrested Lorna Dean Morgan in person on August 9, 2007, according to court records from the Colorado Counties, Adams and Logan, as confirmed by Division Investigator Ashley Ulberg with the Adams County, Colorado, Sheriff's Office.
10. According to the court records from the Colorado Counties, Adams and Logan, Lorna Dean Morgan was booked and arrested as a consequence of her acts or omissions regarding court cases she had already reported to the Division, not regarding any new charges in either county.
11. The Records of the Division contain no written document from Lorna Dean Morgan within the timeframe, August 9, 2007 through August 20, 2007, nor at any later point, notifying the Division of Ms. Morgan's booking and arrest by the Adams County Sheriff's Office on August 9, 2007.
12. The Division utilized hand-delivery service, with signed receipt of service from the Licensee, for each of the following Notice and Ruling Documents: a) Notice of

Hearing before the Board, served on September 21, 2007; b) Board Ruling # 07-01, served on September 28, 2007; c) Notice of Referral and Appeal Hearing to the Commission, served on October 30, 2007; and, d) Notice of Continuation of Hearing and of Extension of Penalty, served on November 26, 2007.

13. The Division also sent to the Licensee, by United States mail, first class postage prepaid, at the last address supplied by the Licensee to the Division's official Licensing system (10978 Grange Creek Dr., Thornton, CO 80233) the following documents: a) Notice of Referral and Appeal Hearing to the Commission, mailed on October 5, 2007; and, b) Notice of Continuation of Hearing and of Extension of Penalty, mailed on November 16, 2007. The postal service did not return either of these documents as undeliverable.

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. # 6.530 and Paragraph # 7 of the License Stipulation.
3. The Commission afforded the Licensee timely and proper notice of the Hearing before the Commission.
4. The Division's determination to enter into the License Stipulation with the Licensee was within the Division's authority and was an appropriate exercise of discretion under the circumstances.
5. The Licensee willingly and knowingly entered into the License Stipulation by affixing her signature to the document on November 19, 2006.
6. The License Stipulation went into effect upon November 19, 2006, the date of the Licensee's signature, and remains in effect to this day.
7. In its issuing of each of the following, the Division complied with applicable Rules, policies, and procedures, including the required efforts to provide timely and proper advance notice to the Licensee of all proceedings: a) the Notice of Hearing before the Board of Judges; b) Ruling # 07-01 of the Board of Judges; c) the Notice of Referral and Appeal Hearing before the Commission; and, d) the Notice of Continuation of Hearing and of Extension of Penalty by the Commission.
8. C.R.C.R. #6.530 permits the Commission to review a Case, *inter alia*, "whenever the Board or a hearing officer refers a matter to the Commission for review with the recommendation that the Commission impose a more severe penalty than the Board or hearing officer has authority to impose."
9. The License Stipulation is binding upon the Parties and upon the Commission according to the terms of the License Stipulation.
10. The term, "law enforcement agency," found in Paragraph # 4, subparagraph "e," of the License Stipulation, refers to any group that has the legal authority to enforce the laws of a political body, and necessarily includes local police and county sheriff's offices.
11. The Adams County Sheriff's Office is a "law enforcement agency," as that term is understood in the context of Paragraph # 4, subparagraph "e," of the License Stipulation.

12. The term, “contact,” found in Paragraph # 4, subparagraph “e,” of the License Stipulation, refers to any interaction with someone, and necessarily includes in-person interaction.
13. An in-person booking and arrest is an interaction between the person being booked and arrested and the person doing the booking and making the arrest.
14. The in-person booking and arrest of Lorna Dean Morgan by the Adams County Sheriff’s Office on August 9, 2007, is a “contact,” as that term is understood in the context of Paragraph # 4, subparagraph “e,” of the License Stipulation.
15. Paragraph # 4, subparagraph “e,” of the License Stipulation requires Lorna Dean Morgan, within ten days of any contact with any law enforcement agency, to notify the Division in writing of that contact.
16. The August 9, 2007, booking and arrest of Lorna Dean Morgan initiated a ten-day written notice period as contemplated in Paragraph # 4, subparagraph “e,” of the License Stipulation.
17. The Licensee never provided to the Division any written notice of her in-person booking and arrest by the Adams County Sheriff’s Office on August 9, 2007.
18. The Licensee failed to comply with the ten-day written notice requirement of Paragraph # 4, subparagraph “e,” of the License Stipulation respective to “any contact with any law enforcement agency,” due to her failure, within ten days of her in-person booking and arrest by the Adams County Sheriff’s Office on August 9, 2007, to provide the Division with written notice of that booking and arrest.
19. Therefore, Lorna Dean Morgan violated the terms of the License Stipulation.
20. The Division was not required to enter into the License Stipulation with the Licensee, but did so in the belief that the Licensee would seize the opportunity to demonstrate that she would comply, inter alia, with reporting requirements for racing licensure in Colorado.
21. The Licensee’s failure to comply with the notice requirements of Paragraph # 4, subparagraph “e,” of the License Stipulation, taking into account the Licensee’s license application history, reveals a pattern of non-disclosure.
22. A pattern of non-disclosure by a Licensee can constitute an aggravating factor in penalty assessment by the Board or the Commission.
23. C.R.C.R. # 6.120 limits the penal jurisdiction of the Board for license suspension to one hundred and twenty (120) days.
24. The Board acted up to the limits of its penal jurisdiction for license suspension by imposing 120 days of suspension on the Licensee in Ruling # 07-01.
25. The Board’s suspension of the Licensee’s license for 120 days together with a referral to the Commission for additional penalty, was appropriate, under the circumstances.
26. C.R.C.R. 6.100 permits the Commission, inter alia, to suspend a Licensee beyond 120 days, to impose a fine on a Licensee, or to revoke the license of a Licensee.

27. It is appropriate, under the circumstances, for the Commission to uphold the findings of fact, conclusions of law, and ruling of the Board in Ruling # 07-01.
28. It is also appropriate, under the circumstances, for the Commission to acknowledge the existence of an aggravating factor in the repetitive non-disclosure established in the Case, and to increase the penalty imposed upon the Licensee by the Board.

Order

The Commission hereby orders:

1. The findings of fact, conclusions of law, and penalty in the Board of Judges' Ruling # 07-01 are upheld;
2. The Colorado Racing License of Lorna Dean Morgan (License # 200913440) is revoked; and,
3. In the event that Lorna Dean Morgan should desire to hold a Colorado Racing License again, following the period of revocation, Ms. Morgan must appear before the Commission in person to obtain the Commission's explicit permission to reapply for a Colorado Racing License, before she submits any application for a license to the Division of Racing Events.

DONE this 9th day of April, 2008.

FOR, AND BY ORDER OF,
THE COLORADO RACING COMMISSION

s/

DANIEL J. HARTMAN, Director
Colorado Division of Racing Events

Continued Rule-Making Hearing

The hearing, which was originally convened on Tuesday, February 12, 2008, was continued until March 11, 2008 and, then, until April 8, 2008 at 1881 Pierce Street, Conference Room 110, Lakewood, Colorado. Chairman Hoffman convened the continued hearing at 10:15 a.m.

Mr. Robert "Duke" Mann, Horse Racing Coordinator/Division Investigator, who had assisted in preparation of the rules for consideration at this time, distributed copies of proposed amended Rules 4.228 and 7.218 to the Commission for its discussion and review. He noted that formal action had been deferred on these rules in order for additional amendments to be made to them subsequent to discussions following the March 11, 2008 Commission meeting.

During the course of this Rule-Making Hearing, all interested parties were afforded the opportunity to present views, opinions, comments and arguments for and against adoption of each rule proposal.

Mr. Mann presented the following rules for individual consideration and Commission action:

- Consideration of Proposed Amended Rule 4.228: Mr. Dan Hartman, Director of the Division of Racing Events, apprised the Commission that additional amendments had been made to the text of this proposed Model Rule at the recent Association of Racing Commissioners' International Conference. Based upon the adoption of proposed amendments to the rule in question by the Association of Racing Commissioners' International, Mr. Hartman recommended that the Commission adopt Rule 4.228 in its newly amended form in order to be consistent

with the text of the Model Rule. After taking notice that there were no objections to adoption of this rule, a motion was made Commissioner Vail, seconded by Commissioner Grant and unanimously carried to adopt proposed amended rule 4.228 of the Colorado Racing Commission Rules on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. A copy of the subject rule is attached hereto and made a part of these minutes.

- Consideration of Proposed Amended Rule 7.218: Mr. Mann explained that the Division had made additional amendments to proposed amended Rule 7.218 in order to address certain issues raised by industry members and to alter the jockey mount fee basis for jockeys who were engaged to race, but were taken off the horse to permit another jockey to race. After taking notice that there were no objections to adoption of this rule, a motion was made by Commissioner Grant, seconded by Commissioner Vail and unanimously carried to adopt proposed amended rule 7.218 of the Colorado Racing Commission Rules 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.

Copies of the adopted rules are attached hereto and made a part of these minutes.

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

Status Report on Legislation – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, apprised the Commission that Senate Bill 08-176, BLB's measure to permit Arapahoe Park to conduct thirty rather than sixty days of live racing each year for a period of two years (as amended in committee) had passed out of both the Senate and the House of Representatives and was now awaiting Governor Ritter's signature. Mr. Hartman assured the Commission and attendees that he would continue to monitor and report on the status of Senate Bill 08-176.

Mr. Hartman explained that, since the initiative had yet to be enacted, the Commission would only be able to give conditional approvals to the requests of the Colorado Thoroughbred Breeder's Association for early distribution of a portion of its Breeder's Awards Funds and Arapahoe Park for its proposed 2008/09 simulcast schedule.

Consideration of Request for Early Distribution of a Portion of the 2007 Breeders Awards Fund Monies – Willard Burbach and Mark McGregor, Colorado Thoroughbred Breeders Association

Ms. Naomi Smith, Division Auditor, informed the Commission that, in accordance with and as permitted by statute, the Colorado Thoroughbred Breeder's Association had submitted a formal written request for early release of \$135,000, a portion of their Owners/Breeders Awards and Supplemental Purse Fund accrual for the purpose of supplementing the Colorado Bred Stakes schedule at Arapahoe Park in 2008. Ms. Smith stated that, in the event that Arapahoe Park's simulcast operations continue after April 20, 2008, sufficient funds would be available for this amount to be distributed to the Colorado Thoroughbred Breeder's Association. However, she observed that, should simulcasting cease as of April 20, 2008, it would be questionable whether the amount of \$135,000 would be available for early distribution. Ms. Smith stated that she would perform another audit of the purse fund monies in order to confirm whether the requested amount would be available for distribution by July 1, 2008.

A motion was then made by Commissioner Grant, seconded by Commissioner Vail and unanimously carried to authorize early distribution of \$135,000 to the Colorado Thoroughbred Breeder's Association by July 1, 2008 conditioned upon confirmation of the availability of funds.

Scheduling of 2009 Race Dates Hearing – Dan Hartman

A motion was made by Commissioner Vail, seconded by Commissioner Grant and unanimously carried to schedule the 2009 Race Dates Hearing on Tuesday, July 8, 2008 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.

Consideration of Conditional Approval of Arapahoe Park's Proposed 2008/09 Simulcast Schedule –Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, stated that it would be appropriate and allowable for the Commission to consider granting conditional approval of Arapahoe Park's 2008/2009 proposed simulcast schedule for the period of April 21, 2008 through April 20, 2009 because Arapahoe Park has complied with the requirement that its renewal application to conduct a live race meet in 2008 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; and 3) that, in conjunction with its live meet, Arapahoe Park will provide horse simulcasting on its non-live days.

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

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

Further, Mr. Hartman stated that the Division recommends that the Commission give conditional approval of the range of dates and of the simulcasting proposal submitted by Arapahoe Park. The Commission acknowledged that the Division had previously received a copy of the permission letter from the Colorado Horse-Racing Association, the organization representing 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 have been delegated authority to approve such changes. Mr. Hartman assured the Commission that final approval for simulcasting from any racecourse would not be given unless the Division had received both a racing schedule and a simulcast contract. He noted that the Division would apprise the Commission of the racing dates and schedules, as they are made available.

Following discussion, a motion was made by Commissioner Vail, seconded by Commissioner Grant and unanimously carried to grant conditional approval of Arapahoe Park's request to commence simulcast wagering on April 21, 2008 and to allow Arapahoe Park to continue simulcast wagering through April 20, 2009 subject to enactment of Senate Bill 08-176 as well as 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 2008/2009 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 2008 live race meet, including specific approvals on the number of simulcast races to be offered on live race days at its May 13, 2008 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.

Adjournment

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

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, May 13, 2008 in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

DAVID LYNN HOFFMAN, CHAIRMAN

(EXCUSED)

MARILYN ALKIRE, VICE-CHAIR

C. DREW GRANT, MEMBER

(EXCUSED)

JACK PRETTI, MEMBER

CHARLES VAIL, DVM, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, May 13, 2008 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
Charles Vail, DVM, Member

Staff Present

Dan Hartman, Director, Division of Racing Events
Richard Mattson, Greyhound Racing Coordinator
Robert "Duke" Mann, Horse Racing Coordinator
Jennifer Davis, Commission Veterinarian
Naomi Smith, Division Auditor
Mark Brown, 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 April 8, 2008

A motion was made by Commissioner Grant, seconded by Commissioner Alkire and unanimously carried to approve the minutes of April 8, 2008 as submitted.

Consideration of Request for Permission to Apply for License Validation – Ramon Gerardo Marquez-Gonzalez

Mr. Robert "Duke" Mann, Horse Racing Coordinator and Division Investigator, informed the Commission that the Division had issued Director's Order #08-04 on April 8, 2008, which stated that Mr. Ramon Gerardo Marquez-Gonzalez had taken the required steps to become "financially responsible" by paying his outstanding bill for veterinary services to Dr. Robert Moak in the amount of \$209, and, therefore, was restored to good standing by the Colorado Division of Racing Events. However, in its Order #08-02, the Commission imposed the requirement that Mr. Marquez-Gonzalez must appear before the Colorado Racing Commission prior to requesting to receive a validation to participate in the 2008 Arapahoe Park race meet. Mr. Mann advised the Commission that Mr. Marquez-Gonzalez had submitted a formal written request to appear before the Commission at today's meeting in order to comply with the Commission's requirement.

Mr. Mann introduced Mr. Marquez-Gonzalez to the Commission. The Commission interviewed Mr. Marquez-Gonzalez regarding his previous lack of "financial responsibility" and his current status.

After considering Mr. Marquez-Gonzalez' responses and after being assured by him that he would comply with the Division's/Commission's rules and directives relating to "financial responsibility", a motion was made by Commissioner Pretti, seconded by Commissioner Grant and unanimously carried to confirm that Mr. Marquez-Gonzalez has complied with the Commission's requirement that he appear before it before being considered eligible for license validation; and, therefore, to ratify approval of the Division's restoration to good standing of Mr. Ramon Gerardo Marquez-Gonzalez and to

allow him to apply for validation of his current racing license to participate in Arapahoe Park's 2008 live race meet.

Consideration of Request for Permission to Apply for Licensure – Justin Gleason

Mr. Justin Gleason appeared before the Commission. As a preliminary matter, Mr. Jim McCall, a member of the Colorado horse racing community and a colleague and friend of Mr. Justin Gleason's, distributed a packet of documents to the Commission for its review. The packet contained the following items:

- Copy of Certificate of Completion indicating that Justin Gleason has successfully completed The Anger Control and Domestic Violence Program at Santa Fe Trail Community Corrections; document signed by Patrick Klecker, Instructor and dated 4/8/2008;
- Copy of Letter of Completion indicating Justin Gleason's completion of ADIS/Alcohol-Drug Information School at the Syracuse Chemical Addition Treatment Program on 4/27/2007; document signed by Tammy Lund, CADC, Executive Director and dated June 7, 2007.
- Copies of eight letters of support for and endorsement of Justin Gleason's efforts to become eligible for licensure. Persons submitting these letters of recommendation were: Richard H. Fell, DVM and Judy K. Fell; Linda Gleason; Perry W. Anderson; Wendi Barlow, RN; Ross and Stacie Harmon; Janet Meadows; David Robertson and Mary Ann Schreiber. (The Division was also in receipt of an additional letter of endorsement sent to the Division via facsimile by Christie Weeder.)

Mr. Dan Hartman, Director of the Division of Racing Events, stated that, based upon examination of the documents provided by Mr. Gleason, it is his opinion that Mr. Gleason has met the minimum criteria established by the Commission to appear and address the Commission in an effort to be allowed to apply for a Colorado occupational racing license.

Mr. Gleason referred to the material that had been given to the Commission for review as evidence of his efforts to comply with the Commission's directive that he provide clear and convincing proof that he has addressed his ongoing disciplinary problems, problems with inebriation and/or substance abuse as well as his patterns of misconduct, behavioral impropriety, verbal and/or physical abusiveness and is striving to handle his personal and financial obligations in a responsible manner. Mr. Gleason stated that he realizes that he has made serious mistakes, but hopes that the Commission would be willing to grant him a chance to demonstrate that he has matured and has learned to control his temper.

As part of the process of determining whether Mr. Gleason should be considered eligible to apply for licensure, the Commission questioned him regarding his lengthy history of violations. The Commission cautioned Mr. Gleason that, in the event that he was allowed to apply for and was granted a license, he could not commit any infractions or violations of any kind. Further, the Commission stressed that, under no circumstances, would it tolerate any type of infraction or rule/statutory violation by Mr. Gleason and emphasized to him that, should he be permitted to apply for a racing license, this would be the final time that such a privilege would be extended to him. The Commission and the Division stated that, if approved, Mr. Gleason's license would have numerous conditions placed upon it.

Mr. Robert Ring, a member of the Colorado horse racing community, addressed the Commission regarding his allegation that Mr. Gleason had not proved to be financially responsible in his handling of an outstanding indebtedness to Mr. Ring. Upon questioning and obtaining additional information from both Mr. Ring and Mr. Gleason as well as from other knowledgeable parties, the Commission determined that it did not have jurisdictional authority to adjudicate this dispute and recommended that, if the parties involved could not resolve it themselves, they might to seek a court decision.

The Commission and Mr. Hartman urged Mr. Gleason to continue his anger management and substance abuse classes and to pursue a resolution of the matter brought forward by Mr. Ring. The Commission commended Mr. Gleason's effort at rehabilitation and encouraged him to be mindful of the trust and confidence placed in him by the persons who had written letters on his behalf to the Commission.

A motion was made by Commissioner Alkire, seconded by Commissioner Grant and unanimously carried to place in good standing Mr. Justin D. Gleason, so that he may apply for a Colorado occupational racing license with the discretion being given to the Colorado Division of Racing Events to set forth any conditions regarding conduct that it deems necessary and appropriate. Commissioner Alkire stated that it is the consensus of the Commission that Mr. Gleason has made a great deal of progress in dealing with his problems and that the Commission commends his efforts, but urges him to continue to proceed with them since no leniency would be granted to him in the future.

Mr. Gleason thanked the Commission for considering his request.

Consideration of 2008 Renewal Application – Arapahoe Park – Robert “Duke” Mann

Mr. Robert “Duke” Mann, Horse Racing Coordinator, presented his report concerning Arapahoe Park's 2008 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 Property Facility Manager/Director of Racing, appeared on behalf of the Racing Association.

Mr. Mann advised the Commission that Arapahoe Park intends to conduct a thirty-six (36) day live race meet beginning on Saturday, May 24, 2008 and concluding on Sunday, August 10, 2008, with live performances to be offered on Friday, Saturday and Sunday throughout the meet, including a special program to be conducted on Monday, May 26, 2008 (Memorial Day commemoration). 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. Robert "Bob" Clark would serve as the Senior State Steward, Ms. Francy Martin would be the Presiding State Steward and Mr. Gale Davey would again serve as the Association Steward. The Commission took notice that, at the present time, the position of Jockey Room Custodian remains unfilled. Mr. Mann reported on the backgrounds and experience of persons who are working at Arapahoe Park for the first time. He observed that persons new to their positions this season are: Mr. Stuart Slagel, who will serve as the Racing Secretary; Mr. Bayard Gilbert, who will hold the positions of Assistant Racing Secretary/Clerk of Scales; Ms. Leona Hunter, who will be the Horsemen's Bookkeeper; Ms. Kathy Keeley, who will serve as the Mutuel Manager and Mr. William "Bill" Powers, who will also be serving as Arapahoe Park's Director of Security. Mr. Mann commented that the Division is in receipt of resumes and has performed initial background checks on these officials and recommends that they be approved to serve at the 2008 Arapahoe Park live meet.

The Commission inquired about Ms. Hunter's experience. After being advised by Mr. Mann that Ms. Hunter had not previously been employed in the same or a similar position to that of the Horsemen's Bookkeeper, the Commission expressed its desire for Arapahoe Park to post a surety bond for her in an amount to be determined. (Subsequently, based upon prior requirements, the bond amount was set at \$250,000.)

Mr. Mann stated that the Commissioner Hoffman and Division Auditor Naomi Smith had reviewed and approved Arapahoe Park's financial statements. Commissioner Hoffman expressed his concern regarding Arapahoe Park's lack of profitability and its total reliance on BLB to subsidize its continued operation.

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.

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 an insurance binder for Jockeys, but not for Exercise Riders or Pony Persons, who are independent contractors. Copies of the insurance binder 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 1, 2008 and a Certificate of Insurance would need to be provided to the Division no later than that date.

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

With regard to the soil sampling and depth measurement of the racing surface, the Commission expressed its desire for Arapahoe Park to continue to perform these functions as it has previously done. It was agreed that the Division and the Association would develop a plan to ensure that soil sampling is performed and depth measurements are taken at regular intervals as deemed necessary.

In order to ensure that all horses entering the grounds at Arapahoe Park have a current health certificate signed by a Veterinarian as well as a current Coggins Test (within the previous twelve ((12)) months), no matter whether the horse(s) is/are from within or outside of Colorado, the Division investigative staff is in the process of contacting and notifying trainers bringing horses to Arapahoe Park of these requirements. The investigators will then apprise the stable gate personnel of its expectations regarding said medical documentation. The veterinary staff will be given all essential health-related information and will be responsible for contacting those trainers coming to Arapahoe Park at any time during the meet concerning these matters.

Discussion ensued regarding the development of plans/protocols for handling outbreaks of viruses or other communicable diseases among the horse population at Arapahoe Park. The Commission endorsed strongly making advance arrangements for any such emergencies and/or quarantines.

Mr. Mann stated that Arapahoe Park submitted most of the required exhibits with its renewal application and he recommended that the Commission grant conditional approval of Arapahoe Park's 2008 renewal application.

Mr. Mann reviewed the list of recommendations set forth in Arapahoe Park's 2007 end of meet report, noting that Arapahoe Park had complied with each of them.

Following review and discussion, a motion was made by Commissioner Vail, seconded by Commissioner Alkire and unanimously carried to approve Arapahoe Park's 2008 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) 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 1, 2008 expiration date.
- 7) That Arapahoe Park will submit proof of Jockey'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

NOTICE OF ISSUANCE OF MEET LICENSE WITH CONDITIONS

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

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 24, 2008 through the closing day of the meet, which is August 10, 2008 for an envelope of thirty-six days. The following racing schedule was requested by the Association and approved by the Commission: Friday, Saturday and Sunday: ten (10)-race matinee performances per day. A ten (10)-race matinee program is to be conducted on Monday, May 26, 2008 (Memorial Day commemoration).
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 1, 2008.
3. The Association shall keep in force adequate insurance coverage for the protection of the Jockeys. 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. (NOTE: It is essential that the Association provide appropriate notice to all Exercise Riders and Pony Persons that, because they are considered independent contractors, they must obtain their own insurance coverage.)
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. All racing official positions shall be filled no later than five days (5) prior to the commencement of the meet.
5. The Association must post a surety bond in the amount of \$250,000 for the Horsemen's Bookkeeper.
6. 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.

7. 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.
8. The facility shall meet the "Totalisator Standards" as adopted by the Commission.
9. 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.
10. 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.
11. 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 10, 2008, 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.
12. 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.
13. 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 2008/2009 and subsequent budget years.
14. 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.

15. 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.
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 2008 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 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.
20. The Association will oversee and ensure that the mandated times of closure of the Stable Gate entrance to vehicle traffic are maintained. However, certain limited exceptions, such as an emergency call by a veterinarian, will be allowed. Exceptions will only be permitted on a case-by-case basis.
21. 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.
22. 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.
23. 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.
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 2008 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 21st day of May 2008.

BY ORDER OF THE COLORADO RACING COMMISSION

s/

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 2008 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 2008. Mr. Mann advised that the sole change to this document relates to the hours of closure of the stable gate to vehicular traffic. Discussion ensued regarding this restriction and whether it would prevent entry by emergency vehicles/care providers. Mr. Mann observed

that, under no circumstances, would access be denied when illness/critical need on the backside was involved. Those in attendance were afforded an opportunity to comment on the document and offer views and opinions relating to it. No objections were raised to acceptance of this document as presented.

2) Race Review Committee Protocol: The Commission took notice that no changes had been made to this document from 2007. Mr. Mann stated that, since its implementation, the Race Review Committee Protocol had been utilized on a limited number of occasions and had worked well in all instances. The Commission recommended that, in the event that a Race Review Committee must be convened, the issue to be considered should only be the cause of a disqualification, not a broad spectrum of aspects in a race. However, if a request is made for the Committee to consider more than one factor in a race, the Committee needs to ensure that all affected parties are duly and properly notified of the time, date and location of the Race Review Committee's deliberations. 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 2008 and found it to be acceptable as presented. Based upon the recommendation of Ms. Petra Hartmann, Chief Racing Chemist for Industrial Laboratories, Mr. Mann stated that two testing laboratories had been added to the list of approved facilities. The newly incorporated laboratories are the Pennsylvania Equine Testing and Research Laboratory (available for sample testing for steroids and all other medications) and the University of California at Davis – CAHFS (available for sample testing for steroids only).

4) Horse Racing Medication Guidelines and Veterinary Practices: Mr. Mann advised that two changes had been made to the proposed Horse Racing Medication Guidelines and Veterinary Practices. One was the incorporation of a new form entitled the "Colorado Racing Commission Horse Trainer Medication Administration Form". Mr. Mann commented that this form would be made available to the Racing Office and Test Barn personnel and to veterinary staff members. He informed the Commission that the horse racing community would receive instructions on completing the form and its use. Additionally, the form will be included in the packet of material distributed to trainers. The second change is the addition of the newly adopted rule governing androgenic-anabolic steroids. 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 Alkire, seconded by Commissioner Grant and unanimously carried to accept the 2008 Stewards' Guidelines and Groundrules, the Race Review Committee Protocol, the 2008 Split Sample Policy and the 2008 Horse Racing Medication Guidelines and Veterinary Practices as presented.

Consideration of Request to Modify Take-Out Rates – Mile High Greyhound Park – Bruce Seymore

Division Director Dan Hartman advised that he had received a request from Mr. Bruce Seymore, Director of Racing Operations of Mile High Racing and Entertainment Colorado, on April 23, 2008, to raise Mile High Greyhound Park's take-out rates on all types of wagers to 27% for the duration of Mile High's current meet. Mr. Hartman stated that he had polled the Commission regarding the request and had received affirmative responses from a majority of members to granting approval of it, but only on a temporary basis from April 25, 2008 through May 13, 2008, pending formal action at today's meeting.

Mr. Bruce Seymore addressed the Commission regarding the reasons for making this request, including recent developments with the parent company and its “forbearance”, lack of legislative relief, corporate cash flow demands, Mile High’s declining handle, both on the live product and simulcast activity, a budget shortfall for Mile High Greyhound Park, demands by Commission Order for upgrades to the facility, grounds, racecourse and/or equipment and the major fiscal problem occasioned by cash funding. Mr. Seymore stated that, in previous years, Mile High Racing and Entertainment has requested approval of higher take-out rates than this one and, although the request that he is making is controversial and undesirable, it is critical to preserving live racing at this time.

Discussion ensued regarding Mr. Seymore’s request during which views, opinions and arguments as well as recommendations for alternative actions were presented. Members of the greyhound racing community voiced their concerns and distress concerning this proposal.

The Commission directed that, in the future, the Division communicate with the affected racing community(ies) when a proposal or request having direct significance or consequences for the industry is submitted. Mr. Hartman assured the Commission that timely notification of any such future requests would be provided to industry members.

Following discussion and deliberation, a motion was made by Commissioner Pretti, seconded by Commissioner Alkire and carried by a majority vote (4-1) to grant approval for the take-out rates to be raised to 27% on all types of wagers offered at Mile High Greyhound Park for the remainder of its 2008 live racing season. Commissioner Vail abstained from voting.

Mr. Seymore was informed that should he wish to extend the validity of these take-out rates beyond Mile High’s current meet, he would need to submit another request for permission to do so.

Update on Legislation – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, apprised the Commission that, although an effort had been made to prepare a legislative proposal intended to give some financial relief to the greyhound racetracks and to obtain “late bill status” for it, the attempt had been unsuccessful.

He noted that Senate Bill 08-176, BLB’s measure to permit Arapahoe Park to conduct thirty rather than sixty days of live racing each year for a period of two years had been signed by Governor Ritter and enacted.

Consideration of 1) Proposed Modification of Greyhound Racing Envelopes and 2) Continuation of Pueblo Kennel Association’s 2008 Live Race Meet – Bruce Seymore/Dan Hartman

Division Director Dan Hartman informed the Commission that he had received a formal written request from Mr. Bruce Seymore, Director of Racing Operations Colorado for Mile High Racing and Entertainment, to change the Pueblo Kennel Association racing envelope and, also, to modify its previously approved race dates. Mr. Hartman explained that the proposed changes would not affect the current Mile High Greyhound Park meet, which is scheduled to conclude on June 28, 2008 or any of the meets/portions of meets that have already been conducted.

The following proposed modification was presented for Commission review and public discussion:

PUEBLO GREYHOUND RACING
(Commerce City)

JUNE 30 – AUGUST 23, 2008
(Monday) (Saturday)
(Envelope of 55 days)

AUGUST 25, 2008
(Monday)
(Envelope of 1 day)

AUGUST 27 – AUGUST 30, 2008
(Wednesday) (Saturday)
(Envelope of 4 days)

Mr. Hartman observed that this request would give the ability to Pueblo Kennel Association to conduct its full complement of 120 days, sixty of which have already been offered. He reported that Mile High Racing and Entertainment does not intend to conduct another meet in 2008 once the proposed Pueblo meet has ended. Additionally, per Mr. Seymore's written notification, Mile High Racing and Entertainment has not secured contracts with participating kennels for the second half of the proposed Pueblo meet and, therefore, foresees that the final day of live greyhound racing would be June 28, 2008, the concluding day of the Mile High Greyhound Park meet.

Mr. Hartman stated that, if the Commission approved these requests, the possibility would still exist for kennel contracts to be negotiated, for live greyhound racing to be offered through August 2008 and for all affected entities (the Association, the greyhound racing community and kennel operators and the State of Colorado) to collect revenue. Therefore, he recommended approval of the request as submitted.

Mr. Bruce Seymore apprised the Commission that Interstate Kennel Club might request to conduct a single day of live racing on September 1, 2008, although it would not be conducting an Autumn/Winter meet this year. He stated that it was unprofitable and unpractical for any live greyhound racing to be conducted during the Winter months. Mr. Seymore noted that he intends to submit race date requests for 2009 greyhound race meets.

A lengthy discussion ensued during which the Commission considered the views, opinions and arguments voiced against acceptance of the proposed racing envelope and date changes voiced by various members of the greyhound racing community, including Mr. Eric Morgan, Executive Director of the Colorado Greyhound Kennel Association, Mr. Gary Bryan, President of the Colorado Greyhound Kennel Association, Kennel Operators Mr. Dick Figurilli, Mr. and Mrs. Daryl Brumage, Ms. Linda Blanch and Mr. Robert Feathers. Mr. Seymore and Mr. Hartman also participated in the discussion. The consensus of the greyhound kennel operators appeared to be that the proposed change of race dates and of Pueblo's racing envelope was unnecessary and was intended to maximize the amount of simulcasting, primarily of horse races, that Mile High Racing and Entertainment would be allowed to provide. Mr. Seymore asked that the Commission approve his request in order to enable him to attempt to obtain kennel contracts and, hopefully, to continue to offer greyhound racing through September 1, 2008. Mr. Hartman reminded the attendees that, once all live greyhound racing ceases, the affiliated simulcast facilities would close and the revenue that they generate would lapse.

The Commission encouraged Mr. Seymore and the representatives of the greyhound community to seek an amicable outcome to the current impasse. To this end, Mr. Hartman offered to provide a meeting location to facilitate further discussion of the issues set forth today.

Thereupon, the Commission recessed its regular meeting to afford the members of the greyhound racing community and Mr. Seymore an opportunity to discuss the aforementioned topics.

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

Recess of Regular Meeting/Convening of Executive Session

At 1:05 p.m., a motion was duly made by Commissioner Vail, seconded by Commissioner Alkire and unanimously carried to recess the regular meeting of the Commission for the purpose of meeting in Executive Session to discuss animal drug testing and certain pertinent legal issues.

Adjournment of Executive Session

At 1:50 p.m., the Commission adjourned the Executive Session and reconvened the regular business meeting.

The Commission stated for the record that, during the Executive Session, it had discussed animal drug/medication testing policies and the effect of Amendment 41 relating to conflicts of interest.

Action Regarding Request to Modify Pueblo Kennel Association's Racing Envelope and Race Dates

A motion was made by Commissioner Vail, seconded by Commissioner Alkire and unanimously carried to table further consideration of the requests of Mr. Bruce Seymore to modify both the 2008 Pueblo Kennel Association racing envelope and racing dates until its June 10, 2008 meeting.

Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 2:00 p.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, June 10, 2008 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

CHARLES VAIL, DVM, MEMBER

RECORD OF PROCEEDINGS

Pursuant to 12-60-301(h), C.R.S. and provisions of 24-6-402, C.R.S., a special emergency meeting of the Colorado Racing Commission was held on Thursday, May 29, 2008 in Conference Room 108 at 1881 Pierce Street, Lakewood, Colorado, for the purpose of considering the surety bond requirement for Arapahoe Park's 2008 live race meet.

A majority of the Commission certified that exigencies of time require that the Commission meet without delay. The requirements of public notice and of seventy-two hours' actual advance written notice to members were dispensed with, and Commission members as well as the public were given such notice as was reasonable under the circumstances. A Notice of Special Emergency Meeting is attached hereto and made a part of these minutes.

Chairman Hoffman convened the meeting to order at 7:35 a.m. As a preliminary matter, Commissioner Hoffman called for a motion, which was then made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried, to verify that today's session was a duly and properly convened special emergency meeting.

Members Present

David Lynn Hoffman, Commission Chair (via teleconference)
Marilyn Alkire, Commission Vice-Chair (via teleconference)
Drew Grant, Member (via teleconference)
Charles Vail, DVM, Member (in person)

Commissioner Pretti was excused from the meeting.

Staff Present

Daniel Hartman, Director of Division of Racing Events
Sherry Gunnell, Assistant to the Director

Also Present

Tony Gasich, Representative, Rocky Mountain Quarter Horse Association
Willard Burbach, Representative, Colorado Thoroughbred Breeders' Association
Bruce Seymore, Director of Racing Operations Colorado, Mile High Racing & Entertainment
William Powers, Property Facility Manager/Director of Racing, Arapahoe Park

Mr. Bruce Seymore, Director of Racing Operations Colorado for Mile High Racing & Entertainment, addressed the Commission regarding his formal written request dated May 28, 2008 for removal of the surety bond requirement for Arapahoe Park's current race meet that had been imposed by the Commission at its May 13, 2008 meeting.

Mr. Seymore presented historical information concerning Arapahoe Park's financial problems during its initial term of operation in the early 1990's that resulted in over \$250,000 in outstanding purse checks not being paid and, subsequent to that, the abrupt closure and cessation of operations of Pikes Peak Meadows. He observed that, for several years after these events occurred, the Commission felt that Arapahoe Park should post a \$250,000 surety bond in an effort to protect the horse racing community from any type of fiscal negligence, mismanagement or criminal activity. However, Mr. Seymore stated that, since the late 1990's, this requirement has not been imposed by the Commission and has not been deemed necessary by the members of the Colorado horse racing community at Arapahoe Park at any subsequent time.

Mr. Seymore commented that monies generated by simulcasting during the off-season are paid into the purse fund account and are available as need arises, for example, to compensate for either underpayments or overpayments. Mr. Seymore stated that, if, at any time, the members of the Colorado Horse-Racing Association are apprehensive about

Arapahoe Park's ability to pay purses, he would schedule a meeting with representatives of the organization to address their concerns and reach an amicable agreement. Also, he noted that he submits a monthly financial statement to Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, reflecting Arapahoe Park's status. Mr. Seymore volunteered to provide this information to the Commission as well.

Mr. Seymore assured the Commission that Arapahoe Park's existing insurance binder would cover acts of criminality, such as theft, by the Horsemen's Bookkeeper.

On behalf of his request, Mr. Seymore summarized his reasons for asking for withdrawal of the surety bond requirement:

- 1) That the \$250,000 bond as requested would cost \$16,600. Mr. Seymore observed that, at the current 7% rate, the Association would experience diminished cash flow.
- 2) That the expenses incurred for the renovation of the Twin Rivers racetrack/racing facility as they relate to "forbearance" have no relevance to the availability for cash infusion to the Denver entities from BLB USA Inc. LLC. Mr. Seymore asserted that BLB has been providing cash contributions to assist with recent renovations/upgrades at Arapahoe Park.
- 3) That the State has released over \$1,000,000 to pay purses, with thirty-three (33) live race dates remaining and Arapahoe Park's contractual obligation to the Colorado Horse-Racing Association, funds should be sufficient for the duration of the meet and, if they are not, they will be adjusted accordingly.
- 4) That the surety bond in question has not been deemed necessary in recent years. Further, in past years, the Colorado Horse-Racing Association has supported the elimination of the bond.

Discussion ensued during which members of the Commission exchanged views and opinions with Mr. Seymore.

After receiving Mr. Seymore's guarantee that Arapahoe Park's current liability insurance would cover any criminal acts that might be perpetrated by the Horsemen's Bookkeeper, a motion was made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried to withdraw the requirement that a surety bond be posted for the Horsemen's Bookkeeper.

Adjournment

There being no further matters to be considered by the Commission, the special emergency meeting was adjourned at 7:50 a.m.

The undersigned hereby approve the foregoing Minutes.

(PRESENT VIA TELECONFERENCE)
DAVID LYNN HOFFMAN, CHAIRMAN

(PRESENT VIA TELECONFERENCE)
MARILYN ALKIRE, VICE-CHAIR

(PRESENT VIA TELECONFERENCE)
C. DREW GRANT, MEMBER

(EXCUSED)
JACK PRETTI, MEMBER

CHARLES VAIL, DVM, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, June 10, 2008 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. Chairman David Lynn Hoffman called the meeting to order at 9:30 a.m.

Members Present

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

Staff Present

Dan Hartman, Director, Division of Racing Events
Richard Mattson, Greyhound Racing Coordinator
Robert "Duke" Mann, Horse Racing Coordinator
Jennifer Davis, Commission Veterinarian
Naomi Smith, Division Auditor
Michelle Bauman, Division Office Manager
Mark Brown, Enforcement Coordinator
Leland Bebee, Division Legal Assistant
Sherry Gunnell, Assistant to the Director

Also Present

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

Request to Add Agenda Item – Chairman Hoffman

Chairman Hoffman called for a motion to add an item to the meeting agenda. A motion was thereupon made by Commissioner Vail, seconded by Commissioner Alkire and unanimously carried to place a discussion of cash funding on today's agenda.

Approval of Minutes of May 13 and May 29, 2008

A motion was made by Commissioner Vail, seconded by Commissioner Alkire and unanimously carried to approve the minutes of May 13, 2008 as submitted and to approve the minutes of May 29, 2008 as amended.

Approval of Minutes of Executive Session Held on May 13, 2008

Chairman Hoffman announced for the record the purpose for the Executive Session conducted on May 13, 2008. He stated that the Commission had discussed the current animal drug/medication testing program and changes that had been made to it. Additionally, the Commission received updated information from the Assistant Attorney General concerning Amendment 41 as it relates to ex parte communications. A motion was made by Commissioner Pretti, seconded by Commissioner Grant and unanimously carried to approve the minutes of the May 13, 2008 Executive Session as submitted.

Discussion Regarding Letter of Inquiry Received by the Division of Racing Events

Division Director Dan Hartman apprised the Commission that the Division received a letter of inquiry from Mr. Tony Gasich dated May 14, 2008. In his letter, Mr. Gasich questioned the propriety of the vote taken by the Colorado Racing Commissioners prior to the May 13, 2008 monthly meeting regarding the request by Mile High Greyhound Park to modify take-out rates. Mr. Gasich expressed his concern that the Division had failed to comply with Open Meetings Requirements of the Colorado Sunshine Law by polling the Commission for a decision between Commission meetings.

Mr. Hartman stated that he had solicited advice from Ms. Tina Bowman, Assistant Attorney General for the Division of Racing Events/Colorado Racing Commission in order to respond properly to the issues raised by Mr. Gasich.

Mr. Hartman informed the Commission that it was the position of the Attorney General's Office that, based upon the language in a letter from Mr. Bruce Seymore, Director of Racing Operations Colorado for Mile High Racing & Entertainment, an emergency situation existed that necessitated urgent action by the Commissioners pursuant to 12-60-301(h) of the Colorado Revised Statutes. Additionally, the Attorney General's Office found that "in exigencies occurring between regularly scheduled monthly meetings, it is proper for the Division to 'poll' the Commissioners and get their comments and votes without having to give public notice." Mr. Hartman stated that, after polling the Commission and obtaining approval from a majority of members, he granted temporary approval of Mr. Seymore's request, placed this matter on the May Commission meeting agenda and sent electronic notification to all parties on the agenda mailing list that this matter would be addressed at the next Commission meeting.

The Commission acknowledged that Mr. Hartman had responded appropriately to Mr. Gasich's inquiry and had submitted copies of electronic messages of the votes taken concerning the aforementioned matter to him. The Commission expressed its desire that, whenever possible, emergency interim meetings should be avoided. Mr. Hartman emphasized that every effort is made to minimize such meetings and will continue to do so. Mr. Gasich commented that his intention was to ensure that Division and Commission communications are handled in an open and transparent manner.

Commission Comments -- Chairman David Lynn Hoffman

Chairman Hoffman stated that, since BLB has rescinded its request to continue to conduct live greyhound racing after the June 28, 2008 closure of Mile High Greyhound Park, this matter will not be considered. However, in light of the imminent cessation of live greyhound racing, Chairman Hoffman voiced his views and concerns and, also, provided an assessment of the status of the racing industry in Colorado.

Chairman Hoffman offered the following observations:

A. The Present --

1. All parties associated with racing in Colorado, the industry participants, the racing associations and their representatives, the Division and the Commission, are now in a situation in which none of them wants to be.
2. The negotiations between BLB and the kennel operators were unsuccessful.
3. Everyone had sufficient time to make comments before the Commission and to negotiate.
4. Therefore, now is not the time for either side to blame the other since this would be pointless.
5. The Commission's position throughout this last month was to remain neutral.
6. The Commission cannot force the kennel operators to sign contracts.
7. The Commission cannot compel the track to take dates, such as those during the Winter months, if the association does not want to take them.
8. The racetrack has agreed to take dates during the Winter months and has done so at a loss.
9. After reviewing the racetrack's financial reports, it is apparent that it is more expensive for the track to conduct racing during the Winter than at other times during the year; the handle decreases and, therefore, losses in revenue occur as the result of racing at this time of year.

B. The Welfare of the Animals --

1. In the past when tracks have shut down, the kennel operators, the racetrack and the Division worked together cooperatively to take care of the animals.
2. This cooperation must absolutely happen again. No one wants to have any incidents occur that would create an adverse public image of the industry and, thereby, ruin prospects for the future.

3. The collective “top priority” of all associated with the industry is to ensure the welfare of the animals involved in it.
4. The Division has sent a letter to all kennel operators with accompanying forms to be filled out and returned with information relating to their greyhounds and/or those in their custody. The forms requested the number of greyhounds that a kennel operator has, how many of them will be sent back to their owners and how many, if any, need to be adopted.
5. By taking this initial step, the Division has begun the process of determining whether a problem exists and, if so, what the magnitude of it is.
6. To reiterate, everyone involved or affiliated with the industry, including the racetrack, the Division and the Commission, needs to work together to ensure the welfare of the animals.

C. The Future –

1. The Commission is willing to entertain future envelopes and dates for live greyhound racing in 2009.
2. An article in the newspaper this week pointed to the decline of interest in horse racing and, by implication, in greyhound racing in the United States. The article asserted that neither sport has gained the interest of younger generations, and that, given the appeal of computers, video and internet games to them, it will be a difficult, but not impossible market, to attract.
3. It is imperative that this industry – the racing community members and the racing association(s) – work together to obtain favorable legislation in order to survive.

The Commission and audience endorsed Chairman Hoffman’s summation of the status of racing in Colorado and thanked him for his remarks.

Consideration of Request to Modify Arapahoe Park’s Racing Schedule on a Permanent Basis – William Powers

Mr. Robert “Duke” Mann, Horse Racing Coordinator, informed the Commission that Mr. William Powers, Arapahoe Park’s Property Facility Manager/Director of Racing, had requested that a permanent modification of Arapahoe Park’s racing schedule be approved. Mr. Mann observed that Arapahoe Park desires to conduct nine rather than ten days per race day for the duration of the 2008 race meet. He noted that approval of this request would not violate the terms of the agreement between Arapahoe Park and the Colorado Horse-Racing Association.

Mr. Powers explained to the Commission his reasons for asking for this modification. He reported that, for the first eight days of racing, the total pari-mutuel handle was down approximately 16% from 2007. Additionally, the in-state, out-of-state and on-track statistics as well as the attendance for this period are all significantly lower than those for 2007. Mr. Powers stated that Arapahoe Park is also facing an impending overpayment as well. He commented that it has been difficult to fill races and, during the early weeks of the meet, it has not been uncommon for Arapahoe Park to offer five-horse fields. He noted that he has discussed the conditions for races with the Racing Secretary and believes that, in the future, the fields will increase in size. Mr. Powers advised the Commission that there is a downward trend in wagering and attendance at other racecourses nationwide.

After entertaining Mr. Powers’ remarks, a motion was made by Commissioner Grant, seconded by Commissioner Pretti and unanimously carried to approve Mr. Powers’ request to conduct nine instead of ten races each race day for the remainder of Arapahoe Park’s 2008 live race meet.

Discussion Regarding Cash Funding Fee-Setting – Dan Hartman

Division Director Dan Hartman advised that, traditionally, at the Commission’s June meeting, proposals for cash funding fee adjustments to be reverted to the racing association(s) are considered and, also, recommendations for cash funding and occupational fees are presented for the following year. However, in light of the lack of

proposed racing envelopes for the remainder of 2008, Mr. Hartman stated that he has been unable to prepare a complete budgetary proposal for the upcoming Fiscal Year, but is in the process of doing so. He explained that the cash fund reserve is not statutorily permitted to exceed 16-1/2% of the Division's total budget. Mr. Hartman commented that the final budget for Fiscal Year 2008-09 is to be submitted by June 30, but may subsequently be modified. He stated that he would be presenting cash funding fee payment proposals and occupational license fee proposals to the Commission for consideration at the July 8, 2008 meeting.

Mr. Hartman stated that, in accordance with its regular cycle of events, the Commission would conduct its annual Race Dates Hearing at the July 8, 2008 meeting. He observed that, in the near future, he hopes to receive proposed 2009 race date envelopes to present for Commission review at that time. He noted that, once race date envelopes have been submitted, the Division would have the ability to develop a realistic budget. In light of Mr. Hartman's request that the matter of fee-setting be postponed until the July Commission meeting, a motion was made by Commissioner Vail, seconded by Commissioner Grant and unanimously carried to extend to the Division additional time to prepare and bring forward its proposed cash funding fee assessments, proposed cash funding fee adjustments and proposed occupational license fee assessments.

The Commission requested that Mr. Hartman explain the steps involved in establishing fee proposals. Mr. Hartman stated that the basis for developing the Division's budget proposal and association and occupational license fee assessment proposals is the anticipated amount of racing to be conducted during a given Fiscal Year. He advised that, in light of cessation of greyhound racing on June 28, 2008, he has notified certain Division staff members that their positions would be vacated and they should explore other employment options within the Department of Revenue. Mr. Hartman explained that, depending upon whether or not there are approved race date envelopes for 2009, it may be necessary for further Division staffing reductions to be made.

Request to Address Commission – Stephanie Bublitz

Ms. Stephanie Bublitz, a concerned citizen, thanked the Commission for its willingness to permit her to present her views and to inquire about plans to ensure the health, safety and welfare of the greyhounds in the event of the closure of the Commerce City racetrack. She expressed her belief that the well-being of the racing greyhounds is of paramount importance and might be compromised if no live racing was to be offered. Ms. Bublitz urged everyone involved in the greyhound racing industry to take a proactive approach to ensuring that all racing greyhounds and those being groomed to race are protected and treated humanely. She stated that Colorado has an opportunity to set a precedent by rewarding the outstanding four-footed athletes, the greyhounds. She requested that she be given a list of names of all affected greyhounds and their disposition, such as adoption, transportation to other racing venues, return by trainer/kennel operator to actual owner.

The Commission and Division Director Dan Hartman thanked Ms. Bublitz for her thoughtful and well-reasoned presentation. The Commission assured Ms. Bublitz that efforts have been undertaken by the Division of Racing Events to ascertain whether a problem exists with respect to protecting the affected greyhound population and, if so, the scope and magnitude of it. Division Director Dan Hartman explained that the Division is in the process of obtaining pertinent information about all affected greyhounds and, once the essential documentation of their identities, whereabouts, ownership and future destinations has been provided to the Division, decisions can then be made relating to future courses of action. Mr. Hartman stated that, for the past nine to ten months, the process of developing plans and strategies to deal with the possible eventual cessation of live greyhound racing has been underway. He commented that, in the past, the Division has also had to intervene in similar circumstances and has some experience along these lines. Mr. Hartman observed that Division personnel, including veterinarians and investigators, would be monitoring the handling and treatment of the kenneled greyhounds and would make every effort to prevent any harm from coming to them. Mr.

Hartman invited Ms. Bublitz to contact him regarding the ongoing plans for greyhound assimilation/relocation.

Members of the greyhound racing community voiced numerous concerns and apprehensions about the difficulties that they, as kennel operators, owners and trainers, expect to face with respect to housing, feeding, kenneling and continuing to protect the greyhounds in their care and custody. Several persons commented that they had believed that they would be racing in Colorado throughout 2008 and, although some persons stated that they would be able to respond to the changes that are necessitated by Mile High's closure, some members of the greyhound racing community observed that they could not foresee how they, and others, would be able to absorb the costs involved in the shutdown and maintain their farms and kennel operations. Also, some persons commented that they were unprepared to address the obligations that Mile High's closure was forcing them to undertake.

The Commission and Division expressed support for the affected industry members and assured them that they would be proactive in undertaking plans for greyhound disposition. Mr. Hartman asserted that he would continue to update the Commission at upcoming meetings on the status of the disposition process.

Acknowledgment and Recognition of Drew Grant – Dan Hartman

Division Director Dan Hartman observed that, on June 30, 2008, Mr. Drew Grant's first term as a member of the Colorado Racing Commission would officially conclude and, due to commitments that would preclude his standing for re-appointment, this would be the final Commission meeting that Mr. Grant would be attending.

Mr. Hartman offered a touching tribute to Mr. Grant. He advised that he had been very fortunate to know and work with Mr. Grant for the past four years and had found him to be a consummate gentleman, a person of great honesty and integrity, who displayed excellent common sense, good judgment and a caring nature. He acknowledged Mr. Grant's commitment to the racing community and his levelheaded approach to decision-making. Mr. Hartman observed that, in order to familiarize himself with issues relating to horse and greyhound racing, Mr. Grant had willingly and eagerly participated in national conferences and training sessions. On behalf of the remaining Commissioners, the Division staff and those in attendance, Mr. Hartman extended warmest regards and special thanks to Mr. Grant 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 Mr. Grant. These acknowledgments were greeted by a hearty ovation in honor of Mr. Drew Grant.

Mr. Grant stated that he had enjoyed his term as a Commissioner and expressed his appreciation for the support and helpfulness given to him by his fellow Commissioners, members of the racing industry and the Division staff throughout his tenure.

Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 10:35 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, July 8, 2008 at Arapahoe Park, 26000 East Quincy Avenue, Aurora, Colorado.

The undersigned hereby approve the foregoing Minutes.

DAVID LYNN HOFFMAN, CHAIRMAN

MARILYN ALKIRE, VICE-CHAIR

C. DREW GRANT, MEMBER

JACK PRETTI, MEMBER

CHARLES VAIL, DVM, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, July 8, 2008 in the Directors' Room at Arapahoe Park, 26000 East Quincy Avenue, Aurora, Colorado. Chairman David Lynn Hoffman called the meeting to order at 9:55 a.m.

Members Present

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

Charles Vail, DVM, Member, 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
Mark Brown, Division Enforcement Coordinator
Jennifer Davis, Commission Veterinarian
Joni Smith, Veterinarian
Michelle Bauman, Licensing Supervisor
Ashley Ulberg, Investigator
Tina Bowman, Assistant Attorney General
Sherry Gunnell, Assistant to the Director

Also Present

Matt Cook, Director, Enforcement Section, Department of Revenue

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

Election of Officers

A motion was made by Commissioner Pretti, seconded by Commissioner Alkire and unanimously carried to re-appoint David Lynn Hoffman to serve as Chair of the Commission and to re-appoint Marilyn Alkire to serve as Vice-Chair of the Commission through June 2009.

Approval of Minutes of June 10, 2008

A motion was made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to approve the minutes of June 10, 2008 as submitted.

Announcement Regarding Transfer of Division Auditor Naomi Smith

Division Director Dan Hartman apprised the Commission and meeting attendees that Ms. Naomi Smith, Auditor for the Division of Racing Events, had accepted a transfer to another State agency effective August 1, 2008. Mr. Hartman and the Commission commended Ms. Smith's exemplary performance and expressed their thanks for her service to the Commission and citizens of Colorado.

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

In the absence of Ms. Naomi Smith, Auditor for the Division of Racing Events, Division Director Dan Hartman informed the Commission that Ms. Smith had completed an audit of the accumulated funds of the Colorado Thoroughbred Breeders Association pursuant to their formal written request for early release of \$135,000, which is a portion of their Owners/Breeders Awards and Supplemental Purse Fund accrual as permitted by statute. Ms. Smith had verified that sufficient funds were available for this amount to be distributed to the Colorado Thoroughbred Breeders Association for the purpose of supplementing the 2008 Colorado Bred Stakes schedule at Arapahoe Park as soon after July 1, 2008 as possible. Mr. Hartman stated that Ms. Smith would submit a request for a warrant in the aforementioned amount to be issued to the subject breed organization. Mr. Hartman confirmed that the transfer of funds could be completed via an electronic deposit within the next week or less.

Status Report – Closure of Mile High Greyhound Park – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, stated that discussion had ensued at the Commission's June meeting regarding the anticipated cessation of live racing at Mile High Greyhound Park on June 28, 2008. At that time, concerns had been expressed regarding the movement of and arrangement for the transportation/disposition of the racing greyhounds and consideration was given to what measures needed to be taken to ensure that the safety and welfare of the affected greyhounds. Mr. Hartman noted that, although he had been concerned at one time that there might be up to one hundred greyhounds that would require continued care and that, in that event, it would be necessary to transport them to the Pueblo Kennel Association kennel compound. However, he stated that he had subsequently learned that approximately thirty greyhounds remained at Mile High and were continuing to receive care from the affiliates of Recycled Racers, the adoption group at the track site. Other adoption groups had also intervened and had accepted greyhounds and, for their willingness to help with this endeavor, Mr. Hartman voiced his thanks and sincere appreciation. Further, he noted that the Purina Feed Company had donated a large quantity of food for the greyhounds and, again, he expressed his earnest thanks. He observed that, because of the work done by and cooperation among all parties involved in this process, including the kennel operators, owners and trainers, all industry associates, the adoption program affiliates, Division and association personnel and all others who had provided transportation, food, care, shelter and/or had made arrangements of any

kind for the benefit of the affected greyhounds, the disposition efforts had been very successful and had taken far less time to resolve than he had foreseen. He commented that, although this relocation process had yet to be completed, to date, it had progressed very smoothly. The Commission extended its thanks to all parties involved in this effort as well.

At this time, Ms. Judy Boyle, an affiliate of the Golden Acres Adoption Center located in Nunn, Colorado, requested permission to present the perspective of the adoption groups. Ms. Boyle commented that her primary concern was that, at the time that Mile High Greyhound Park announced its intention to close, no plan had been established for handling either the removal or disposition of the greyhounds once racing concluded. She explained that the adoption groups were suddenly faced with numerous costly demands that had created significant financial burdens for them. Ms. Boyle asserted that it was unfair of the industry to rely upon the adoption groups to absorb the responsibility for the care and treatment of such a large influx of animals at one time. She noted that one mitigating factor had been that the existing adoption groups had established working relationships with most of the Colorado kennel operators and that this had eased the process of disposition and absorption of greyhounds. However, Ms. Boyle stated that she remains apprehensive that, if Mile High Greyhound Park's facility re-opens for live racing in 2009, a similar situation might transpire affecting kennels new to Colorado. She urged the Commission to compel an association planning to conduct live racing in Colorado to provide a clear, detailed plan for movement and protection of greyhounds in the event of a track/meet closure. The Commission thanked Ms. Boyle for her observations and for her dedication and commitment to the adoption program and her efforts on behalf of the greyhound population in Colorado.

Mr. Gary Bryan, President of the Colorado Greyhound Kennel Association, expressed his appreciation for the efforts of Commission Veterinarian Jennifer Davis in aiding and expediting the process of verifying the identity of the departing greyhounds and assisting the greyhound community in making a smooth transition after the cessation of live racing.

Discussion ensued between the Commission, representatives of the greyhound racing community and racetrack management regarding Ms. Boyle's recommendation. Mr. Hartman observed that the Commission could elect to require the submission of a closure and greyhound disposition plan as part of any future greyhound renewal license application(s). Additionally, a recommendation was endorsed that upcoming kennel contracts should reflect that a greyhound disposition plan is in place. The Commission concurred with these recommendations. Other suggestions were also entertained in an effort to avert any future conflicts of this nature. Mr. Bruce Seymore, Director of Colorado Operations for Mile High Racing & Entertainment, commented that \$1 that is withheld from purses is donated to the Recycled Racers program.

After taking note of the tone of displeasure and hostility reflected in the interchanges regarding the closure of Mile High Greyhound Park, Commissioner Pretti observed that, at the beginning of 2008, this situation and the resulting circumstances had not been anticipated. He stated that everyone involved in racing in Colorado, including the Commission, the Division, the racing association, its management and the entire greyhound racing industry population shared in the responsibility for the impasse that had resulted in the current status of greyhound racing in Colorado. He stated that everyone is at fault in some way and there should be no further verbal attacks or displays of factionalism regarding what has happened.

Discussion Regarding Medication Rules, Violations and Associated Penalties and Consideration of Decisions Made by Division Staff at Arapahoe Park's 2008 Race Meet – Shannon Rushton/Jon Shaffer

Mr. Shannon Rushton, President of the Colorado Horse-Racing Association, introduced Mr. Jon Shaffer, a member of the horse racing community at Arapahoe Park, and explained that he and Mr. Shaffer would be presenting reports relating to various issues and concerns as well as position statements and recommendations to the Commission at this time. Mr. Rushton observed that these matters were raised by members of the horse racing community at a meeting of the Colorado Horse-Racing Association affiliates held on June 28, 2008.

First, Mr. Shaffer presented a list of the following problems/problem areas for Commission consideration:

- 1) Despite the vote of the Commission at its April 2008 meeting to have reference to non-steroidal anti-inflammatory drugs (NSAIDs) eliminated from the racing program, they continue to appear. Mr. Shaffer asserted that this should have been rectified since half of the Arapahoe Park meet has already been conducted. Further complications with the racing program listings continue to create problems. Therefore, Mr. Shaffer recommended that “all of the NSAIDs [should be] taken out of the program and only those tied to the special equipment section of the computer program would appear. These exceptions would be minimal and the racing program would be 90% or more accurate and . . . would be in compliance with the wishes of the Racing Commissioners.”

Another problem cited by Mr. Shaffer was the reporting of the NSAIDs at the time of entry. Mr. Shaffer commented that if the NSAIDs are not to appear in the program, they should not have to be reported at the time of entry. He objected to the requirement that a trainer must complete the “Colorado Racing Commission Horse Trainer Medication Administration Form” in order to administer orally any of the three authorized NSAIDs. Additionally, Mr. Shaffer asserted that there is no information regarding this form in either the condition book or the Colorado Racing Commission Rules and, therefore, the lack of awareness about the need to fill out the

form and the inconsistent collection of it have created difficulties and have, also, resulted in violations. Discussion ensued regarding how to achieve appropriate, consistent reporting of medication usage. Mr. Hartman advised that he and members of the Division staff would be willing to meet with representatives of the affected horse-racing group to determine how to address these matters. Mr. Hartman stated that he was unaware that such problems existed or had occurred with the medication reporting protocols, but would certainly be amenable to working with the horse-racing community to rectifying the situation. The Commission recommended that the Colorado Horse-Racing Association establish a committee as soon as possible to discuss the medication reporting form and how to make it acceptable to the horsepersons and useful for all affected parties.

- 2) Mr. Shaffer stated that there are also significant problems with the first-time reporting of the use of Lasix, some of which have resulted in the imposition of fine assessments. Mr. Shaffer contended that the current protocols and policies are confusing, that those who should be responsible for ensuring that accurate recording of information is done are not preventing errors from occurring and that the paper process is subject to many errors. It was Mr. Shaffer's recommendation to the Commission that "an attempt [should be made] to work with the trainers on this issue to avoid mistakes and fines. . ."
- 3) Mr. Shaffer stated that unnecessary and surprise sample testing has been conducted at Arapahoe Park this season, specifically pre-race testing that was undertaken on Saturday, May 13, 2008. Mr. Shaffer observed that, on this occasion, horses in races #7 and #10 were tested prior to their respective races; blood was drawn from the horses in front of the test barn on an asphalt drive. He stated that this was a very dangerous area to use for sample collection. Additionally, Mr. Shaffer commented that the horses involved were unnecessarily excited by this event and that the owners and trainers were very upset.
- 4) A potentially very serious error occurred when a trainer was erroneously cited for a positive test for an unauthorized medication when, in fact, the test sample had been mislabeled in the test barn. Prior to detection of the error, the trainer had been notified that he would be subject to disciplinary action. Mr. Shaffer stated that, had the mislabeling gone undetected, great, possibly irreparable harm would have been done to the trainer, his reputation, his ability to be licensed in another racing jurisdiction as well as imposing a financial hardship on him. Mr. Shaffer stated that it is essential for the Division staff to verify the accuracy of their data and test samples prior to opening a case file and commencing any disciplinary actions.

Mr. Rushton proceeded to address the Commission regarding concerns with regard to certain medication violations. He cited instances when horses that had participated in trial races had been found to have raced with Class 4 drugs in their systems, but, despite these violations, the horses had been allowed to race in the final race. Mr. Rushton asserted that a direct violation of Colorado Racing Commission Rules #5.440 and #5.502 occurred because the performance of a racing animal would most assuredly have been affected. Discussion ensued during which views, opinions and arguments were expressed regarding the appropriateness of the Division's actions, the application of the rules in question and how the rules should be interpreted, whether as requiring mandatory disqualification and loss of purse or allowing for leniency based upon the need for further evidence.

The Commission took the positions presented under advisement and, following discussion and consideration of them, asserted that it did not believe that the Division had acted improperly in its handling of the cases in question. A motion was made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried to interpret Colorado Racing Commission Rule #5.502 with regard to the wording "an unauthorized drug which could affect the racing condition or the performance of an animal in a race", and Colorado Racing Commission Rule #5.440 with regard to reference to the Uniform Classification Guidelines of Foreign Substances to mean that the presence of an unauthorized medication is a violation of these rules and the level of the drug found in a racehorse should not be considered a mitigating circumstance. It was the Commission's collective position that even trace amounts of unauthorized medications could affect the outcome of a race.

Certain members of the horse racing community voiced their desire to have the Commission's interpretation of these rules applied retroactively to penalties already imposed. However, the Commission declined to take such action.

Mr. Hartman informed the Commission that six outstanding cases involving medication violations have yet to be adjudicated by the Board of Stewards at Arapahoe Park. He stated that he would instruct the members of the Board to employ the aforementioned interpretation of the subject rules in their deliberations.

No further action was taken at this time.

Change of Upcoming Commission Meeting Dates

The Commission announced that, due to scheduling conflicts, the dates of the August, September and October Commission meetings would need to be changed. The Commission meetings will be held on the following dates: Wednesday, August 13th, Wednesday, September 10th and Wednesday, October 15th.

Presentation of Petition Regarding Colorado Racing Commission Rule #7.218 – Jockey and Jockey Guild Representative Don Frasier

Mr. Don Frasier, a Jockey riding at Arapahoe Park and a Jockey Guild Licensee/Delegate, addressed the Commission regarding a request from the Jockey Colony at Arapahoe Park to modify current Colorado Racing Commission Rule #7.218 for the remainder of the current live racing season. Additionally, Mr. Frasier offered proposed amended text of the rule and a petition from the Jockey Colony to the Commission for its consideration.

The Commission advised Mr. Frasier that, at this time, it would not be able to amend the subject rule since the formal Rule-Making process could not be undertaken on an immediate basis and no rule amendments would take effect until after the conclusion of Arapahoe Park's meet. However, the Commission directed that, prior to the next formal Rule-Making Hearing, Mr. Frasier and/or another Jockey Guild representative submit proposed modified language to Colorado Racing Commission Rules #7.218 for incorporation into the official packet of rules for consideration. Mr. Dan Hartman, Director of the Division of Racing Events, stated that the Jockey Guild would be given prior notification of the scheduling of rule review workshop(s) in order to present this and any other rule proposals for review and discussion. No action was taken at this time.

2009 Race Dates Hearing

Chairman Hoffman convened the 2009 Race Dates Hearing at 12:00 p.m.

Mr. Dan Hartman, Director of the Division of Racing Events, presented the requested 2009 race date envelopes for Pueblo Kennel Association, Mile High Greyhound Park and Arapahoe Park. Notice was taken that no requests for dates were submitted for Interstate Kennel Club or Rocky Mountain Post Time.

Mr. Hartman explained that, historically, it has been standard procedure for the Commission to take into consideration whether the date requests submitted by the racetrack managers 1) contain overlapping opening and/or closing dates; 2) optimize the break between the final date of one meet and the start date of another in the same circuit at a different location to maximize opening/closing performances; and 3) not exceed the 120/180 day statutorily mandated envelopes. All of the statutory conditions have been met in the current requests. Additionally, Mr. Hartman noted that, in the past, he had mentioned that race date-setting was part of the ongoing licensing process that tracks undergo. He commented that, perhaps never before has it been as important as it is now, for the Commission to approve these requests since the Division's budget process is dependent upon knowing what its funding sources will be for the upcoming Fiscal Year. Mr. Hartman stated that the Division would be able to determine its staffing needs and develop its operational budget for the following year, noting that the Division had already undertaken staffing reductions via personnel layoffs. Further, he stated that it will be necessary to have dates for licensees in order to set cash funding fees for the upcoming year.

In order for the Division to be able to plan for calendar year 2009, Fiscal Year 2009 and Fiscal Year 2010, to develop an appropriate staffing plan for the proposed meets and to have a clear idea about what its budgetary needs must be, Mr. Hartman recommended strongly that the Commission approve the date requests as submitted. He declared that it is evident that this is a very difficult time for the racing industry and it is more important than ever before that the Division and the Commission be able to prepare for the continuation and perpetuation of live racing in Colorado. Additionally, he recommended that approval of the proposed envelopes be conditioned on available resources, sufficient staff and budget.

Therefore, Mr. Hartman recommended approval of these race date proposals. The Commission inquired whether, in Mr. Hartman's view, the race date requests that have been submitted are grounded in reality. To this he responded that he believes that BLB (Mile High Racing & Entertainment) intends to offer six months of racing in 2008, two months of racing less than has been previously requested by this association; that this entity would be responsible for paying nine months of the Division of Racing Events' budget prior to commencing live racing and that he is predicating his staffing plans and the Division's budget on his assumption that the dates that have been submitted represent a true and legitimate intention to proceed with live racing next year. Based upon Mr. Hartman's assertions, the Commission proceeded to consider the proposed race date requests for 2009.

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, September, October, November and December 2009, 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 2009 racing schedule.

Mr. Eric Morgan, Executive Director of the Colorado Greyhound Kennel Association, voiced his contention that BLB (Mile High Racing & Entertainment) is seeking to perpetuate simulcasting, primarily of horse racing, at Pueblo Kennel Association despite the lack of live greyhound racing in Colorado. Mr. Morgan expressed doubts about whether a renewal license application from Pueblo Kennel Association could be approved based upon his interpretation of certain statutory provisions. Discussion ensued between Mr. Morgan, members of the Commission and Mr. Hartman concerning his assumptions regarding 1) whether Pueblo Kennel

Association could conduct its live race meet at the Mile High Greyhound Park facility in the Northern Circuit and whether this would, in fact, be a transfer of dates from one racetrack to another (pursuant to Mr. Morgan's reading of 12-60-603(2)(c)); 2) whether the Commission has statutory authority to grant an envelope of races dates unless racing is to be conducted on a year-round basis (pursuant to Mr. Morgan's reading of 12-60-603(2)(d)); and 3) whether the race date requests are an accurate representation of BLB's (Mile High Racing & Entertainment's) plans for 2009 or not. During this discussion, the Commission and Mr. Hartman considered Mr. Morgan's assertions, but, after duly examining the statutory provisions cited by Mr. Morgan, the Commission found that 1) it is permissible and allowable for Pueblo Kennel Association to request to conduct live racing at the Mile High Greyhound Park facility since it was granted approval of a license application to conduct up to 120 race days in the northern circuit and, further, that Pueblo is entitled to continue to operate its licensed simulcast facility based upon having requested a sixty-day racing envelope; and 2) no statutory prohibition exists that would prevent the Commission from granting approval of racing envelopes/race dates absent a request for year-round racing; and 3) BLB (Mile High Racing & Entertainment) has given no indication that it intends to cease operations and forego live racing in the future.

Mr. Bruce Seymore, Director of Colorado Operations for Mile High Racing & Entertainment, stated that, in order to prevent further losses of revenue, some business decisions have been made relating to Mile High Racing & Entertainment's continued racing and simulcast operations. He cited 12-60-102(14)(a) relating to the definition of an "in-state simulcast facility". Mr. Morgan voiced further objections to the perpetuation of simulcast operations at Pueblo Kennel Association's simulcast facility based upon the refusal of the racetrack ownership to entertain any prospect for year-round live racing, to fail to promote live greyhounds racing in Colorado and to apply funds wagered at a greyhound simulcast facility to the horse purse fund account rather than to greyhound racing-related activities. Mr. Morgan stated that his comments are not intended to cause harm to the horse-racing community. In response, Mr. Mark McGregor, President of the Colorado Thoroughbred Breeder's Association, stated that the revenue derived from simulcasting is vital to the horse-racing colony in that it affords funds for supplementing purses and supporting the Colorado Bred stakes program each year at Arapahoe Park. Mr. McGregor appealed to the Commission not to eliminate this critical source of revenue generation.

Based upon her belief that it is the Commission's obligation to support and promote live racing in Colorado and that it is incumbent upon the Commission to try to preserve live racing in the state, a motion was made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to approve the following envelopes of 2009 race dates for the Northern Circuit greyhound race meets, specifically, Mile High Greyhound Park and Pueblo Kennel Association, subject to availability of funding and staffing:

PUEBLO KENNEL ASSOCIATION
(Commerce City)

APRIL 1 – JUNE 30, 2009
(Wednesday) (Tuesday)
(Envelope of 91 days)

MILE HIGH GREYHOUND PARK
(Commerce City)

JULY 1 – SEPTEMBER 30, 2009
(Wednesday) (Wednesday)
(Envelope of 92 days)

B. HORSE:

Mr. Hartman observed that Arapahoe Park is requesting the ability to conduct live racing on dates to be determined between May and August 2009. He stated that Arapahoe Park is not required to submit a proposed envelopes of race dates and that, in the absence of an alternative application, Arapahoe Park's scheduling is allowed to be left open-ended. Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, commented that it is possible that there may be racing one weekend in May 2009 in Albuquerque and that might affect Arapahoe Park's selection of dates. A motion was thereupon made by Commissioner Pretti, seconded by Commissioner Alkire and unanimously carried to approve Arapahoe Park's 2009 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, 2009 and August 31, 2009, but the conditions set forth above apply to any specific dates of racing.):

ARAPAHOE PARK
(Unincorporated Arapahoe County)

MAY – AUGUST, 2009*

* - 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 2009 Race Dates Hearing was adjourned at 12:40 p.m.

Consideration of 2009 Occupational License Fees and Review of Current License Categories – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, advised the Commission that this would be the sixth year of fee-setting for both occupational and cash funding fee assessments. Mr. Hartman stated that, traditionally, both types of fee-setting occur in June of each year. However, since the Division had been unable to confirm in a timely manner whether or not live greyhound racing would continue after July 1, 2008, the Division had postponed these matters until today's session. He observed 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 that, based upon the formula that the Commission adopted last year, the breakdowns include the total cost minus the administrative/licensing costs for FY2009. 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 Alkire, seconded by Commissioner Vail and unanimously carried to adopt the following fees for 2009:

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 2009 – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, stated that he has calculated the annual cash funding fee assessments for Fiscal Year 2009 taking into account that there is one active racing association, BLB, in Colorado and, also, reflecting the general savings that the Division expects to realize from reductions in staffing and laboratory testing costs as well as other cost savings and on the proposed race dates and projected budget for this Fiscal Year.

Taking into account statutory starting and ending cash fund balances, Mr. Hartman observed that the Division has determined that the monthly fee assessment that BLB will be required to remit to support cash funding beginning July 1, 2008 will be \$137,484.30. The total annual fee assessment for BLB will be \$1,649,811.55.

Mr. Hartman recommended that the Commission approve this recommended cash funding fee assessment for 2009 with the proviso that this fee may need to be adjusted, either upward or downward, in order to accommodate unforeseeable circumstances, such as modifications to race dates, racing programs, wagering formats, and so on.

Following review of the proposed racing association license fee assessment for Fiscal Year 2009 (July 1, 2008-June 30, 2009) as presented by Mr. Hartman, a motion was made by Commissioner Vail, seconded by Commissioner Pretti and unanimously carried to adopt the payment schedule for Mile High Greyhound Park, Pueblo Kennel Association and Arapahoe Park in accordance with the figures provided by the Division of Racing Events.

Ms. Karen Cloud, Manager of Red & Jerry's, confirmed that the simulcast facilities would not be assessed any fees for Fiscal Year 2009.

Report Regarding By-Laws of the Colorado Appaloosa Racing Association and Request for Disbursement of Portion of Purse Fund Accrual – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, apprised the Commission that Dr. John White, President of the Colorado Appaloosa Racing Association, had contacted him to advise that the breed organization had met and had adopted by-laws relating to distribution of its accumulated Owners/Breeders Awards and Supplemental Purse Fund Monies. Mr. Hartman stated that Dr. White had inquired about obtaining a disbursement of a portion of the organization's total funds whereupon Mr. Hartman requested that Dr. White provide a meeting report/minutes confirming the adoption of the by-laws to the Division of Racing Events. Mr. Hartman advised the Commission that he would verify the amount being requested and, once he has received the aforementioned report, he would request the ability to proceed with distribution of funds to the Colorado Appaloosa Racing Association. A motion was made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to approve the commencement of distribution of funds to the Colorado Appaloosa Racing

Association, noting that this breed organization did not previously have by-laws governing such distribution, but now has them in place.

Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 12:50 p.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Wednesday, August 13, 2008** 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

JACK PRETTI, MEMBER

CHARLES VAIL, DVM, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Wednesday, August 13, 2008 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
Jack Pretti, Member (via teleconference)
Charles Vail, DVM, 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
Mark Brown, Division Enforcement Coordinator
Marci Colton, Acting Division Auditor
Michelle Bauman, Licensing Supervisor
Joni Smith, Veterinarian
Tina Bowman, Assistant Attorney General
Sherry Gunnell, Assistant to the Director

Also Present

Matt Cook, Director, Enforcement Section, Department of Revenue

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

Approval of Minutes of July 8, 2008

A motion was made by Commissioner Pretti, seconded by Commissioner Vail and unanimously carried to approve the minutes of July 8, 2008 as submitted.

Announcement Regarding Withdrawal of Request to Amend 2009 Race Dates Calendar

Mr. Dan Hartman, Director of the Division of Racing Events, announced that Mr. Bruce Seymore, Director of Colorado Operations for Mile High Racing & Entertainment, had withdrawn his request to amend the 2009 Race Dates Calendar. Therefore, no action was required.

End of Meet Report –Mile High Greyhound Park's 2008 Live Race Meet – Richard Mattson

Mr. Richard Mattson, Greyhound Racing Coordinator, presented the end of meet report for the Mile High Greyhound Park's 2008 live racing season, which commenced on March 1, 2008 and concluded on June 28, 2008.

Mr. Mattson offered the following statistical comparisons between the 2008 and 2007 Mile High meets:

	<u>2008</u> (3/1 – 6/28)	<u>2007</u> (6/8 – 10/5)
Total Live Handle	\$10,568,738.50	\$10,656,071.00
Live Race Days	86	86
Total Performances	86	99
Total Races	1,137	1,243
Handle per Performance	\$ 122,892.31	\$ 107,637.09
Host Track Handle	\$ 3,376,241.30	\$ 3,863,367.00
In-State OTB	\$ 2,933,796.30	\$ 3,141,799.00
Total In-State Handle	\$ 6,310,037.60	\$ 7,005,166.00
Out-of-State OTB Handle	\$ 4,258,700.90	\$ 3,650,905.00
Import Handle	\$10,625,521.20	\$10,455,763.40
Import Races	14,312	17,919

Mr. Mattson advised that the total net purse payments made during the meet amounted to \$884,632.04.

Mr. Gil Romero, Director of Racing/Racing Secretary at Mile High Greyhound Park, 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. He observed that they were pleased with the cooperation shown by the Association paddock supervisory 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 and that the grooms have been given sufficient training to perform their duties properly. He complimented Mr. 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. He noted that Mr. Jesse Mora, the Director of Security, addressed this matter. As required, security reports were provided to the Division staff in a timely manner. Mr. Mattson commented that the regular presence of a uniformed Commerce City police officer appeared to minimize the occurrence of disruptive 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, during the meet, there were a total of 1,137 races involving pari-mutuel wagering and 152 schooling races for a total of 1,289 official races. A total of 8,988 greyhounds participated in these races. A total of 90 greyhounds were placed on the schooling list for various infractions related to the running of the races. Further, there were 112 scratches requiring that greyhounds be schooled in front of the Board of Judges prior to being allowed entry into official races. Mr. Mattson stated that there were no program cancellations, but there was one “no race” called during a schooling race.

He advised that the total number of injuries was down during this meet. However, Mr. Mattson observed that the true indicator of the injury status is the number of greyhounds injured per 1,000 starts. The incidence of injuries occurred at a rate of 3.15 per 1,000 starts in 2007 compared to 3.00 per 1,000 starts this year. 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. Mr. Mattson stated that the depth of the cushion was normally an inch and a quarter (1-1/4”) to an inch and three-quarters (1-3/4”). He noted that the injury percentages were relatively consistent from week to week, except for a four-week period during the latter part of the meet when the injury rate rose slightly. Mr. Mattson reported that, during this race meet, the most

prevalent form of injury sustained by the racing greyhounds was to their hocks. He stated that these injuries occurred most frequently in the first turn, next in either the third turn or the far turn and, last, at undetermined locations around the racecourse.

Additionally, Mr. Mattson stated that there were no significant problems involving the operations of either the Mutuel Department or the Totalisator System. He commented that, whenever there was a delay in making a race official, proper notification was given. Also, any reports of problems were submitted in a timely manner to the Division.

Mr. Mattson reported that a total of fifty-six (56) license transactions were completed with fees totaling \$1,555.00. Additionally, there were twenty (20) citations issued for various racing violations resulting in fines totaling \$805.00. There were nineteen (19) human drug/alcohol tests conducted during the meet with one (1) positive test result. Also, sixteen (16) Breathalyzer tests were performed during the meet.

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 its 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 stated that, for the most part, the Mile High Greyhound Park meet went well this season and it was difficult to have it end. He noted that, before the conclusion of the meet, Mr. Bruce Fraser, who had served as Executive Vice-President of Operations for BLB USA, Inc., left BLB. Mr. Mattson extended his thanks to Mr. Seymore for his cooperation during this meet.

Commissioner Vail inquired whether any drug/medication violations had occurred during the race meet to which Mr. Mattson responded that there had been three such instances, all of them involving the presence of the prohibited substance, Methocarbomal, and all of them occurring on different occasions in greyhounds from the same kennel. The Commission requested that Mr. Mattson provide an addendum to his report reflecting specific details relating to these occurrences and the penalties that were imposed in each instance. Mr. Mattson assured the Commission that he would provide this information at the September Commission meeting.

A motion was made by Commissioner Vail, seconded by Commissioner Pretti and unanimously carried to accept the end of meet report for Mile High Greyhound Park's 2008 live race meet as presented with the proviso that additional information relating to the drug/medication violations cited by Mr. Mattson be appended to this report and provided to the Commission at its next regularly scheduled meeting.

Report Regarding Association of Racing Commissioners International (RCI) Board of Directors' and Model Rules Committee Meetings – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, reported on his attendance at and participation in the recent Association of Racing Commissioners International (RCI) Board of Directors' Meeting and Model Rules Meeting held in Saratoga Springs, New York from July 31, 2008 through August 2, 2008. Mr. Hartman commented that he was especially pleased by the participation of various industry-related groups, such as the Jockey's Guild and of breed organizations, such as the American Quarter Horse Association, in the Model Rules discussions.

Mr. Hartman apprised the Commission that, during its full day session, the Model Rules Committee had endorsed numerous rule changes that they had then passed onto the Board of Directors for consideration and adoption. Certain topics given lengthy consideration were: 1) changes to the size of toe wraps for horses (from two millimeters to four millimeters); 2) endorsement of implementation of continuing education requirements for trainers; 3) changes to the maximum allowable length of whips and possible alternatives to whips; and 4) implementation of proposed certification program for off-shore and on-shore pari-mutuel organizations. He commented that some of the aforementioned recommendations would take considerable time and planning prior to implementation, but could be expected to yield beneficial results for the pari-mutuel wagering industry. He noted that the adopted Model Rules would be presented to the Commission for review and consideration at its upcoming Rule-Making Hearing.

In response to the Commission's query, Mr. Hartman stated that no recommendations had been proposed for changes to the Model Rules relating to medication usage and testing protocols.

Mr. Hartman informed the Commission that the Association of Racing Commissioners International would be holding another meeting in Minneapolis, Minnesota in October 2008 to continue discussions of these and other important subjects.

Update -- Status of Greyhounds Since Closure of Mile High Greyhound Park – Gilbert Romero

Mr. Gilbert Romero, Director of Racing/Racing Secretary at Mile High Greyhound Park, reported to the Commission that, at the present time, eleven greyhounds were continuing to receive care from the affiliates of Recycled Racers, the adoption group at the track site. In addition to these greyhounds, Mr. Romero commented that only one kennel remains at the kennel compound, most of which are awaiting transport to Flagler, and a very small number of greyhounds are currently being housed at the Mile High facility. Mr. Romero stated that he anticipates that all of the remaining greyhounds should be placed/adopted within the next two to three weeks except for the greyhounds that were turned over to the racetrack by a kennel operator.

Mr. Dick Figurilli, representative of the National Greyhound Association and member of the Colorado greyhound racing community, cautioned anyone associated with the greyhound disposition arrangements to be extremely careful and vigilant about placement/transportation of the greyhounds in order to avoid negative publicity.

Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 10:05 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Wednesday, September 10, 2008** in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

DAVID LYNN HOFFMAN, CHAIRMAN

(EXCUSED)

MARILYN ALKIRE, VICE-CHAIR

(PRESENT VIA TELECONFERENCE)

JACK PRETTI, MEMBER

CHARLES VAIL, DVM, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Wednesday, September 10, 2008 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 (present via teleconference)

Charles Vail, DVM, Member, 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
Mark Brown, Division Enforcement Coordinator
Marci Colton, Acting Division Auditor
Michelle Bauman, Licensing Supervisor
Ashley Ulberg, Division Investigator
Sherry Gunnell, Assistant to the Director

Also Present

Matt Cook, Director, Enforcement Section, Department of Revenue

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

Approval of Minutes of August 13, 2008

A motion was made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to approve the minutes of August 13, 2008 as submitted.

Approval of 2009 Commission Meeting Dates

Following review of the list of proposed 2009 Commission meeting dates, a motion was made by Commissioner Pretti, seconded by Commissioner Alkire and unanimously carried to continue to hold the Commission's meetings on the second Tuesday of each month with the proviso that, if unexpected circumstances should necessitate a change of meeting date, the Commission would modify its regular schedule.

Presentation of Colorado Horsemen's Legislative Coalition's Agenda for 2009 – Tony Gasich (Rocky Mountain Quarter Horse Association) and Mark McGregor (Colorado Thoroughbred Breeders Association)

Mr. Tony Gasich, Vice-President of Racing for the Rocky Mountain Quarter Horse Association introduced himself, Mr. Mark McGregor, President of the Colorado Thoroughbred Breeders Association, and Mr. Brian Kitchen, representative of the Colorado Horse Council and the Colorado Horse Development Authority, to the Commission. Mr. Kitchen informed the Commission that the Coalition's proposal would be brought before the Colorado Horse Development Authority, an entity whose members are appointed by the Governor, at its September 15, 2008 board meeting.

Mr. Gasich narrated a slide presentation regarding the origin, mission/goals and future plans and intentions of the newly formed organization known as the Colorado Horsemen's Legislative Coalition. In his introductory remarks, Mr. Gasich explained that the formation of the Colorado Horsemen's Legislative Coalition grew out of a gathering at Johnson's Corners Restaurant at which several members of the Colorado horse racing community were voicing their frustrations and discontent with the current status and condition of the horse racing industry in Colorado. As a result of this discussion, it was mutually agreed that they would create and establish a "grass roots" coalition to promote the interests of horse racing and the entire Colorado racing industry, to generate revenue sources and to obtain the cooperation and widespread support among residents of their local communities, racing and non-racing enthusiasts, the Commission, the Division of Racing Events as well as, potentially, the Governor and legislative delegates.

Mr. Gasich made available to all interested parties a printed version of the slide presentation entitled "The Colorado Horse Industry: A Proposal for Building an Economic Winner" as well as informational brochures outlining the Colorado Horsemen's Coalition's economic growth plan for the Colorado horse industry and proposed legislative changes needed to accomplish the organization's goals. He presented the organization's Mission Statement, which is as follows: "The Colorado Horsemen's Coalition was formed to address the current problems the Colorado horse industry faces. The Colorado Horsemen's Legislative Coalition mission is to develop and lobby for legislation that will promote the growth and success of all parts of the Colorado horse industry – which included owners, trainers, breeders and others that work within the industry. The Colorado Horsemen's Coalition does not represent any breed or subset of the industry, but is supportive of all parts of the industry. The Colorado Horsemen's Coalition is a voluntary group that does not accept funding from any for-profit organizations or companies. The coalition is entirely self-funded by member's donation of time and expense contributions."

In his presentation, Mr. Gasich addressed numerous issues and offered statistical data relating to them. He underscored the importance of the Colorado horse industry as confirmed by data compiled by the American Horse Council for its 2005 annual report.

The report indicated that the economic impact for different types of horse activity (racing, showing, recreation and other) amounted to \$1.6 billion and the jobs impact for these same horse activities was 21,300. Additionally, Mr. Gasich offered a statistical summary reflecting the annual decline in handle, breeders' funds revenue generation, Colorado-bred foals, jobs and tax revenue in the horse racing industry for the period of 2002 to 2007. The Commission noted that the cumulative handle had decreased by 28.6% and that the amount of tax revenue derived from the horse racing had declined by 25.8% from 2002 to 2007.

Notice was taken of the major underlying problems afflicting the horse racing industry, including mountain (casino) gambling and lottery ticket sales as well as racing programs in surrounding states. Mr. Gasich advised that, based upon its research and evaluation of the present state of Colorado's horse racing industry, the Colorado Horsemen's Coalition believes that attention needs to be paid to improving the economic climate of the horse racing industry. He stated that the Coalition is proposing the following four ways to accomplish this goal: 1) Revenue Opportunities; 2) Revenue Distribution; 3) Racing Opportunities; and 4) Colorado Bred Incentives. Mr. Gasich elaborated on each factor as follows:

- **REVENUE OPPORTUNITIES:** The Colorado horse racing industry must adapt to the current economic environment. It must both find and exploit new revenue sources. Such revenue-generating opportunities include:
 - 360 days of simulcasting;
 - Legalization of advance deposit account wagering;
 - An increase in the allowable number of off-track simulcast facilities from one per licensed racetrack to two per licensed racetrack;
 - Introduction of "instant racing", or "the simulcasting of historic races. This affords pari-mutuel wagering on the official historic results of horse races conducted at licensed, regulated racing facilities. It uses handicapping information from the official results of a library of some 250,000 historic races, but withholds the identities of the race and the horses from the patron. The patron is provided with actual handicapping information to use in making an informed wager. Mr. Gasich explained to the Commission that this type of wagering is presently being offered only in Arkansas at Oaklawn Park where it has proved to be popular. He observed that representatives of the Legislative Counsel with whom he had discussed this matter believed that if certain statutory changes could be made, there would not be any legal impediment to implementing "instant racing" in Colorado.
- **REVENUE DISTRIBUTION:** For the Colorado horse racing industry to grow, all parts of the industry must be economically viable. Revenue needs to be fairly distributed to every segment of the industry. Mr. Gasich offered proposed statistical breakdowns of prospective funding to various source markets and a proposed division of AGP (amounts wagered less payments to

winner) instant racing to the State of Colorado, local governments, simulcast facilities, the horsemen's purse fund, the Colorado breeders race fund, the horsemen's breed organizations and the Colorado breeders incentive fund.

- **RACING OPPORTUNITIES:** The Colorado horse racing industry cannot prosper if there are not adequate opportunities within Colorado to race. Therefore, the Colorado Horsemen's Coalition is recommending the following:
 - An increase in the number of racing days and the revival of the **county fair meets**, which would be allocated a minimum of two (2) weekends and six (6) races per meet to a maximum of four (4) weekends and ninety-six (96) races per meet. Additionally, these meets would be permitted to install ten (10) instant racing terminals and one (1) additional terminal for every two (2) races to a maximum of forty-eight (48) terminals. For **major track meets**, an allocation of a minimum of forty-five (45) days of racing conducted over a period of thirteen (13) weeks with nine (9) races per day. These meets would be permitted to install 600 instant racing terminals (200 per location) and six (6) additional terminals per every race day in excess of forty-five (45);
 - Ability for simulcasting to begin prior to opening of a racetrack: Racetracks that would be opening for the first time or re-opening after being closed for three or more years would be allowed to commence simulcast operations (including instant racing) twelve (12) months prior to the beginning of their first racing season with Commission approval.

- **COLORADO BRED INCENTIVES:** To economically grow the Colorado horse industry – for both racing and other uses – there must be increased economic incentives for breeding, owning and racing or showing a Colorado Bred horse. The Colorado racing industry should share a portion of the new revenue it develops to grow all parts of the Colorado horse industry. The Colorado Horsemen's Coalition is proposing the following:
 - Establishment of the Colorado Breeders Race Fund, which would be funded from Advance Account Wagering & Instant Racing. (No changes are proposed to the current Breeders Awards with respect to methods of funding or payment) This fund would pay Colorado bred horses that finish first through third place in Colorado bred or Open races in Colorado;
 - Establishment of the Colorado Horse Breeders Incentive Fund. Its purpose would be to attract, retain, promote and encourage the breeding, raising, training and exhibition of horses bred in Colorado (the applicable definition of a "Colorado bred horse" would be one that is bred in Colorado and trained with the primary intent of recreational use, public competition and exhibition in activities other than pari-mutuel racing.) Funds would be distributed in the form of: 1) purse supplements for events conducted in Colorado; 2) added money for

events conducted in Colorado; 3) breeders' awards for horses bred in Colorado; 4) owners' awards for horses bred in Colorado; 5) stallion owners' awards for horses conceived in Colorado; and 6) other financial awards or incentives as approved by the Colorado Horse Development Authority. The suggested terms for fund distribution of the Colorado Breeders Incentive Fund are as follows: 70% of the fund shall be allocated to approved Colorado affiliates of national equine breed registries and 30% of the fund shall be allocated for the existing equine activities in Colorado, as well as the development of new equine related economic development for Colorado excluding pari-mutuel racing.

In his concluding remarks, Mr. Gasich recommended that, in order for the Colorado Horsemen's Coalition to implement its Legislative Agenda, it should develop the following:

- **IMPLEMENTATION STRATEGIES:**
 - Coalition Partners;
 - A Grassroots Network;
 - Legislative Contacts; and
 - Support in the 2009 Legislature

Development of Coalition Partners entails ensuring the ongoing support and involvement of the following organizations:

Colorado Thoroughbred Breeders Association;
Rocky Mountain Quarter Horse Association;
Colorado Horse Council;
Colorado Horse Racing Association;
Rocky Mountain Paint Horse Association;
Colorado Owners and Breeders of Racing Arabians;
American Quarter Horse Association; and
Other organizations to be added

Development of Grassroots Network entails the following:

Informed horsemen become involved horsemen;
Regular updates from Coalition via e-mail and open meetings;
Local coordinators; and
Coalition Partners' newsletters and mailings

Development of Legislative Contacts entails the following:

Personal presentations before November election; and
Presentation to stress ECONOMIC VALUE OF LIVE RACING
industry to Colorado

Development and promotion of legislative support/initiative in the 2009 Session entails:

Introduction of legislation early in the session (the measure(s) is/are currently being written.);
Hold Horsemen's rally at State Capitol Building; and
Continue/advance the active grassroots network

Mr. Gasich engaged in a conversation with the Commissioners during which they inquired of him what responses he and/or his colleagues in the Colorado Horsemen's Coalition would give to certain difficult questions that might be posed to them by legislators or the public. For example, consideration was given regarding whether the Coalition's proposal could be deemed to expand gambling and increase the number of gambling-related occupations in Colorado. Mr. Gasich stated that his organization is proposing to restore what previously existed in the state, not create an expansion of gambling activity here. Additionally, he commented that the Coalition intends to emphasize the revenue-generating benefit that their proposal offers, noting that much personal and tax revenue generated from horse-related activities could be spent in Colorado rather than being spent outside of the state. He stated that members of the Coalition were prepared to begin distributing their literature to various industry-affiliated businesses and answering any questions that might be raised while doing so.

Additionally, Mr. Gasich informed the Commission that the Colorado Horsemen's Legislative Coalition has retained the services of a volunteer lobbyist and may obtain the assistance of additional lobbyists on a voluntary basis.

In response to Mr. Hartman's query, Mr. Gasich stated that all of the Colorado Horsemen's Coalition financial records would be made available for review and would be reflected in their legislative proposal.

The Commission and Division Director Hartman expressed their strong support for the concept outlined by Mr. Gasich with assistance from Mr. McGregor and Mr. Kitchen. They commended the efforts that have been undertaken to launch the Coalition, to establish its mission/goals and gain active involvement and support among organizations and groups affiliated with the collective Colorado horse industry and, thereby, to advance the status and growth of all segments of it. The Commission thanked Mr. Gasich and Mr. McGregor for their outstanding presentation.

As a matter of disclosure, Commissioner Alkire stated for the record that she is a breeder of non-racing Quarter Horses.

Change of November 2008 Commission Meeting

After determining that certain Commissioners would not be available on Tuesday, November 18, 2008, the originally established Commission meeting date, a motion was made by Commissioner Alkire, seconded by Commissioner Pretti and unanimously carried to change the date of the Commission's November meeting to Monday, November 10, 2008.

Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 10:45 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Wednesday, October 15, 2008** 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

(PRESENT VIA TELECONFERENCE)

JACK PRETTI, MEMBER

(EXCUSED)

CHARLES VAIL, DVM, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Wednesday, October 15, 2008 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. Chairman David Lynn Hoffman called the meeting to order at 9:43 a.m.

Members Present

David Lynn Hoffman, Chairman
Marilyn Alkire, Vice-Chair
Jack Pretti, Member
Charles Vail, DVM, Member
Mary Sharon Wells, Member

Staff Present

Richard Mattson, Greyhound Racing Coordinator
Robert "Duke" Mann, Horse Racing Coordinator
Greg Lamb, Acting Division Auditor
Michelle Bauman, Licensing Supervisor
Ashley Ulberg, Division Investigator
Joni Smith, Veterinarian
Tina Bowman, Assistant Attorney General for the Division of Racing Events
Joshua Urquhart, Assistant Attorney General, serving as Conflicts Counsel for the Commission
Sherry Gunnell, Assistant to the Director

Also Present

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

Acknowledgment of Re-Appointment of Commissioner Jack Pretti

The Commission and all in attendance congratulated Commissioner Jack Pretti on his re-appointment to a second four-year term as a member of the Colorado Racing Commission. Commissioner Pretti's second term will continue through July 1, 2012.

Introduction of Newly Appointed Commissioner Mary Sharon Wells

Chairman David Lynn Hoffman introduced Mary Sharon Wells, who was recently appointed by Governor Ritter to serve a four-year term as a Commission member through July 1, 2012. Ms. Wells offered a brief autobiographical sketch in which she advised that, prior to her retirement in 2007, she had served in numerous capacities in state and county government, including working for twenty-six years with the Colorado Legislature as a lobbyist for the Jefferson County Public Schools. Ms. Wells commented

that, prior to staying at home to raise her children, she had been a band instructor in the Denver Public Schools for approximately ten years.

Each of the Commissioners and meeting attendees welcomed Ms. Wells and congratulated her on her appointment.

Approval of Minutes of September 10, 2008

A motion was made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried to approve the minutes of September 10, 2008 as submitted.

Scheduled Administrative Hearing – In the Matter of Licensee RONALD EAN TAYLOR

Chairman David Lynn Hoffman convened the scheduled administrative hearing in the matter of Licensee Ronald Ean Taylor at 9:45 a.m. Mr. Taylor was not present and was not represented by legal counsel. As a preliminary matter, the Commission took notice that Mr. Taylor 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 June 19, 2008, Arapahoe Park Security informed Investigator Ulberg of an incident that had occurred on the racetrack at Arapahoe Park on June 17, 2008. On June 17, 2008, Outrider Cindy Richards ruled off a horse belonging to Owner Ronald Ean Taylor because the horse appeared to be dangerous to others. Mr. Ronald Ean Taylor responded by using profanity and/or abusive language toward Outrider Richards and other witnesses.
- On July 3, 2008, the Arapahoe Park Board of Stewards issued a Notice of Hearing to Mr. Ronald Ean Taylor to appear for a hearing on July 17, 2008. Mr. Taylor failed to appear for the July 17, 2008 hearing to answer the charges of using abusive language to a racing official during the discharges of his/her duties as an Outrider.
- In Ruling #08-28 issued by the Arapahoe Park Board of Stewards on July 19, 2008, Mr. Ronald Ean Taylor was suspended for the remainder of the Arapahoe Park 2008 race meet (through August 12, 2008) and was assessed a fine of five hundred dollars (\$500.00), which was due and payable within twenty (20) calendar days after issuance of said Ruling, i.e., on or before August 10, 2008. To date, the fine in question has not been paid. Therefore, pursuant to Rule #6.700, a penalty in an amount equal to the amount of the fine of \$500.00 became immediately due and payable. Therefore, the total amount due became one thousand dollars (\$1,000.00).

- Additionally, the Arapahoe Park Board of Stewards ordered in Ruling #08-28 that Mr. Ronald Ean Taylor be required to complete satisfactorily an 'Anger Management' program and produce evidence of completion to the Colorado Division of Racing Events before being restored to good standing.
- Further, Mr. Ronald Ean Taylor was excluded from the premises of all licensed Colorado racing facilities, including but not limited to racetracks and off-track wagering facilities, until such time as he is restored to good standing.

As confirmation that Mr. Ronald Ean Taylor had been duly and properly notified of both today's hearing and of the hearing before the Arapahoe Park Board of Stewards, Investigator Ulberg referred to Certificates of Service by Mailing that had been sent to Mr. Taylor's last known address.

Ms. Ulberg recommended that the current 120-day suspension of any and all licenses issued to Mr. Taylor be continued until such time as Mr. Taylor pays the entire fine and penalty amounts or until the end of his license term, and that, under no circumstances, is he to be considered eligible for relicensure until full restitution has been made and he has satisfactorily completed an 'Anger Management' program and is able to provide documentation to that effect.

Following deliberation of the Division's findings and conclusions as presented by Ms. Ulberg, a motion was made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried that, pursuant to Director's Order #08-08 in the matter of Mr. Ronald Ean Taylor, all licenses issued to Mr. Taylor by the Colorado Division of Racing Events are to remain suspended and that he be excluded from the premises of all licensed Colorado racing facilities until such time as the total fine/penalty assessment in the amount of one thousand dollars (\$1,000) has been paid in full; and, further, to uphold the decision of the Arapahoe Park Board of Stewards that Mr. Taylor be required to complete an 'Anger Management' program and provide documentation of satisfactory completion of said program before he could be restored to good standing; and, additionally, to require that Mr. Taylor cannot be restored to good standing until he has appeared before the Colorado Racing Commission.

The hearing concluded at 9:50 a.m.

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: 08-0607

COMMISSION ORDER # 08-06

IN THE MATTER OF:

RONALD EAN TAYLOR

License Type: Owner

License Number: 201110182

On October 15, 2008, a referral hearing was held at request of the Colorado Division of Racing Events as ordered in Director's Order #08-08 in the matter of RONALD E. TAYLOR. The Division requested that the Arapahoe Park's Board of Stewards Ruling #08-28 be upheld for TAYLOR'S failure to pay the fine and complete an 'Anger Management' program as stated in this ruling. TAYLOR failed to appear. Division Investigator, Ashley D. Ulberg, represented the Division of Racing Events.

Findings of Fact:

1. In Stewards Ruling #08-28, the Board fined TAYLOR \$500.00 for violation of CRC Rule #3.430 and 3.428 – Using Abusive Language towards a Racing Official.
2. That fine was due and payable on August 10, 2008.
3. The fine has not been paid.
4. In Director's Order #08-08, the Division fined TAYLOR an additional \$500.00 for failure to pay the original fine within twenty days. Per CRC Rule #6.700, the Director further ordered all Colorado licenses held by TAYLOR suspended and this matter referred to the Colorado Racing Commission for further sanction.

THEREFORE, the Commission orders TAYLOR'S unpaid fine of \$500.00 plus the additional penalty assessment of \$500.00 for a total of **\$1,000.00**, and continues the suspension of all Colorado licenses held by TAYLOR and that he be excluded from the premises of all licensed Colorado racing facilities until the fine has been paid in full.

The Commission further orders to uphold the decision of the Arapahoe Park Board of Stewards that TAYLOR be required to complete an 'Anger Management' program and provide documentation of satisfactory completion of said program before he could be restored to good standing; and, additionally, to require that TAYLOR cannot be restored to good standing until he has appeared before the Colorado Racing Commission.

Having considered the testimony and evidence presented and being fully advised in the premises, the Commission hereby unanimously sustains the findings of the Board of Stewards in Ruling #08-28.

DONE this 21st day of October 2008.

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

s/

DANIEL J. HARTMAN, Director
Colorado Division of Racing Events

Scheduled Administrative Hearing – In the Matter of Licensee MELODY LYNN FARRIS

Chairman David Lynn Hoffman convened the scheduled administrative hearing in the matter of Licensee Melody Lynn Farris at 9:50 a.m. Ms. Farris was not present and was not represented by legal counsel. As a preliminary matter, the Commission took notice that Ms. Farris had been duly and properly notified of both today's hearing and of the Arapahoe Park Board of Stewards hearing held on July 5, 2008.

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 July 5, 2008, pursuant to Colorado Racing Commission Rule No. 3.437, Licensee Melody Farris was given a drug test for cause. The urine sample provided by Ms. Farris tested positive for the controlled substance, cocaine.
- On July 5, 2008, the Arapahoe Park Board of Stewards conducted a hearing in the matter of Ms. Melody Lynn Farris. Ms. Farris appeared before the Board of Stewards to answer charges that she had tested positive for the controlled substance, cocaine. She was not represented by legal counsel at this hearing, but did appear in person.
- In Ruling #08-22 issued by the Arapahoe Park Board of Stewards on July 6, 2008, Ms. Melody Lynn Farris was suspended and was assessed a fine of one hundred dollars (\$100.00), which was due and payable within twenty (20) calendar days

after issuance of said Ruling, i.e., on or before July 26, 2008. To date, the fine in question has not been paid. Therefore, pursuant to Rule #6.700, a penalty in an amount equal to the amount of the fine of \$100.00 became immediately due and payable. Therefore, the total amount due became two hundred dollars (\$200.00).

- Additionally, the Arapahoe Park Board of Stewards ordered in Ruling #08-22 that Ms. Melody Lynn Farris be required to provide a negative drug-screening test prior to being restored to good standing, and that, until such time as she provides the negative drug-screening test and pays the entire outstanding fine/penalty assessment, her license(s) is to remain suspended.

Following deliberation of the Division's findings and conclusions as presented by Ms. Ulberg, a motion was made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried that, pursuant to Director's Order #08-07 in the matter of Ms. Melody Lynn Farris, License No. 200913832, all licenses issued to Ms. Farris by the Colorado Division of Racing Events are to remain suspended until such time as the total fine/penalty assessment in the amount of two hundred dollars (\$200.00) has been paid in full; and, further, to uphold the decision of the Arapahoe Park Board of Stewards that Ms. Farris be required to provide a negative drug-screening test prior to being considered in good standing and eligible for license renewal or licensure if her license expires during the period of her suspension.

The hearing concluded at 9:56 a.m.

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: 08-0671

COMMISSION ORDER # 08-08

IN THE MATTER OF:

MELODY LYNN FARRIS

License Type: Groom

License Number: 200913832

On October 15, 2008, a referral hearing was held at request of the Colorado Division of Racing Events as ordered in Director's Order #08-07 in the matter of

MELODY L. FARRIS. The Division requested that the Arapahoe Park's Board of Stewards Ruling #08-22 be upheld for FARRIS' failure to pay the fine as stated in this ruling. FARRIS failed to appear. Division Investigator, Ashley D. Ulberg, represented the Division of Racing Events.

Findings of Fact:

1. In Stewards Ruling #08-22, the Board fined FARRIS \$100.00 for violation of CRC Rule #3.437 and 6.120 – Testing Positive for the Controlled Substance, Cocaine.
2. That fine was due and payable on July 26, 2008.
3. The fine has not been paid.
4. In Director's Order #08-07, the Division fined FARRIS an additional \$100.00 for failure to pay the original fine within twenty days. Per CRC Rule #6.700, the Director further ordered all Colorado licenses held by FARRIS suspended and this matter referred to the Colorado Racing Commission for further sanction.

THEREFORE, the Commission orders FARRIS' unpaid fine of \$100.00 plus the additional penalty assessment of \$100.00 for a total of **\$200.00**, and continues the suspension of all Colorado licenses held by FARRIS until the fine has been paid in full.

The Commission further orders to uphold the decision of the Arapahoe Park Board of Stewards that FARRIS be required to provide a negative drug-screening test prior to being considered in good standing and eligible for license renewal or licensure if his license expires during the period of his suspension.

Having considered the testimony and evidence presented and being fully advised in the premises, the Commission hereby unanimously sustains the findings of the Board of Stewards in Ruling #08-22.

DONE this 21st day of October 2008.

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

s/

DANIEL J. HARTMAN, Director
Colorado Division of Racing Events

Scheduled Administrative Hearing – In the Matter of Licensee HUGO LOPEZ

Chairman David Lynn Hoffman convened the scheduled administrative hearing in the matter of Licensee Hugo Lopez at 9:56 a.m. Mr. Lopez was not present and was not represented by legal counsel. As a preliminary matter, the Commission took notice that Mr. Lopez had been duly and properly notified of

both today's hearing and of the Arapahoe Park Board of Stewards hearing held on July 3, 2008. (He was given verbal notification by Division of Racing Events' Investigator Ulberg of the July 3, 2008 Board of Stewards' hearing.)

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 July 2, 2008, Licensee Hugo Lopez was given a random drug test. The urine sample provided by Mr. Lopez tested positive for the controlled substance, cocaine.
- On July 3, 2008, the Arapahoe Park Board of Stewards conducted a hearing in the matter of Mr. Hugo Lopez. Mr. Lopez failed to appear before the Board of Stewards to answer charges that he had tested positive for the controlled substance, cocaine and, further, was not represented by legal counsel at this hearing.
- In Ruling #08-18 issued by the Arapahoe Park Board of Stewards on July 6, 2008, Mr. Hugo Lopez was suspended and was assessed a fine of one hundred dollars (\$100.00), which was due and payable within twenty (20) calendar days after issuance of said Ruling, i.e., on or before July 27, 2008. To date, the fine in question has not been paid. Therefore, pursuant to Rule #6.700, a penalty in an amount equal to the amount of the fine of \$100.00 became immediately due and payable. Therefore, the total amount due became two hundred dollars (\$200.00).
- Additionally, the Arapahoe Park Board of Stewards ordered in Ruling #08-18 that Mr. Hugo Lopez be required to provide a negative drug-screening test prior to being restored to good standing, and that, until such time as he provides the negative drug-screening test and pays the entire outstanding fine/penalty assessment, his license(s) is to remain suspended.

Following deliberation of the Division's findings and conclusions as presented by Ms. Ulberg, a motion was made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried that, pursuant to Director's Order #08-06 in the matter of Mr. Hugo Lopez, License No. 200913714, all licenses issued to Mr. Lopez by the Colorado Division of Racing Events are to remain suspended until such time as the total fine/penalty assessment in the amount of two hundred dollars (\$200.00) has been paid in full; and, further, to uphold the decision of the Arapahoe Park Board of Stewards that Mr. Lopez be required to provide a negative drug-screening test prior to being considered in good standing and eligible for license renewal or licensure if his license expires during the period of his suspension.

The hearing concluded at 10:00 a.m.

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: 08-0662

COMMISSION ORDER # 08-07

IN THE MATTER OF:

HUGO LOPEZ

License Type: Groom

License Number: 200913714

On October 15, 2008, a referral hearing was held at request of the Colorado Division of Racing Events as ordered in Director's Order #08-06 in the matter of HUGO LOPEZ. The Division requested that the Arapahoe Park's Board of Stewards Ruling #08-18 be upheld for LOPEZ' failure to pay the fine as stated in this ruling. LOPEZ failed to appear. Division Investigator, Ashley D. Ulberg, represented the Division of Racing Events.

Findings of Fact:

1. In Stewards Ruling #08-18, the Board fined LOPEZ \$100.00 for violation of CRC Rule #6.122 and 3.437 – Testing Positive for the Controlled Substance, Cocaine.
2. That fine was due and payable on July 27, 2008.
3. The fine has not been paid.
4. In Director's Order #08-06, the Division fined LOPEZ an additional \$100.00 for failure to pay the original fine within twenty days. Per CRC Rule #6.700, the Director further ordered all Colorado licenses held by LOPEZ suspended and this matter referred to the Colorado Racing Commission for further sanction.

THEREFORE, the Commission orders LOPEZ' unpaid fine of \$100.00 plus the additional penalty assessment of \$100.00 for a total of **\$200.00**, and continues the suspension of all Colorado licenses held by LOPEZ until the fine has been paid in full.

The Commission further orders to uphold the decision of the Arapahoe Park Board of Stewards that LOPEZ be required to provide a negative drug-screening test prior to being considered in good standing and eligible for license renewal or licensure if his license expires during the period of his suspension.

Having considered the testimony and evidence presented and being fully advised in the premises, the Commission hereby unanimously sustains the findings of the Board of Stewards in Ruling #08-18.

DONE this 21st day of October 2008.

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

s/

DANIEL J. HARTMAN, Director
Colorado Division of Racing Events

Comments Regarding Settlement Stipulation in the matter of Jon Glenn Arnett –
Assistant Attorney General Tina Bowman/Conflicts Counsel Joshua Urquhart

Mr. Joshua Urquhart, Assistant Attorney General serving as Conflicts Counsel for the Commission at today's meeting, introduced himself to the Commission and explained that he was attending the meeting in order to afford the Commission, should it choose to do so, the ability to discuss the general terms of the Settlement Stipulation in the matter of Licensee Jon Glenn Arnett, but to preclude any discussion of the merits of the Settlement Stipulation or prevent any action from being taken at this time with regard to this Stipulation. A motion was thereupon made by Commissioner Vail, seconded by Commissioner Alkire and unanimously carried to defer consideration of the subject Stipulation until the Commission's November 10, 2008 meeting and to state for the record that all parties who may be called upon to review the Stipulation will refrain from discussing it until such time as it is brought forward for public deliberation.

Subsequently, Ms. Tina Bowman, Assistant Attorney General representing the Division of Racing Events, and Mr. Urquhart ascertained that, since the subject Settlement Stipulation was signed on October 6, 2008, it would become a Final Agency Order on November 5, 2008, absent a decision of the Commission to hold its review in abeyance and formally notify all affected parties in these matters that the Settlement Stipulation would be reviewed and discussed at a hearing to be scheduled anytime after thirty days, the official notification time frame. Mr. Urquhart observed that it would probably be feasible for the Commission, should it wish to do so, to schedule a review hearing in these matters for its December meeting. Ms. Bowman stressed that, in the event that the Commission decides to conduct a hearing to consider whether the terms of the Settlement Stipulation are acceptable to the Commission, it could not do so at the November 10, 2008 meeting. The Commission could unilaterally initiate an agency review on the terms of the Settlement Stipulation and continue that until sometime past the mandatory thirty-day period for notification. Ms. Bowman explained that it would be essential for all parties to be given proper notice that the Commission intends to review the terms of the Settlement Stipulation at least thirty days prior to the hearing date. Additionally,

she inquired whether it would be feasible for a telephone conference to be scheduled within the next few weeks to entertain questions from the Commissioners and, then to afford all parties an opportunity to respond to any questions.

Mr. Urquhart cautioned the Commission to be aware that, in order to discuss any merits of the Settlement Stipulation since it is an appealable item, it would be necessary for the Commission to convene an Executive Session in order to discuss the merits. However, it would be allowable for the Commission to discuss any general questions in this public setting. He advised that, since a decision is in the process of being made by the Commission to hear the merits and terms of the Settlement Stipulation with the possibility that it would be rejected in whole or in part, the Commission would need to comply with the thirty days' prior notification requirement.

Commissioner Hoffman asserted for the record that all that has been provided to him is a summary of the potential settlement. Also, he stated that he has been in contact with Division Director Dan Hartman with respect to scheduling this matter, but he has not personally heard any substantive issues or matters relating to this Settlement Stipulation or has any member of the Commission been apprised of the merits of this case. He stated that he has discussed the subject of procedural due process with Director Hartman and is confident that the Division of Racing Events has met all due process requirements with regard to this matter. For these reasons, Commissioner Hoffman stated that he would not recuse himself. The remaining Commission members affirmed that neither would they recuse themselves.

Commissioner Hoffman called for a motion inquiring whether the Commissioners, having been given a summary of the Settlement Stipulation, wish to review the merits of and the decision reached in the Stipulation in which case it would be necessary to set a date to hear this matter and to notify all affected parties thirty days prior to the date of the review. Mr. Urquhart advised the Commission that, once this matter is set for review, the Commission has the prerogative to decide not to proceed with the public consideration and may notify all affected parties that it has decided not to conduct a review of the Settlement Stipulation.

A motion was thereupon made by Commissioner Pretti, seconded by Commissioner Vail and unanimously carried to find that the agency wants to review the settlement terms and continue this until the December 19, 2008 Commission meeting and notify all affected parties. No further action was taken at this time.

End of Meet Report – Arapahoe Park's 2008 Live Race Meet – Robert "Duke" Mann

Mr. Robert "Duke" Mann, Horse Racing Coordinator, presented his end of meet report for Arapahoe Park's 2008 live race meet, along with the following explanatory attachments: 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. William Powers, Plant

Facilities Manager/Director of Racing at Arapahoe Park, appeared on behalf of the Association. Veterinarian Joni Smith was also present to respond to Commission queries.

Mr. Mann reported that the thirty-six (36) day live meet at Arapahoe Park began May 24, 2008 and ended August 10, 2008. Twenty-two (22) days of out of state horse simulcasting also occurred during the live meet for a total of 58 days of both live and simulcast pari-mutuel horse racing being offered. Live horse racing along with simulcast out-of-state horse races occurred on Friday through Sunday. Monday and Tuesday were “dark” days when no pari-mutuel horse racing was offered with the exception of Monday, May 26, 2008 (observance of Memorial Day). On Wednesday and Thursday, out-of-state horse simulcasting alone was offered throughout Colorado.

Mr. Mann reviewed various audited statistics for the 2008 live race meet, including those for out-of-state horse simulcasting, along with comparative figures for the 2007 live and simulcast meet. Mr. Mann observed that this year’s total mutuel handle, including simulcasting, of \$13,199,291 represented an increase of 9% from last year. He stated that the total number of live races in 2008 was 328 and that the total number of simulcast races during the live season was 5, 973. The average number of live races per day in 2008 was nine.

STATISTICAL DATA:

Mr. Mann reported the following: 1) that the 2008 on-track live handle was \$3,517,262, a decrease of 17% from the \$4,234,777 generated in 2007; 2) that the 2008 in-state live handle was \$2,0047,661, down 2% from last year; 3) that the out-of-state live portion was \$1,469,601, down 32% from 2007; 4) that the on-track live handle of \$1,610,057 was down 3% from last year; 5) that the total simulcast handle of \$9,682,029 represented an increase of 23% from 2007; and 6) that the total attendance of 56,606 represented a decrease of 17% from 2007 and that the average daily attendance during 2008 was 1,572.

Mr. Mann offered the following average daily handle figures for 2008: 1) the average daily handle on-track was \$44,724; 2) the average daily handle in-state was \$57,122; 3) the average daily out-of-state handle was \$40,580; and 4) that this season’s average daily total handle was \$97,702. Mr. William Powers commented that he believed that, if Arapahoe Park had offered the same number of races on-track as it had in 2007, 328 this year contrasted with 358 in 2007, the handle would have risen. Additionally, he observed that Arapahoe Park would probably have benefited from conducting live racing on Mondays since there is limited competition from other racing venues on that day. Mr. Powers noted that, in 2007, Arapahoe Park’s tallies improved as the result of 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>
Thoroughbred	208 (63%)	\$1,457,150	\$212,060.51
Quarter Horse	76 (23%)	\$493,720	\$376,375.01
Arabian	41 (13%)	\$274,760	\$21,700.00
Paint/Appaloosa	3 (1%)	\$21,450	\$33,433.00
Totals	<u>328</u>	<u>\$2,247,080</u>	<u>\$643,568.52</u>

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

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

INJURIES TO HORSES (Racing and Training-Related):

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

	<u>2006</u>	<u>2007</u>	<u>2008</u>
Total Starts	2903	2567	2574
Total Injuries	51	45	52
Career ending injuries	1	2	0
Catastrophic	6	3	7

TESTING:

For the 2008 race meet, Mr. Mann reported that the veterinary staff took 597 total samples from all first-place winning horses and randomly selected horses from the racetrack. This figure is higher than last year due to the fact that the Division took and performed extra testing on blood samples during the meet.

Mr. Mann stated that, due to the recent horse racing industry’s position on unauthorized medication, the Division of Racing Events is addressing and implementing testing protocols that have been suggested by these organizations. Also, new Colorado regulations on the use of Anabolic Steroids and other unauthorized substances in the horses’ system on race day may impact how the Division will test horses at future race meets. This future increase in testing may directly affect the Test Barn facility at Arapahoe Park and may necessitate that additional manpower, space and equipment be provided. The Division will meet with the Association to discuss any future changes in its testing requirements and how it may affect the Test Barn enclosure.

MEDICATION VIOLATIONS:

Mr. Mann reported as follows:

There were a total of nine (9) unauthorized medication violations reported by Industrial Laboratories during the 2008 meet, which is a violation of Colorado Racing Commission Rule No. 5.301 – Unauthorized Medication. Of these,

- Three (3) violations reported were for the drug *methylprednisolone*, which is an ARCI Class IV drug. No split sample testing was requested and administrative hearings were held in front of the Board of Stewards. \$500.00 fines were imposed for all three violations.
- One (1) violation was for the drug *torseamide*, which is an ARCI Class III drug. Split sample testing was requested. The split lab was unable to confirm the presence of the drug in the split sample. The case was dismissed. (Mr. Mann explained that the split sample testing took between four to six weeks to complete and was ultimately inconclusive.)
- Five (5) violations were for the drug *methocarbamol*, which is an ARCI Class IV drug. These cases are still being adjudicated.

REPORTED USE OF AUTHORIZED MEDICATION:

Lasix

During the 2008 race meet, the authorization and reported use of **first time Lasix** was still confusing to the Practicing Veterinarians and Trainers. The Division Veterinarian required a form to be filled out and signed by the horse's trainer and practicing veterinarian indicating that both parties felt it was in the best interests of the horse to be administered Lasix pursuant to Colorado Racing Commission Rule No. 5.317. Several horses that participated in racing were administered Lasix for the first time without the form being submitted. On several occasions, announcements had to be made to the public concerning the use of first time Lasix when no reference was made to it in the official program. Administrative penalties to the horse's trainer were issued for violations of this rule.

Mr. Mann assured the Commission that, during the off season, the Division will continue to work with the horsemen rules committee and practicing veterinarians during the rules workshops about Colorado Racing Commission Rule No. 5.317 and any modifications that may need to be submitted to the Commission for review. Certain Commissioners recommended that the penalty for failure to report first-time use of Lasix be increased.

REGARDING ADMINISTRATIVE MATTERS AND DIVISION OF RACING EVENTS PERSONNEL:

The Board of Stewards for 2008 was composed of: Senior State Steward Robert Clark, State Steward Francy Martin and Association Steward Gale Davey. The Board issued thirty-nine (35) administrative rulings. Of the thirty-five rulings, twenty-five (25) rulings ordered a penalty and/or racing license suspension. Total fines for the meet was \$4,670.00. (*Exhibit B*)

- There were no disqualification/replacement rulings issued.
- There were fourteen (14) Administrative Citations issued. Total fines for the meet were \$1,400.00. (*Exhibit B*)

REGARDING LICENSING ACTIVITY:

The Division of Racing Events issued 294 new or renewal support licenses and 207 registration/reciprocal licenses and collected \$9,704.30 in license fees. Additionally, eleven new trainer licenses were issued for the 2008 race meet after applicants successfully passed the Division Trainers Test.

REGARDING DIVISION RANDOM DRAW – DRUG AND ALCOHOL TESTING

The Division of Racing Events performed random drug testing on fifty five (55) licensees during Arapahoe Park's 2008 race meet pursuant to Colorado Racing Commission Rule No. 3.437. The policy for performance of said testing was the same as last year. A representative from the Colorado Horse-Racing Association or Arapahoe Park witnessed the drawing of the names. Five lists were generated from the license validation files. From these five lists, one name was drawn for each of the five days, Wednesday through Sunday, for the five (5) different job categories listed below:

- Trainers, Assist Trainers, Owner/Trainer
- Jockeys
- Exercise Rider, Pony Person, and Misc.
- Grooms
- Racing Officials

There was one (1) violation of Colorado Racing Commission Rule No. 3.437 in the administration of the random drug-testing program. The licensee tested positive for Cocaine and is still suspended and referred to the Commission for failure to provide a clean drug-screening sample and for non-payment of fine.

There were three (3) licensees who were tested 'For Cause' pursuant to Colorado Racing Commission Rule No. 3.437. Two (2) were tested for alcohol with one written warning issued to the licensee and one (1) licensee was fined. The third licensee was tested for drugs and submitted a urine sample that tested positive for

Cocaine. The licensee is still suspended and has been referred to the Commission for failure to provide a clean sample and for non-payment of fine.

REGARDING ARAPAHOE PARK ASSOCIATION RESPONSIBILITIES:

RACETRACK:

The racetrack was resurfaced in 2005 and the Track Superintendent continued to add gypsum to the racetrack surface to maintain moisture throughout the 2008 race meet as in previous years. The Track Superintendent reported on race day to the public that the racetrack cushion was three (3) inches. The racetrack surface was worked and watered on a consistent basis. No water well issues were reported. Overall injuries were up. No major complaints about the surface were reported to the racing officials or the Division. Measurements were taken to ensure that the surface remained consistent. Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, stated that the Track Superintendent did an excellent job of maintaining the consistency of the racing surface throughout the meet.

Several incidents were reported by the Board of Stewards concerning the electronic timing system used for the races. Qualifying Trials for the Mile High Futurity were hand-timed due to the fact that the wiring system in the inside rail had shorted out. Also, the Board and Association Racing Officials retimed fractional and final times reported by the timer by hand for Thoroughbred and Arabian races for accuracy. These hand times were kept by the Board for backup and were used when necessary. Commissioner Vail inquired about the feasibility of acquiring a wireless timing system if the expense would not be too great and stated that he would strongly recommend that such a system be obtained.

RACING OFFICE:

Arapahoe Park hired a new Racing Secretary for the 2008 Race Meet. This position was the supervisor for the Assistant Racing Secretary, the Horseman's Bookkeeper, an Administrative Assistant responsible for the Official Program and the Entry Clerks. Both the Assistant Racing Secretary and Bookkeeper were new this year and had limited experience working in the Racing Office. The Racing Secretary took responsibility for several rule violations that were made due to the limited experience of certain staff members. The most common violation was accepting ineligible entries. All violations were corrected quickly once found and one written warning was issued to the Secretary. The Racing Secretary was very conscientious and worked hard to meet the needs of the horsemen participating at Arapahoe Park

It is the Division's understanding that a new software program for horse entries and publishing of the program will be purchased for next year. This will help make the entry process more user friendly than it has been 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.

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 regarding horse racing. On the whole, the Audio Visual crew did a good job and were very cooperative.

REGARDING ARAPAHOE PARK SECURITY:

Stable Gate: Due to funding-issue concerns by the Association to the Division, the Director of Security was allowed to staff the Stable Gate with only one (1) guard per shift. During the beginning of the meet when horses were arriving to be stabled in the barn area, the Stable Superintendent was also assigned the responsibility of assisting the Stable Gate in the admittance of horses. The Division Investigative and Veterinary Staff reported throughout the race meet that horses were allowed to enter Arapahoe Park's Stable Area without properly being checked in for health paperwork and stall assignments. Division Investigators were assigned to verify health records of horses on race day for compliance purposes.

Allowing only one guard to operate the Stable Gate makes it difficult for the guards to roam the backside for the purpose of finding or handling any violations of Arapahoe Park's Stable Area Policies, violations of the Stewards Guidelines and Ground Rules, addressing reports of disorderly conduct and/or access to the Barn area by unlicensed or unescorted individuals and any horse welfare issues. The checking of validated licensees was sporadic at best. Commissioner Vail stated that the lack of adequate security personnel with knowledge of racing to staff the Stable Gate represents an enormous liability issue. Mr. Mann concurred with Commissioner Vail's view and stated that he would offer a recommendation in an effort to address this situation.

The graveyard shift closed the Stable Gate at 10:00 PM to 5:00 AM to all vehicle access except in emergency situations.

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

Grandstand and Paddock: No serious incidents were reported to the Division from the Grandstand or Paddock. A Division Investigator was assigned to visit the paddock during live racing to check licenses to ensure compliance of the restricted area and assist in the transfer of claimed horses.

The Arapahoe County Sheriff's Office continued to provide an off-duty officer on the live race days for grandstand security. The Sheriff's Deputy assisted Division Investigators with several incidents of theft and disorderly conduct in the Stable Area and Grandstand areas. Several arrests were made and those arrested were transported by the Sheriff's Office. The Sheriff's Office also allowed patrol deputies to visit the barn area during the evening hours if their workload allowed.

In summation, Mr. Mann offered the following lists of recommendations for improvements to be made prior to the 2009 Arapahoe Park live race meet:

RECOMMENDATIONS RELATING TO TEST BARN MAINTENANCE:

- That new dirt and ground rubber be added to the walking surface to repair ruts and soften the walking surface for the horses and their handlers.
- That the water valve to the Misting System for the testing stalls be replaced. The valve does not regulate water pressure or flow and leaks onto the walking area.
- That the water system to the far south side wash rack be repaired since there is not enough water pressure to bathe the horses adequately.
- That Arapahoe Park be required to continue to maintain proper water drainage behind the wash rack areas.

RECOMMENDATIONS RELATING TO THE RACETRACK:

- That Arapahoe Park should troubleshoot, repair and/or replace where necessary, the timing wiring system contained in the inside rail and the electronic track distance timing eyes throughout the racetrack. The timing wiring system should also be troubleshot and/or repaired, if necessary, up to the timing computer located in the Stewards' Stand.
- That the Track Superintendent should be the only Racing Official position held by the individual.

RECOMMENDATIONS RELATING TO THE RACING OFFICE:

- That the Racing Secretary should ensure that only authorized persons are allowed behind the counter during the time that entries are being taken. Accesses to the Racing Office restricted area during the time of entry-taking should have locking devices. This restricted area should include the Racing Secretary's office and access to this office through the Bookkeeper's office should also be locked during the time that entries are being taken. The Racing Secretary shall allow visitors to his office by escort.
- That the Racing Secretary should have the Racing Office continue to maintain and post to the licensees the written schooling lists for the Starter, Paddock, Stewards and Veterinarian.
- That the Racing Secretary should continue to train and supervise racing office staff in the proofing of the entries.
- That Arapahoe Park's contract with its service provider should insure that a new software program for the acceptance of horse entries and the publishing of the official program be installed and online for its next race meet.

RECOMMENDATION REGARDING VIDEO PATROL:

- That the pre-meet meeting continue to be held with the Board of Stewards, Arapahoe Park Management and the video operators. This meeting will address the needs and expectations of the Board for their race review.

RECOMMENDATIONS RELATING TO SECURITY:

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

- That Arapahoe Park should review its staffing of the stable gate to ensure enforcement and compliance with their internal policies and the policies of the Division and Colorado Racing Commission.
- That Arapahoe Park should continue to employ an off-duty sheriff's deputy during live race days.

Mr. Mann expressed his appreciation to Mr. William Powers, Arapahoe Park's Director of Racing and Plant Facilities Manager, for solving problems when they arose, to all of the Arapahoe Park staff members and to 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 2008 race meet. Mr. Mann stated that, overall, Arapahoe Park's 2008 season was quite successful thanks to all concerned.

A motion was made by Commissioner Vail, seconded by Commissioner Alkire and unanimously carried to approve all of Mr. Mann's recommendations and to accept the end of meet report for Arapahoe Park's 2008 live racing season as presented by him. The Commission complimented Mr. Mann on the comprehensiveness of his report.

Change of December 2008 Commission Meeting

After determining that a conflict existed between the dates of the University of Arizona Symposium on Racing and the original December Commission meeting date, a motion was made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried to change the Commission meeting date to Wednesday, December 17, 2008. However, once it was learned that the Gaming Conference Room would not be available for the Commission meeting, the date of the meeting was changed to Friday, December 19, 2008.

Consideration of Withdrawal of 2009 Greyhound Race Date Requests – Bruce Seymore

Mr. Bruce Seymore, Director of Colorado Operations for Mile High Racing & Entertainment, addressed the Commission regarding the decision of BLB, the parent corporation of Mile High Racing & Entertainment, has withdrawn its 2009 greyhound race date requests. Mr. Seymore explained that this was a business decision based upon several issues. He stated that he and Division Director Dan Hartman are attempting to address matters relating to the existing off-track wagering facility licenses.

Mr. Seymore elaborated on the issues that have resulted in the business to forego further greyhound racing in 2009. He stated that BLB's forbearance has been extended through January 2009. Additionally, he reported that all of BLB's Colorado properties have been placed for sale, but, to date, only The Reserve, one of its off-track simulcast facilities, has been sold.

Mr. Seymore emphasized that he does not blame anyone or any group/organization for this decision. He acknowledged that racing is in serious trouble, not only due to the current economic crisis and competition from other forms of entertainment, but, also, because of the continued downward trend in wagering activity and patronage at racetracks/off-track wagering facilities. However, he stated that the main culprit is the financial crisis produced by cash funding of the Division of Racing Events. He observed that he and Mr. Hartman are working together to try to resolve this situation and obtain legislative relief.

He stated that he hopes to be able to conduct live horse racing in 2009, but acknowledged that he cannot continue indefinitely to fund the Division's operations/staffing from Arapahoe Park's earnings.

Certain representatives of the greyhound community offered observations regarding BLB's decision. They voiced their distress and urged that the Commission assist in conveying to the Legislature that a remedy for the cash funding situation must be found.

Announcement Regarding Scheduling of Rule Review Workshop – Dan Hartman

Mr. Robert "Duke" Mann, Horse Racing Coordinator/Investigator, announced that the first rule review workshop in anticipation of commencing the annual rule-making process has been scheduled to take place immediately after the conclusion of the Commission's regular November 10, 2008 meeting. He requested that all rule proposals be submitted to the Division office no later than Friday, November 7, 2008. . He invited anyone wishing to participate in the rule review process to attend this discussion session. Mr. Mann assured the Commission that an electronic reminder of the date, time and location of the workshop would be sent to notice recipients.

Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 11:26 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Monday, November 10, 2008** 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

JACK PRETTI, MEMBER

CHARLES VAIL, DVM, MEMBER

MARY SHARON WELLS, MEMBER

RECORD OF PROCEEDINGS

A special meeting of the Colorado Racing Commission was held on Wednesday, October 29, 2008 in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado, for the purpose of 1) discussing Cash Fund collection adjustments, and 2) discussing the Settlement Stipulation in the matter of Licensee Jon Glenn Arnett. A Notice of Special Meeting is attached hereto and made a part of these minutes. Chairman David Lynn Hoffman convened the meeting at 11:08 a.m.

Members Present

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

Staff Present

Dan Hartman, Director, Division of Racing Events
Mark Brown, Division Enforcement Coordinator
Michelle Bauman, Licensing Supervisor
Tina Bowman, Assistant Attorney General for the Division of Racing Events
Joshua Urquhart, Assistant Attorney General, serving as Conflicts Counsel for the Commission
Sherry Gunnell, Assistant to the Director

Also Present

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

Discussion Regarding Cash Funding Collection Adjustments – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, stated that, during the past several months, the Division has undertaken modifications to its staffing and spending levels based upon the reduction in live racing activity for 2008 and 2009. He observed that the Division would continue its analysis of its fiscal and personal services needs in the future. Further, Mr. Hartman explained that, at the time that the cash funding fee schedule for Fiscal Year 2008/09 was established, the Division's anticipated funding needs exceeded what its actual needs are going to be. He commented that the Division is also statutorily prohibited from exceeding its actual expenditures. Mr. Hartman advised that, since BLB is the sole cash funding fee source, it is desirable for the Division of Racing Events and BLB to work cooperatively to enable BLB's Colorado racing operations to continue as well as to ensure the continuation of the Division's regulatory oversight. Therefore, Mr. Hartman requested that the Commission grant him the ability to approve cash funding fee adjustments as the need for modifications arises.

Mr. Hartman assured the Commission that he would report any such changes to the Commission as part of the informational packet submitted with the monthly meeting material. The Commission would thereby be afforded the opportunity to discuss such matters at a regularly scheduled session if it so desires.

After ascertaining that it would be unlikely that any objections would be raised to approving Mr. Hartman's request, a motion was made by Commissioner Hoffman, seconded by Commissioner Pretti and unanimously carried to grant the ability to Division Director Dan Hartman to make adjustments to the cash funding fee collection whenever he deems it necessary to do so and, afterward, to provide a report of any such changes to the Commission.

Discussion Regarding Settlement Stipulation in the Matter of Licensee Jon Glenn Arnett – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, discussed with the Commission the contents of a packet of material relating to the cases involving Mr. Jon Glenn Arnett. Mr. Hartman noted that this material had originally been sent to the Commission prior to its regular October meeting and that the Commission had discussed the general terms of the Settlement Stipulation at that time.

Mr. Tina Bowman, Assistant Attorney General for the Division of Racing Events, and Mr. Joshua Urquhart, Assistant Attorney General serving as Conflicts Counsel for the Commission, were present.

Mr. Hartman explained that, as a result of investigations, the Division of Racing Events caused charges to be filed against Mr. Jon Glenn Arnett before the Arapahoe Park Board of Stewards in the following 2008 cases: Case #08-356 (Notice of Hearing served on June 1, 2008); Case #08-505 (Notice of Hearing served on June 12, 2008); Case #08-508 (Notice of Hearing served on June 12, 2008); Case #08-603 (Notice of Hearing served on June 20, 2008); Case #08-653 (Notice of Hearing served on June 29, 2008); and Case #08-654 (Notice of Hearing served on June 29, 2008). With the exception of Case #08-356, which resulted from Mr. Arnett's failure to file papers and not allegations of a medication violation, the other cases relate to the administration of the Class IV medication, Methcarbamol. The status of the remaining case is presently pending in the Colorado Supreme Court.

Mr. Hartman asserted that, in an effort to achieve an equitable settlement in these cases, he used the Association of Racing Commissioners International Model Rules for Penalties as a guideline and all penalties specified in the Settlement Stipulation are commensurate with the recommended penalties for a Class IV Medication Violation. In response to a public inquiry, Mr. Hartman responded that each of the 2008 Class IV Medication violations carried a penalty of a \$500 fine and a fifteen-day suspension to be served concurrently with, and not consecutive to, each other fifteen-day suspension. Further, Mr. Hartman informed the Commission that Mr. Arnett and the Division had stipulated and agreed that, on November 13, 2007, the Colorado Racing Commission in

Case No. 07-0912 entered an Order against Mr. Arnett upon and by which a \$1,500 fine and a five-day suspension were held in abeyance until the conclusion of the 2008 racing season at Arapahoe Park. Mr. Hartman observed that the Stipulation and Agreement between Mr. Arnett and the Division of Racing Events includes the proviso that, inasmuch as Mr. Arnett was summarily suspended by the Arapahoe Park Board of Stewards on July 12, 2008, such period of combined suspension shall be deemed to have been served by Mr. Arnett and no further fine or days of suspension shall be required of or imposed on Mr. Arnett in relation to any of the Cases.

In light of good cause provided by Mr. Arnett to continue the hearings originally scheduled to be heard before the Arapahoe Park Board of Stewards on August 7, 2008, it was not possible to reschedule these hearings before the Board, specifically, not only due to the cessation of the Board's jurisdiction with the end of the 2008 Arapahoe Park race meet, but, also, due to other matters of timing made evident in the collective "Motion for Continuance" filed in two documents on August 4, 2008 and August 5, 2008 respectively. For the purposes of the subject Stipulation and Agreement with respect to these cases, the Division of Racing Events authorized the reassignment of these Cases and delegated responsibility for the resolution of them to the Colorado Department of Revenue, Hearings Division, which Division issued A Notice of Case Reassignment and Notice of Hearing on October 6, 2008. On that date, the designated Hearing Officer evaluated the Stipulation and Agreement and found the terms of it to be acceptable.

Mr. Hartman advised that, pursuant to the Stipulation and Agreement, Mr. Arnett acknowledged that the Division informed him that it retains the right to refer Case Nos. 08-505, 08-508, 08-603, 08-653 and 08-654 to the Commission for a determination as to whether, pursuant to Colorado Racing Commission Rule 5.502 (Trainer Responsibility), some of all of the medicated racehorses involved in the aforementioned Cases should be disqualified and/or whether some or all of the purses or trophies received by persons or entities other than Mr. Arnett should be ordered redistributed and/or returned from such persons or entities. Mr. Hartman stated that it is his intention to bring the matters of the orders of finish in the affected races and the disposition of the purses in these races before the Commission at either the upcoming November or December regular meetings.

Discussion ensued during which the Commission considered the observations made by Mr. Hartman and the terms and conditions set forth in the Settlement Stipulation. Mr. Urquhart explained to the Commission that the Settlement Stipulation would become a Final Agency Order on November 5, 2008, absent a decision to postpone further consideration until a future time. A motion was made by Commissioner Alkire to accept the Settlement Stipulation as presented by Mr. Hartman. Mr. Urquhart commented that, at this time, the Commission should not accept or reject the Settlement Stipulation, but decide whether it wished to pursue formal public review and discussion of it at a hearing to be scheduled anytime after thirty days, the official notification time frame. He advised that, at the Commission's October 15, 2008 meeting, the Commission had decided by motion and unanimous vote to schedule a formal review of the merits and terms of the Settlement Stipulation at an upcoming regular meeting after complying with the thirty

day's prior notification requirement, recognizing that it could reject the subject Stipulation in whole or in part.

Following further discussion during which public inquiries and comments were entertained and after considering Mr. Hartman's observations, a motion was made by Commissioner Alkire to accept the Settlement Stipulation as presented. Mr. Urquhart reiterated the Commission's aforementioned options with respect to this matter. Commissioner Alkire withdrew her motion. A motion was then made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried to take no action with regard to the Settlement Stipulation in the matter of Licensee Jon Glenn Arnett. Subject to Mr. Urquhart's advisement, the motion that was made at the October 15, 2008 meeting by Commissioner Pretti, seconded by Commissioner Vail and unanimously carried to find that the agency wants to review the settlement terms and continue this until the December 19, 2008 Commission meeting and notify all affected parties was withdrawn.

Mr. Mark McGregor, President of the Colorado Thoroughbred Breeder's Association, urged the Commission to proceed as expeditiously as possible to consider the purse redistributions in the matter of Mr. Jon Glenn Arnett in order for decisions regarding Breeder's Awards to be resolved. The Commission concurred that these matters should be addressed as soon as possible and stated, subject to adherence to notice requirements, it would consider the said purse redistributions at either the November or December meeting.

Ms. Teri Chaplin, Court Reporter, recorded stenographically the aforementioned discussions. A tape recording of these proceedings is on file in the Lakewood Division office.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 11:50 a.m.

The undersigned hereby approve the foregoing Minutes.

DAVID LYNN HOFFMAN, CHAIRMAN

(PRESENT VIA TELECONFERENCE
MARILYN ALKIRE, VICE-CHAIR

(PRESENT VIA TELECONFERENCE
JACK PRETTI, MEMBER

(PRESENT VIA TELECONFERENCE
CHARLES VAIL, DVM, MEMBER

MARY SHARON WELLS, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Wednesday, November 10, 2008 at 1881 Pierce Street in Conference Room 110 (Gaming Conference Room), Lakewood, Colorado. Chairman David Lynn Hoffman called the meeting to order at 9:35 a.m.

Members Present

David Lynn Hoffman, Chairman
Marilyn Alkire, Vice-Chair
Jack Pretti, Member
Charles Vail, DVM, Member
Mary Sharon Wells, Member

Staff Present

Dan Hartman, Director, Division of Racing Events
Mark Brown, Division Enforcement Coordinator
Richard Mattson, Greyhound Racing Coordinator
Robert "Duke" Mann, Horse Racing Coordinator
Greg Lamb, Acting Division Auditor
Michelle Bauman, Licensing Supervisor
Ashley Ulberg, Division Investigator
Joni Smith, Veterinarian
Tina Bowman, Assistant Attorney General for 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 October 15 and October 29, 2008

A motion was made by Commissioner Vail, seconded by Commissioner Pretti and unanimously carried to approve the minutes of October 15, 2008 as submitted and the minutes of October 29, 2008 as amended.

Scheduled Appeal Hearing – In the Matter of License Applicant ALBERTO CANO

Chairman David Lynn Hoffman convened the scheduled appeal hearing in the matter of License Applicant Alberto Cano at 9:36 a.m. Mr. Cano was present, but was not represented by legal counsel. Ms. Mary Maestas, an employee of the Department of Revenue Motor Vehicle Division, served as a translator/interpreter for Mr. Cano.

Mr. Mark Brown, Enforcement Coordinator for the Division of Racing Events, distributed to the Commission copies of a document entitled "Memorandum of Investigation" and two exhibits relating to Mr. Cano's licensing history. He explained that Exhibit A was a copy of Mr. Cano's 2005 horse owner's license application and that Exhibit B was a copy of Mr. Cano's 2008 horse owner's license application. Mr. Brown observed that the Social Security numbers shown on the respective license applications as well as the Birth City, State and Country differed from each other and that, upon performing a verification check, the Division's Licensing Supervisor Michelle Bauman had discovered the discrepancy and had ascertained that Mr. Cano had falsified information on his original 2005 license application.

In the document, "Memorandum of Investigation", Mr. Brown cited portions of the Statutes that Mr. Cano had violated. These included the following: Section 12-60-507(1)(a) (2000) – violating any racing statute or rule; Section 12-60-507(1)(d) (2000) – fraud, willful misrepresentation, or deceit in racing; Section 12-60-507.5(1)(a) (2000) – failure to prove qualification; Section 12-60-507.5(1)(b) (2000) – failure to provide information required by statute or requested by the commission, failure to reveal any

material fact or the supplying of information, which is untrue as to a material fact pertaining to qualification; and Section 18-5-102(1)(e) – Forgery: A person commits forgery, if, with intent to defraud, such person falsely makes, completes, alters, or utters a written instrument which is or purports to be, or which is calculated to become or to represent if completed: A written instrument officially issued or created by a public office, public servant, or government agency.

Mr. Brown then provided the following Case Summary and Facts in this matter:

- It is alleged that on or about July 13, 2005, Alberto Cano submitted a forged application to the commission office at Arapahoe Park, located in Aurora, CO.
- On July 13, 2005, Colorado licensed horse owner ALBERTO CANO submitted an owner's license application with Social Security Number (SSN) 586-72-5144, which was accepted by the Colorado Division of Racing Events (CDRE) staff at Arapahoe Park (AP).
- On July 2, 2008, the CDRE received a horse license renewal application for ALBERTO CANO. The application was processed as per normal licensing procedure. Upon further review by Licensing Supervisor Michelle Bauman it was determined that the SSN: 653-48-1622 for CANO'S 2008 application was different from his 2005 application (SSN: 586-72-5144). Refer to Exhibits A and B.
- On August 20, 2008, Investigator Mark Brown, Enforcement Supervisor, reviewed the file and contacted the U.S. Social Security Administration (SSA) to determine if the SSN'S submitted were valid. Refer to Exhibit C
- On August 21, 2008, Pat Blot, Criminal Research Specialist for the SSA indicated that ALBERTO CANO'S 653-48-1622 SSN was a match with CANO, but the 586-72-5144 SSN was not a match.
- On August 21, 2008, BROWN contacted CANO to discuss the differences. CANO stated that he received the first SSN (5144) "a long time ago from an office," but was uncertain of what office. CANO went on to say his new SSN (1622) was "a good one." When asked about the application CANO stated that his "friend filled out the application," when asked what friend he simply stated the same thing.

Thereafter, Mr. Brown offered the following Summation:

- In July of 2005, ALBERTO CANO submitted an application with an invalid SSN. The application was received and approved based off of the false information. In violation of Colorado Revised Statute 18-5-102 (1) (e) Forgery.
- In July 2008, ALBERTO CANO submitted an application with a valid SSN issued to him by the U.S. Social Security Administration.
- ALBERTO CANO'S first application was submitted to the CDRE and approved which violations Colorado Racing Commission Rule definition of misrepresentation which states:
 - MISREPRESENTATION - The term "misrepresentation" in 12-60-507(1)(d), C.R.S. 1993, which prohibits "fraud, willful misrepresentation, or deceit in racing" prohibits the making of any substantial or willful misrepresentation concerning any aspect of the racing industry including but not limited to making any substantial or willful misrepresentation to a racing official concerning a racing matter. The term "misrepresentation" may include acts of omission as well as acts of commission and may include, unless otherwise stated, behavior which is negligent, reckless or done knowingly. It also includes the giving of false statements and fraudulent documents to Division officials regarding any racing matter.

In his concluding remarks, Mr. Brown stated that:

- In 2005, ALBERTO CANO willfully misrepresented a licensed application by submitting a fraudulent document containing and invalid Social Security Number.
- It is therefore the recommendation of the Colorado Division of Racing Events that the license(s) of ALBERTO CANO be revoked as stated in 12-60-507 (1) (d) C.R.S. Investigation - denial, suspension, and revocation actions against licensees - unlawful acts

Based upon the Division's findings, the Division issued Mr. Cano, first, a Notice of Pending Denial and, subsequently, a Notice of Denial dated September 16, 2008. Mr. Cano responded with a letter dated October 7, 2008 appealing the Division's denial of licensure after which today's hearing was scheduled. Mr. Brown stated that, despite the fact that Mr. Cano had provided a true and correct Social Security Number and Birthplace on his 2008 license application, it was the Division's position that sufficient evidence existed to continue with the denial process. Mr. Brown informed the Commission that, prior to issuance of the Notice of Denial, Mr. Cano's had been issued a temporary license badge, which was in effect for approximately one and one-half months. Mr. Dan Hartman, Director of the Division of Racing Events, confirmed that Mr. Cano had not committed any other infractions.

The Commission afforded Mr. Cano the opportunity to reply to the charges made by the Division and to clarify his reasons for using an inaccurate Social Security Number. Mr. Cano explained that he had been at fault and should have provided correct information to the Division of Racing Events when he was initially licensed for racing purposes. He stated that he does possess a current, valid resident alien card.

Following consideration of the evidence and testimony presented and after discussing its options with Mr. Hartman, a motion was made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried to fine Mr. Alberto Cano the sum of one hundred dollars (\$100) and, further, to allow Mr. Alberto Cano to be licensed by the Colorado Division of Racing Events with the understanding that, prior to the issuance of said license(s), Mr. Cano is to be required to have paid the \$100 fine and must appear before the Commission before the commencement of the 2009 Arapahoe Park live race meet. The Commission directed that an Order be issued to Mr. Cano reflecting this action.

Mr. Cano thanked the Commission for its consideration of his appeal.

The hearing concluded at 9:56 a.m.

Ms. Sara Stueve, Court Reporter, recorded stenographically the aforementioned proceeding. A tape recording of this proceeding is on file in the Lakewood Division office.

Consideration of Disqualification of Horses Trained by Jon Glenn Arnett and Redistribution of Purses

Mr. Dan Hartman, Director of the Division of Racing Events, provided to the Commission proposed Rulings #08-09, #08-10, #08-11, #08-12 and #08-13 relating to the proposed disqualification of horses trained by Mr. Jon Glenn Arnett that had tested positive for the unauthorized medication, Methocarbamol, during the 2008 Arapahoe Park race meet and to the proposed redistribution of the totality of purse monies derived by said horses, owners and jockeys from their original orders of finish. Mr. Hartman noted that, at a special meeting conducted by the Commission on October 29, 2008, the Commission had elected to take no action to prevent a Settlement Stipulation and Agreement between Mr. Jon Glenn Arnett and the Colorado Division of Racing Events from taking effect. However, pursuant to its prior interpretations of Colorado Racing Commission Rule #5.502 (Trainer Responsibility) with regard to the wording "an unauthorized drug which could affect the racing condition or the performance of an

animal in a race”, and Colorado Racing Commission Rule #5.440 with respect to references in the Uniform Classification Guidelines of Foreign Substances, to mean that the presence of an unauthorized medication is a violation of these rules and the level of the drug found in a racehorse should not be considered a mitigating circumstance and that even trace amounts of unauthorized medications could affect the outcome of a race, the Commission had requested the ability to consider the pending matters of the orders of finish in the affected races and the disposition of the purses in these races. Therefore, he was bringing these matters before the Commission at this time.

Mr. Tina Bowman, Assistant Attorney General for the Division of Racing Events, was present.

Mr. Hartman stated that, should the Commission adopt the proposed Rulings relating to disqualification and redistribution of purse monies and since the purses have been already been paid according to the original orders of finish, a Commission Order would be issued to all affected parties to return the original purses dispersed. He observed that, once the purse monies have been collected, they would then be dispersed according to the new order of finish.

Thereupon, the Commission offered separate motions in each case as follows:

- A) In the matter of Case #08-505 involving the horse, “Rasmussen”, the first place finisher in the seventh (7th) race on May 30, 2008 at Arapahoe Park, a motion was made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried to accept Ruling #08-09 as proposed; that the horse “Rasmussen” is hereby disqualified and declared unplaced; and, having taken notice that the purses have been paid on the original order of finish, it is the Commission’s order that all original purses as dispersed on the disqualified horse be returned and collected and, that once the purses have been collected, the totality of the monies in the amount of \$7,140 shall then be dispersed according to the new order of finish.
- B) In the matter of Case #08-508 involving the horse, “Swordsmith”, the first place finisher in the eighth (8th) race on May 31, 2008 at Arapahoe Park, a motion was made by Commissioner Vail, seconded by Commissioner Alkire and unanimously carried to accept Ruling #08-10 as proposed; that the horse “Swordsmith” is hereby disqualified and declared unplaced; and, having taken notice that the purses have been paid on the original order of finish, it is the Commission’s order that all original purses as dispersed on the disqualified horse be returned and collected and, that once the purses have been collected, the totality of the monies in the amount of \$4,200 shall then be dispersed according to the new order of finish.
- C) In the matter of Case #08-603 involving the horse “Ecstatic Twist”, the first place finisher in the eighth (8th) race on June 6, 2008 at Arapahoe Park, a motion was made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried to accept Ruling #08-11 as proposed; that the horse “Ecstatic Twist” is hereby disqualified and declared unplaced; and, having taken notice that the purses have been paid on the original order of finish, it is the Commission’s order that all original purses as dispersed on the disqualified horse be returned and collected and, that once the purses have been collected, the totality of the monies in the amount of \$3,900 shall then be dispersed according to the new order of finish.
- D) In the matter of Case #08-653 involving the horse “Rosie’s Kid”, the second place finisher in the sixth (6th) race on June 6, 2008 at Arapahoe Park, a motion was made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried to accept Ruling #08-12 as proposed; that the horse “Rosie’s Kid” is hereby disqualified and declared unplaced; and, having taken notice that the purses have been paid on the original order of finish, it is the Commission’s order that all original purses as dispersed on the disqualified horse be returned and collected and, that once the purses have been collected, the

totality of the monies in the amount of \$940 shall then be dispersed according to the new order of finish.

- E) In the matter of Case #08-654 involving the horse, “Man of the Moment”, the first place finisher of the eighth (8th) race on June 14, 2008 at Arapahoe Park, a motion was made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried to accept Ruling #08-13 as proposed; that the horse “Man of the Moment” is hereby disqualified and declared unplaced; and, having taken notice that the purses have been paid on the original order of finish, it is the Commission’s order that all original purses as dispersed on the disqualified horse be returned and collected and, that once the purses have been collected, the totality of the monies in the amount of \$6,600 shall then be dispersed according to the new order of finish.

Mr. Tony Gasich, a representative of the Rocky Mountain Quarter Horse Association, and other members of the horse racing community expressed their belief that it was unfortunate that the Commission’s interpretation of Colorado Racing Commission Rules 5.502 and 5.440 could not be applied retroactively to penalties that had previously been imposed at Arapahoe Park. Commissioner Alkire observed that she appreciated the sentiments of the Arapahoe Park horse racing community and recognized the reasons for their distress, but stated that the penalties that had been imposed would remain in place with the understanding that such discrepancies would not occur in the future. Mr. Hartman advised that Colorado Racing Commission Rule 5.502 would be considered during the rule review workshop.

Ms. Sara Stueve, Court Reporter, recorded stenographically the aforementioned proceeding. A tape recording of this proceeding is on file in the Lakewood Division office.

Presentation of Request to De-License BLB from Live Racing and Simulcast Wagering on Greyhound Racing – Melvin Johnson

Mr. Melvin Johnson, a kennel owner/operator and greyhound breeder and, also, a representative of the Colorado greyhound racing community, addressed the Commission concerning his views and opinions regarding whether it was allowable for BLB to continue its simulcast operations. Mr. Johnson observed that, historically, the privilege of offering simulcasting of races had been directly related to the conduct of live racing. He stated that he believed that Mile High Greyhound Park should not be permitted to continue its simulcast operations because it had withdrawn its 2009 race dates and did not intend to conduct live greyhound racing in the foreseeable future.

Discussion ensued during which Mr. Dan Hartman, Director of the Division of Racing Events, explained that Mile High Greyhound Park had conducted sixty (60) days of live racing during calendar year 2008, the mandatory requirement for the continuation of simulcasting of races, and, therefore, would be allowed by statute to continue its simulcast operations until June 28, 2009. Mr. Hartman stated that a racetrack must have conducted a sixty-day live race meet in the preceding twelve-month period to maintain its ability to simulcast races. He noted that, upon notification that neither Rocky Mountain Greyhound Park nor Pueblo Kennel Association intended to conduct a live race meet in the future and had not offered live racing in the preceding twelve-month period, both racetracks were compelled to suspend immediately further simulcast operations. Mr. Hartman commented that Arapahoe Park was also permitted to continue its simulcast operations since it had met its minimum obligation of conducting thirty days of live horse racing in 2008. Mr. Hartman stated that BLB was licensed to operate in Colorado through June 2010 and, since the corporation had not committed any form of misconduct and had not violated any statute or rule promulgated by the Commission, he would not endorse Mr. Johnson’s request.

After considering the views, opinions and arguments set forth by Mr. Johnson and Mr. Hartman, the Commission expressed its belief that it does not have the authority to rescind BLB’s racing license and declined to take any action. Mr. Johnson thanked the Commission for its consideration of his request.

Report Regarding Breeders' Cup World Championships – Robert "Duke" Mann

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that Mr. Robert "Duke" Mann, the Division's Horse Racing Coordinator and one of its Criminal Investigators, who has been affiliated with the Organization of Racing Investigators (ORI) since its inception and who, as a result of his membership in this organization, has been a member of the Breeders' Cup security team for the past three years, would provide the Commission with a report regarding his duties and responsibilities at this year's Breeders' Cup events.

Mr. Mann reported on his participation as a member of the investigative and security team known as the "Big Event Team" serving at the 2008 Breeders' Cup races held at Santa Anita (California) on October 24 and 25, 2008. Mr. Mann advised that he had spent a total of six days from October 21 through October 26, 2008 at the Santa Anita Racetrack in order to become familiar with the grounds, receive briefing and training and prepare to assume his duties and, then, subsequent to the events, to handle concluding arrangements.

Mr. Mann explained that, due to the size and significance of the event, it was necessary for a team of twenty-one highly trained and experienced investigators with racing expertise from throughout the United States to be assembled to oversee security during the conduct of the Breeders' Cup. Mr. Mann advised that this team included investigators and supervisors for the California Horse Racing Board, which had jurisdiction over the events. Mr. Mann commented that the Thoroughbred Racing Protective Bureau provided supervision for all Breeders' Cup investigators.

He stated that all of the work that he and his teammates performed, such as escorting foreign horses arriving by air transport to the quarantine barn, overseeing and maintaining continuous backstretch/stall security (saddling paddock area, jockey's room, stable gate and at the starting gate) was done behind the scenes. Mr. Mann commented that investigators also were involved in searching for and confiscating any illegal medications/drugs and accompanying each of the thirty-seven veterinarians on pre-testing rounds and ensuring that each of them was searched and was in compliance with the Rules of the California Horse Racing Board concerning practicing veterinarians and the medications that they possess and dispense.

He stated that horses participating in the variety of Breeders' Cup races represented many countries, including but not limited to Ireland, Dubai, Jordan and England. Because of the volume of horses participating in the variety of Breeders' Cup events, it was necessary for a significant number of horses to be stabled in the barn area at Hollywood Park and transported to Santa Anita forty-eight hours prior to racing. This area had also to be vigilantly guarded by security team members.

Mr. Mann reported that there were a total of fourteen Breeders' Cup races with approximately 155 participants. On Friday, October 24, there were five races for fillies and mares and, on Saturday, October 25, there were nine races for males. Mr. Mann stated that he believed and, that an article published in the Thoroughbred Times had confirmed that European-based trainers, most notably Mr. John Gosden, the trainer of the Breeders' Cup Classic winner, "Raven's Pass", were very pleased with the ban on steroid use and felt that this provided equalization between American and foreign-bred/trained horses. (There were five European-based winners in nine races on October 25.) Mr. Mann explained that, for the first time this year, the Breeders' Cup and the California Horse Racing Board had instituted rules prohibiting the use of anabolic steroids that could have resulted in disqualification and purse redistribution for a positive test, along with a one-year ban for an offending trainer. He noted that the first four finishers in each race were tested, along with at least one horse selected at random.

Mr. Mann commented that several factors contributed to the great success and positive feeling about this year's Breeders' Cup races, such as the very strong fields of horses from both America and Europe, the synthetic racing surface and the steroid-free environment.

Mr. Mann thanked Mr. Hartman for permitting him to accept the invitation to serve at this most prestigious series of events. He commented that he had thoroughly enjoyed participating in the Breeders' Cup for the past three years and hoped that he would have the opportunity to do so again in the future. The Commission congratulated Mr. Mann on being selected to be a member of the Breeders' Cup investigative/security team.

Comments Regarding Donations to Brush, Colorado Museum -- W. Gale Davey

Mr. W. Gale Davey, a former Chairman of the Colorado Racing Commission and, most recently, the Association Steward at Arapahoe Park, reported to the Commission on the donation of thirty bound volumes of historical Colorado horse racing bulletins to the Brush Area Museum and Cultural Center this past October. Mr. Davey, a longtime resident of Fort Morgan, Colorado, stated that he and Mr. Robert "Duke" Mann, Horse Racing Coordinator for the Division of Racing Events, had found the pamphlets stored away in file cabinets at the racetrack and had been concerned that they might be thrown away or destroyed if someone did not know or realize their historical significance. Mr. Davey credited Mr. Mann with being instrumental in providing the memorabilia to him for donation to the Brush museum.

In acknowledgment that Brush boasted that it was the home of the first established pari-mutuel horse racetrack after Colorado voters approved gambling on horses nearly sixty years ago and, also, because many persons from the Brush area had been involved in one way or another with horse racing, Mr. Davey stated that, in his opinion, it was fitting and proper for these documents should be retained there.

The Commission expressed its appreciation to Mr. Davey and to Mr. Mann for their involvement in this worthy undertaking.

Announcements – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, announced that this year's initial rule review workshop would commence at 1:00 p.m. in the Division's conference room.

Mr. Hartman stated that a farewell reception in honor of retiring Greyhound Racing Coordinator Richard Mattson would be held immediately following adjournment of today's meeting. He invited anyone wishing to attend the reception to stay and congratulate Mr. Mattson on his achievements and accomplishments and on his many years of dedicated service to the citizens of Colorado.

Adjournment

There being no further business to consider, the Commission adjourned its regular meeting at 11:01 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Friday, December 19, 2008** 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

JACK PRETTI, MEMBER

CHARLES VAIL, DVM, MEMBER

MARY SHARON WELLS, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Friday, December 19, 2008 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
Jack Pretti, Member
Charles Vail, DVM, Member
Mary Sharon Wells, Member

Staff Present

Dan Hartman, Director, Division of Racing Events
Mark Brown, Division Enforcement Coordinator
Robert "Duke" Mann, Horse Racing Coordinator
Michelle Bauman, Licensing Supervisor
Greg Lamb, Acting Division Auditor
Jennifer Davis, Veterinarian
Joni Smith, Veterinarian
Tina Bowman, Assistant Attorney General for 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 November 10, 2008

A motion was made by Commissioner Vail, seconded by Commissioner Alkire and unanimously carried to approve the minutes of November 10, 2008 as submitted.

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 its scheduling of its annual Rule-Making Hearing. He advised the Commission that the Division of Racing Events is in the process of preparing 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.

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 10, 2009 meeting, which will be held in Conference Room 110 (Gaming Conference Room) at 1881 Pierce Street, Lakewood, Colorado.

Consideration of Request for Reconsideration of Disqualification and Purse Redistribution – In the Matter of Case No. 08-654 involving the Horse, “Man of the Moment” – Susan Wafer, Owner, Wafer Thoroughbred Ranch, Inc.

Division Director Dan Hartman informed the Commission that, subsequent to issuance of Commission Rulings directing all parties affected by the disqualifications of horses trained by Mr. Jon Glenn Arnett to return their original purse payments, he had received a formal written request from Ms. Susan Wafer, Owner of Wafer Thoroughbred Ranch, Inc. and of the horse, “Man of the Moment”, for reconsideration of the Commission’s decision in the matter of Case No. 08-654. Mr. Hartman advised that, at its regular November meeting, the Commission had disqualified the horse, “Man of the Moment” and declared it unplaced. He stated that, upon receipt of Ms. Wafer’s and Mr. Kreutz’ letters, he had notified Ms. Wafer and Mr. Kreutz that this matter would be placed on today’s meeting agenda. Ms. Wafer was present and was accompanied by her legal advisor, Mr. James K. Kreutz, Attorney at Law.

Mr. Kreutz entered his appearance on behalf of Ms. Wafer. Mr. Kreutz advised the Commission that, shortly after the commencement of the 2008 Arapahoe Park live race meet, Trainer Jon Glenn Arnett was charged with animal medication violations involving the administration of minimal amounts of the drug, Methocarbamol. He explained that, on or about June 11, 2008, a meeting was held by and between Trainer Arnett, his Attorney, Allen Kincaid, Division Horse Racing Coordinator Robert “Duke” Mann, Colorado Horse-Racing Association Representative Shannon Rushton, Co-owners of the affected horse(s) Messrs. Harry Veruchi and Eli Diamante and Director of Racing Operations for Mile High Racing and Entertainment Bruce Seymore. As a result of this meeting, it was agreed and stipulated that the thirteen horses that had also been administered Methocarbamol would not be stricken from races to be run the weekend of June 14, 2008, but would be allowed to race with the proviso that if any of them tested positive for the subject drug, a \$500 fine would be imposed. Notice was taken that the horse, “Man of the Moment”, the original first place finisher in the eighth (8th) race on June 14, 2008, tested positive for the drug, Methocarbamol. A \$500 fine was therefore imposed and was paid by Trainer Jon Glenn Arnett per the aforementioned agreement.

Mr. Kreutz stated that Ms. Wafer’s request for reconsideration of the disqualification of her horse and redistribution of the purse is based upon the failure of the Division of Racing Events/Colorado Racing Commission to uphold the prior agreement and stipulation as previously mentioned. Mr. Kreutz contended that, at its November 10, 2008 meeting, the Commission acted without regard to proper notice requirements, without conduct of a formal hearing and without giving consideration to the pre-existing agreement and stipulation. In light of this, Mr. Kreutz requested that the Commission review this situation and determine whether it will abide by the previous agreement and allow the matter to stand based upon the payment of the \$500 fine.

In making its determination as to whether to grant or deny Ms. Wafer’s request, the Commission considered the following matters:

- That the Colorado Racing Commission (hereinafter “the Commission”) must abide by the Law and the interpretation of the Law that the Commission has put forward. For the record, Commission Chair David Lynn Hoffman read the text of Colorado Racing Commission Rule 5.502, which reads:

“The trainer shall be responsible for and the absolute insurer of the condition of the animals entered for his [her] kennel/stable regardless of the acts of third parties except as provided in these rules.

If 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, the trainer of the animal and any other person shown to have care or attendance of the animal or shown to have administered or conspired to have administered the drug are subject to disciplinary action. The owner of the animal shall not participate in the purse distribution of that race, a redistribution of that purse shall be ordered, and the animal shall be declared unplaced for every purpose except for pari-mutuel wagering and the grading

system as it pertains to greyhound racing. A trophy received by the owner of the animal shall be returned.”

- Further, Commission Chair Hoffman read, in pertinent part, the text of Colorado Racing Commission Rule #5.508 – “Additionally, with respect to horses in his/her care or custody, the trainer is responsible for. . .” Subsection :9, which reads “Maintaining a knowledge of the medication record and status;” and Subsection :10, which reads “Immediately reporting to the stewards and the Division veterinarian knowledge or reason to believe, that there has been any administration of a prohibited medication, drug or substance;”
- That the Division of Racing Events is not required either by statute or rules to notify an owner of an impending investigation, but only has to notify the trainer. The Division of Racing Events did fully comply with procedural due process by notifying the trainer which is what it is required to do.
- That the owner of the horse in question knew that the horse had tested positive because the owner asked why the purse had not been distributed and, specifically, asked why, even in the presence of a positive test, that the purses be distributed.
- That the Division of Racing Events, including Mr. Dan Hartman, Division Director, and Mr. Robert “Duke” Mann, Horse Racing Coordinator/Criminal Investigator, are in a recommending capacity only. They can only recommend appropriate punishment to the Board of Stewards and the Commission on the basis of their interpretation of applicable rules and statutes.
- That the Commission, at its July 2008 meeting, specifically took up the question of the meaning of Colorado Racing Commission Rule #5.502 and, specifically, the meaning of the word “could” and, in that meeting, made it very clear that it was the position of the Commission/Division that any amount of a forbidden substance, no matter how minute or trace, fit within the meaning of Colorado Racing Commission Rule #5.502 and within the meaning of “could affect the racing condition or performance of an animal within a race” and the Commission directed the Division of Racing Events from that point forward to apply that interpretation to any cases still pending or still being adjudicated. The cases that had been settled prior to that interpretation would not be affected. The cases that were still being adjudicated would be affected. Therefore, the cases that involved Mr. Jon Glenn Arnett, Trainer, from that point forward would be affected. The Commission directed the Division of Racing Events to apply that interpretation to the cases that were still being adjudicated which the Division did. They did not go backward to previous cases.
- That, had Mr. Jon Glenn Arnett accepted blame and responsibility for administration of a forbidden substance and had completed the adjudication prior to the July 2008 Commission meeting, the recommendation of Mr. Hartman and Mr. Mann that the penalty be only a \$500 fine and no loss of purse would probably have stood depending upon what the Board of Stewards might have done since they had the power to change that as well. However, Mr. Arnett did not do that and, after the July 2008 Commission meeting, the cases were dealt with based upon a clear interpretation and the power of the Commission and the Commission ordered that the purses were to be redistributed.
- That these cases did not go before the Board of Stewards at Arapahoe Park because the Board was no longer sitting by the time that these matters could be heard. Therefore, with the agreement of the trainer, a hearing officer within the State of Colorado Department of Revenue was called upon to review and Stipulations and Agreements between Mr. Jon Glenn Arnett and the Division of Racing Events. It was the position and finding of the said hearing officer that they were acceptable.

- That, pursuant to Colorado Racing Commission Rule #5.502, the trainer is the agent of the owner and the Division has procedurally and substantively dealt with the trainer.
- That, with respect to the question of whether Mr. Hartman or Mr. Mann could have bound the Commission to another interpretation of Colorado Racing Commission Rule #5.502, it was the finding of the Commission that Mr. Hartman and Mr. Mann do not have that power.
- That the Commission finds that it is clear from the regulations that were read into the record that the focus and responsibility are on the trainer. Ms. Wafer, being a licensed owner of horses that run in Colorado, has the right and opportunity to be fully familiar with the rules and regulations and has the ability to participate at any appointed time in any rule-making process that the Commission conducts.
- With regard to Mr. Kreutz' assertion that detrimental reliance had occurred in this matter, the Commission disagreed, contending that, since Ms. Wafer represented that if she had known that her horse, "Man of the Moment" would be disqualified, she would not have run the horse, she does not have a real injury. If she had known that her horse would be disqualified, she would not have run the horse, so the horse could not have won any money. Additionally, Trainer Arnett paid the \$500 fine and was suspended for fifteen (15) days for the medication violation.

After considering the facts and arguments presented and having been fully advised in the premises, the Commission concluded as follows:

- That the Commission has the authority to deny Ms. Wafer's request for reconsideration and to deny her request for a hearing at which point this would be a final agency action and she could then seek additional relief under the statute as she deems appropriate or to grant Ms. Wafer's request and schedule a reconsideration hearing or, further, to deem that such reconsideration has taken place at this time.
- That to countenance the administration of an illegal medication, drug or substance to a racing animal because it is "in the best interests of racing" should be repugnant to anyone who knows the rules regarding racing, especially to owners and trainers.
- That, when Ms. Wafer entered her horse, "Man of the Moment" into its race and, particularly at the July 2008 Commission meeting, it was made very clear that the Commission was concerned with the use of forbidden substances in any sports venue and whether such administration is made to a human or an animal in any sport venue, it is absolutely repugnant. Further, that any backtracking on the part of the Commission with regard to its position would be detrimental to the sport as a whole and that the Commission must take a stand that the use of any substance is absolutely repugnant and absolutely forbidden.
- That, when she signed her license application, Ms. Wafer had the opportunity to read and fully understand the rules of racing.
- That she hired an agent, a trainer, who should have known the rules of racing.
- That the Commission expressed its view that Ms. Wafer has not suffered detrimental harm based upon the fact that if she had pulled her horse, "Man of the Moment", from the eighth race on June 14, 2008 at Arapahoe Park, she would not have had the purse either.

After considering the arguments made by Ms. Wafer and her Attorney, Mr. James Kreutz, a motion was made by Commissioner Alkire, seconded by Commissioner Pretti and carried by a majority vote, with four Commissioners voting in favor of the motion and one Commissioner abstaining, to deny Ms. Wafer's request for reconsideration of the

disqualification and purse redistribution involving the horse, “Man of the Moment”, owned by Susan Wafer, Wafer Thoroughbred Ranch, Inc. Commissioner Vail abstained from voting due to a question of recusal.

A motion was then made by Commissioner Alkire, seconded by Commissioner Pretti and carried by a majority vote, with four Commissioners voting in favor of the motion and one Commissioner abstaining, to deny Ms. Wafer’s request for a hearing in the matter of Case No. 08-654; and that the purse money in the amount of \$5,940.00 paid to Ms. Wafer shall be returned per Commission Order No. 08-19; and to specify that this is a final agency action. Commissioner Vail abstained from voting due to a question of recusal.

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

The following Commission Order was disseminated:

BEFORE THE COLORADO RACING COMMISSION
STATE OF COLORADO

Case Number: RAC 08-0654

**FINAL AGENCY ACTION --
COMMISSION ORDER # 08-20**

IN THE MATTER OF:

REQUEST FOR RECONSIDERATION – IN THE MATTER OF THE DISQUALIFICATION AND PURSE REDISTRIBUTION INVOLVING THE HORSE “MAN OF THE MOMENT”, OWNED BY SUSAN WAFER, WAFER THOROUGHbred RANCH, INC.

At the meeting of the Colorado Racing Commission held on Friday, December 19, 2008, the Commission discussed whether to grant or deny the request of Ms. Susan Wafer, Wafer Thoroughbred Ranch, Inc., to reconsider the disqualification and purse redistribution in the matter of her horse, “Man of the Moment”, that ran in the eighth race on June 14, 2008 at Arapahoe Park. Ms. Wafer was present and represented by her legal advisor, Mr. James K. Kreutz.

In making its determination as to whether to grant or deny Ms. Wafer’s request, the Commission brought forward the following:

Findings of Relevant Facts

1. That the Colorado Racing Commission (hereinafter “the Commission”) must abide by the Law and the interpretation of the Law that the Commission has put forward. For the record, Commission Chair David Lynn Hoffman read the text of Colorado Racing Commission Rule 5.502, which reads:

“The trainer shall be responsible for and the absolute insurer of the condition of the animals entered for his [her] kennel/stable regardless of the acts of third parties except as provided in these rules.

If 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, the trainer of the animal and any other person shown to have care or attendance of the animal or shown to have administered or conspired to have administered the drug are subject to disciplinary action. The owner of the animal shall not participate in the purse distribution of that race, a redistribution of that purse shall be ordered, and the animal shall be declared unplaced for every purpose except for pari-mutuel wagering and the grading system as it pertains to greyhound racing. A trophy received by the owner of the animal shall be returned.”

2. Further, Commission Chair Hoffman read, in pertinent part, the text of Colorado Racing Commission Rule #5.508 – “Additionally, with respect to horses in his/her care or custody, the trainer is responsible for. . .” Subsection :9, which reads “Maintaining a knowledge of the medication record and status;” and Subsection :10, which reads “Immediately reporting to the stewards and the Division veterinarian knowledge or reason to believe, that there has been any administration of a prohibited medication, drug or substance;”
3. That the Division of Racing Events is not required either by statute or rules to notify an owner of an impending investigation, but only has to notify the trainer. The Division of Racing Events did fully comply with procedural due process by notifying the trainer which is what it is required to do.
4. That the owner of the horse in question knew that the horse had tested positive because the owner asked why the purse had not been distributed and, specifically, asked why, even in the presence of a positive test, that they be distributed.
5. That the Division of Racing Events, including Mr. Dan Hartman, Division Director, and Mr. Robert “Duke” Mann, Horse Racing Coordinator/Criminal Investigator, are in a recommending capacity only. They can only recommend appropriate punishment to the Board of Stewards and the Commission on the basis of their interpretation of applicable rules and statutes.
6. That the Commission, at its July 2008 meeting, specifically took up the question of the meaning of Colorado Racing Commission Rule 5.502 and, specifically, the meaning of the word “could” and, in that meeting, made it very clear that it was the position of the Commission/Division that any amount of a forbidden substance, no matter how minute or trace, fit within the meaning of Colorado Racing Commission Rule #5.502 and within the meaning of “could affect the racing condition or performance of an animal within a race” and the Commission directed the Division of Racing Events from that point forward to apply that interpretation to any cases still pending or still being adjudicated. The cases that had been settled prior to that interpretation would not be affected. The cases that were still being adjudicated would be affected. Therefore, the cases that involved Mr. Jon Glenn Arnett, Trainer, from that point forward would be affected. The Commission directed the Division of Racing Events to apply that interpretation to the cases that were still being adjudicated which the Division did. They did not go backward to previous cases.
7. That, had Mr. Jon Glenn Arnett accepted blame and responsibility for administration of a forbidden substance and had completed the adjudication prior to the July 2008 Commission meeting, the recommendation of Mr. Hartman and Mr. Mann would probably have stood depending upon what the Board of Stewards might have done since they had the power to change that as well. However, Mr. Arnett did not do that and, after the July 2008 Commission meeting, the cases were dealt with based upon a clear interpretation and the power of the Commission and the Commission ordered that the purses were to be redistributed.
8. That these cases did not go before the Board of Stewards at Arapahoe Park because the Board was no longer sitting by the time that these matters could be heard. Therefore, with the agreement of the trainer, a hearing officer within the State of Colorado Department of Revenue was called upon to review and Stipulations and Agreements between Mr. Jon Glenn Arnett and the Division of Racing Events. It was the position and finding of the said hearing officer that they were acceptable.
9. That, pursuant to Colorado Racing Commission Rule #5.502, the trainer is the agent of the owner and the Division has procedurally and substantively dealt with the trainer.
10. That, with respect to the question of whether Mr. Hartman or Mr. Mann could have bound the Commission to another interpretation of Colorado Racing Commission Rule #5.502, it was the finding of the Commission that Mr. Hartman and Mr. Mann do not have that power.
11. That the Commission finds that it is clear from the regulations that were read into the record that the focus and responsibility are on the trainer. Ms. Wafer, being a licensed owner of horses that run in Colorado, has the right to be fully familiar with the rules and regulations and has the ability to participate at any appointed time in any rule-making process that the Commission has.

12. With regard to Mr. Kreutz' assertion that detrimental reliance had occurred in this matter, the Commission disagreed, contending that, since Ms. Wafer represented that if she had known that her horse, "Man of the Moment" would be disqualified, she would not have run the horse, she does not have a real injury. If she had known that her horse would be disqualified, she would not have the run the horse, so the horse could not have won any money. Additionally, Trainer Arnett paid the \$500 fine and was suspended for fifteen (15) days for the medication violation.

Conclusions of Law

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

1. That the Commission has the authority to deny Ms. Wafer's request for reconsideration and to deny her request for a hearing at which point this would be a final agency action and she could then seek additional relief under the statute as she deems appropriate or to grant Ms. Wafer's request and schedule a reconsideration hearing or, further, to deem that such reconsideration has taken place at this time.
2. That to countenance the administration of an illegal medication, drug or substance to a racing animal because it is "in the best interests of racing" should be repugnant to anyone who knows the rules regarding racing, especially to owners and trainers.
3. That, when Ms. Wafer entered her horse, "Man of the Moment" into its race and, particularly at the July 2008 Commission meeting, it was made very clear that the Commission was concerned with the use of forbidden substances in any sports venue and whether such administration is made to a human or an animal in any sport venue, it is absolutely repugnant. Further, that any backtracking on the part of the Commission with regard to its position would be detrimental to the sport as a whole and that the Commission must take a stand that the use of any substance is absolutely repugnant and absolutely forbidden.
4. That, when she signed her license application, Ms. Wafer had the opportunity to read and fully understand the rules of racing.
5. That she hired an agent, a trainer, who should have known the rules of racing.
6. That the Commission expressed its view that Ms. Wafer has not suffered detrimental harm based upon the fact that if she had pulled her horse, "Man of the Moment", from the eighth race on June 14, 2008 at Arapahoe Park, she would not have had the purse either.

Order

The Commission hereby orders:

After considering the arguments made by Ms. Wafer and her Attorney, Mr. James Kreutz, the Commission moved by a vote of four in favor and one abstention to deny Ms. Wafer's request for reconsideration of the disqualification and purse redistribution involving the horse, "Man of the Moment", owned by Susan Wafer, Wafer Thoroughbred Ranch, Inc. Commissioner Vail abstained from voting due to a question of recusal.

Further, the Commission moved by a vote of four in favor and one abstention to deny Ms. Wafer's request for a hearing in the matter of Case No. 08-654; and that the purse money in the amount of \$5,940.00 paid to Ms. Wafer shall be returned per Commission Order No. 08-19; and to specify that this is a final agency action. Commissioner Vail abstained from voting due to a question of recusal.

DONE this 30th day of December 2008.

BY ORDER OF THE COLORADO RACING COMMISSION

FOR THE COLORADO RACING COMMISSION

s/

DANIEL J. HARTMAN, Director
Colorado Division of Racing Events

Presentation of Request to Appeal Commission Decisions Regarding Disqualifications of Horses and Purse Redistributions – Owner Harry Veruchi

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that he had received a letter from Mr. Harry Veruchi dated December 11, 2008, in which he requested that the matter of the disqualifications and purse redistributions relating to certain of his horses be postponed until the Commission's February 2009 meeting, at which time he would be available to appear and present his appeal of the Commission's decisions.

Mr. Hartman stated that, since he does not have the authority to grant Mr. Veruchi's request, he was bringing this matter forward for the Commission's consideration and determination after which he would notify Mr. Veruchi of the Commission's decision regarding his request.

A motion was made by Commissioner Alkire, seconded by Commissioner Vail and unanimously carried to defer consideration of the request of Mr. Harry Veruchi relating to disqualifications of certain of his horses and resultant purse redistributions until the Tuesday, January 13, 2009 Commission meeting, but not to set aside the disqualifications and purse redistribution requirements. The Commission specified that it is Mr. Veruchi's responsibility to return all purse money to Arapahoe Park that was distributed to him as directed by the previously issued Commission Orders.

Commission Directive to Pursue Additional Investigations

As a result of the offenses involving horses trained by Mr. Jon Glenn Arnett, the Commission directed the Division of Racing Events to explore and conduct investigations into whether other licensees, including veterinarians, may have committed rule and/or statutory violations.

Budget Presentation – Overview of Fiscal Year 2009 and Fiscal Year 2010 Request – Jill Vaughan and Debbie Allen

Mr. Dan Hartman, Director of the Division of Racing Events, introduced Ms. Jill Vaughan, Chief Budget Officer for the Enforcement Line of Business, and 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 2009 appropriation breakout and its Fiscal Year 2010 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.

In response to questions pertaining to the Division of Racing Events' budgetary needs and the probable fiscal consequences of the cessation of greyhound racing, Mr. Hartman stated that he has already made adjustments to various line items for Fiscal Year 2009, primarily in personal services, in order to reflect as accurate an indication of the Division's needs as possible. Because of staffing and sample testing reductions, Mr. Hartman estimated that the Division would be unlikely to be additionally affected by the proposed five percent cutbacks that the Governor would be imposing on most State agencies.

A motion was made by Commissioner Vail, seconded by Commissioner Alkire and unanimously carried to approve the budget for Fiscal Year 2009 and the budget request for Fiscal Year 2010 as presented.

The Commission thanked Ms. Vaughan and Ms. Allen for their informative presentation.

Adjournment

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

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on Tuesday, January 13, 2009 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

JACK PRETTI, MEMBER

CHARLES VAIL, DVM, MEMBER

MARY SHARON WELLS, MEMBER