

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, February 12, 2013 in Conference Room 110 (Enforcement Conference Room) at 1881 Pierce Street, Lakewood, Colorado. Chairwoman Wells called the meeting to order at 9:35 a.m.

Members Present

Mary Sharon Wells, Chairwoman
Sean Beirne, Vice-Chairman
Charles Vail, DVM, Member
Dan Kester, Member
Cindy Day, Member

Staff Present

Dan Hartman, Director, Division of Racing Events
Robert "Duke" Mann, Horse-Racing Coordinator
Mark Brown, Enforcement Supervisor
Pam Kilgore, Division Auditor
Ashley Leary, Division Investigator
Kathleen Apodaca, Licensing Supervisor
Charmaine Rose, Senior Assistant Attorney General
Sherry Gunnell, Assistant to the Director

Also Present

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

Introduction of Newly Appointed Commissioner Cindy Day

Ms. Mary Sharon Wells, Chairwoman of the Commission, and Mr. Dan Hartman, Director of the Division of Racing Events, introduced Ms. Cindy Day, who was recently appointed by Governor Hickenlooper to serve a four-year term on the Commission as a representative who has been previously engaged in the racing industry for at least five years and, also, represents the Western Slope. Ms. Day's term of service will remain in effect until 2016. Ms. Wells noted that she and Ms. Day would appear before the Senate Finance Committee in the afternoon for their confirmation hearings.

Mr. Hartman observed that Ms. Day, who resides in Grand Junction, is a realtor with RE/MAX 4000, Inc. and has been a real estate agent since 2000. He noted that, from 1975 until 1983, she held various positions in the racing industry, serving at numerous racecourses in the United States including Centennial Racetrack in Littleton, Colorado and that her brother is the renowned jockey, Mr. Pat Day. Ms. Day stated that she is very pleased to be serving as a Commission member.

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

Memorial Tribute in Honor of Former Commissioner Thomas J. Carney

The Commission, Division of Racing Events' staff members and industry affiliates acknowledged with profound regret the recent death of Mr. Thomas J. Carney, who served as a member of the Colorado Racing Commission from 1973 to 1986. Dr. Charles Vail observed that Mr. Carney was a consummate gentleman and an outstanding public servant. Mr. Carney distinguished himself in his legal career and in his many and varied civic, community and political pursuits. Commissioner Vail reflected on Mr. Carney's life and his achievements.

A motion was made by Commissioner Vail, seconded by Commissioner Wells and carried by acclamation to send a message of sympathy and condolence to Mr. Carney's family on behalf of the Colorado State Racing Commission and the Division of Racing Events.

Introduction of Newly Appointed Assistant Attorney General Charmaine Rose and Farewell Visit from Former Assistant Attorney General Y.E. Scott

Ms. Y. E. Scott, former Assistant Attorney General for the Division of Racing Events, introduced her successor Ms. Charmaine Rose. Ms. Scott advised that Ms. Rose had previously served as Assistant Attorney General on behalf of the Colorado State Medical Board and other State agencies. Ms. Scott announced that she would be leaving to support the Auto Industry Dealer Board on a full-time basis, but commented that she had enjoyed her term of service with the Division of Racing Events/Colorado Racing Commission.

The Commission expressed its gratitude to Ms. Scott for her astute and competent legal guidance and wished her well in all of her future endeavors. The Commission welcomed Ms. Rose and congratulated her on her new appointment.

Update on Cases Pending in the Colorado Court of Appeals – Y. E. Scott

Ms. Scott informed the Commission that the three cases that have been pending in the Colorado Court of Appeals for several months would receive their final consideration on February 27, 2013. Once additional information becomes available, Ms. Scott advised that the findings would be provided to the Commission.

Approval of Minutes of October 9, 2012

A motion was made by Commissioner Vail, seconded by Commissioner Beirne and unanimously carried to approve the minutes of October 9, 2012 as submitted.

Presentation Regarding Distribution of Owners/Breeders Awards and Supplemental Purse Fund Monies for Calendar Year 2012 -- Pamela Kilgore

Ms. Pamela Kilgore, Division Auditor, informed the Commission that she had prepared a final accounting of the Owners/Breeders Awards and Supplemental Purse Fund monies for distribution to the various breed organizations for calendar year 2012. The Commission observed that, this past year, although some improvement in the accruals for all breeds was apparent, the fund sustained a loss of revenue due to significant reductions in the amount of revenue derived from 2011 simulcast and live uncashed tickets.

Ms. Kilgore reported that: 1) the total earnings from wagering in 2012 amounted to \$1,050,355.18; 2) that the total earned from 2011 uncashed tickets on both live and simulcast races was \$274,612.43; 3) that no interest was earned in 2012 and, after subtracting the bank fee of \$3,500.00, the total Owners'/Breeders' Awards and Supplemental Purse Fund accrual for 2012 was \$1,321,467.61. She observed that there was a slight increase in the total amount available for distribution due to additional revenue generated from uncashed tickets.

Ms. Kilgore observed that the difference between the total amount of the accrual and the total amount to be distributed/retained in escrow (\$50,130.29) reflects the \$146,000 advance that was approved by the Commission in April 2012 for release to the Colorado Thoroughbred Breeder's Association in July 2012 and a distribution of \$44,646.13 that was made to Arapahoe Park pursuant to 12-60-704(5) of the Colorado Revised Statutes.

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

Colorado Thoroughbred Breeder's Association	\$909,389.11
Rocky Mountain Quarter Horse Association	196,173.69
Colorado Owners and Breeders of Racing Arabians	53,484.32
Rocky Mountain Paint Racing Club	2,747.63
Colorado Appaloosa Racing Association	1,558.31

The Commission took notice that a balance of \$12,114.55 remains from the escrowed harness purse monies. Notice was taken that in 2008, 2009 and 2010, but not in 2011 or 2012, Arapahoe Park accepted Mule races from California. An escrow account in the amount of \$305.48 accrued from those Mule races was established and has been retained pending notification of whether a Mule racing organization exists and, if so, whether it has by-laws in effect for the purpose of distributing funds.

Mr. Hartman explained that the total amount of the Owners' and Breeders' Awards Fund money due to each breed organization is computed by using the following data:

- The current year's percentages from wagering on live race days applied to the funds accumulated from all wagering on live races during the year as specified in Colorado Racing Commission Rule #9.316.
- The prior year's percentages from wagering on all live races during that year applied to the uncashed simulcast ticket proceeds from that same prior year as specified in Colorado Racing Commission Rule #9.318. For calendar year 2012, these uncashed tickets are from the 2011 simulcast meet held at Arapahoe Park.
- The applicable live wagering percentages for any association's uncashed ticket proceeds from the prior year's live race meet as specified in Colorado Racing Commission Rule #9.318. For the calendar year 2012, these uncashed tickets are from the 2011 live race meet held at Arapahoe Park.

After considering Ms. Kilgore's final accounting of the Owners/Breeders Awards and Supplemental Purse Fund monies for distribution to the various breed organizations for calendar year 2012 and after making an amendment to the subject report, a motion was made by Commissioner Kester, seconded by Commissioner Beirne and unanimously carried to grant approval to the Division to release the fund monies specified in today's agenda packet and request issuance of State warrants for disbursal of the reported fund accruals pursuant to statute.

Consideration of Proposed Modification to Application Form for Release of Funds from Greyhound Purse, Welfare, Adoption and Greyhound Racing Promotion Fund – Dan Hartman

Prior to considering the applications for the release of money from the Greyhound Promotion and Welfare Fund, Mr. Dan Hartman, Director of the Division of Racing Events, requested that the Commission review an accompanying form entitled "Application for Greyhound Funds", which the Division had recently modified. Mr. Hartman noted that the subject application form had been provided to each of the requesting organizations.

Mr. Hartman advised the Commission that, on August 22, 2012, the Division had conducted a meeting with representatives of most of the requesting organizations to review the distribution process, time frames, and determine whether changes to the protocols for release of funds needed to be made. Additionally, this meeting allowed each participant to offer comments, views and opinions concerning the process and to address any areas of confusion concerning an organization's functions. At that time, the Division was able to clarify many issues and/or concerns and to answer questions raised by attendees concerning the application and distribution processes. During the meeting, discussion took place concerning submission of receipts. At that time, the Division agreed to bring to the Commission for its consideration and determination a proposal to modify the application form by eliminating the requirement that each requesting organization submit its receipts for all expenditures with its application. Mr. Hartman

explained that this requirement necessitated a burdensome process and it is the Division's belief that it would be sufficient for each requesting organization to be required only to retain all receipts for any inspection or audit that the Division might wish to perform. Mr. Hartman commented that he and Division Auditor Pam Kilgore would recommend that the Commission approve the proposed modification to the application for the release of greyhound funds.

In response to a query from Ms. Charmaine Rose, Assistant Attorney General for the Division of Racing Events, Mr. Hartman advised that, in the event that an organization had misrepresented or had improperly accounted for its activities/expenditures, the Division would have the authority to penalize it since each greyhound organization must be licensed by the Division of Racing Events.

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

Mr. Dan Hartman, Director of the Division of Racing Events, reported that the Division is in receipt of six applications for release of money from the Greyhound Purse, Welfare, Adoption and Greyhound Racing Promotion Fund. He observed that the requesting organizations are: 1) Colorado Greyhound Adoption; 2) The Colorado Greyhound Breeders' Association; 3) Friends of Retired Greyhounds; 4) Greyhound Connection; 5) Rocky Mountain Greyhound Adoption, Inc.; and 6) the Greyhound Hall of Fame. He observed that he and Division Auditor Pam Kilgore have reviewed these applications. He apprised the Commission that, as of October 1, 2012, there was approximately \$40,000 in the Fund.

Mr. Hartman explained the methodology for determining the amount of funds to be reimbursed to compliant requesting organizations. The methodology is based upon the number of greyhounds placed in the six-month application period divided into the available amount of fund money. He stated that, during the subject six-month period, there were 334 greyhounds placed by the applicants. This would mean that the organizations would receive \$111.84 per placed greyhound ($\$40,000/334=\111.84). Before distribution of the fund, the Division would again review the paperwork from the requesting organizations to ensure that accurate numbers have been reported and used in all calculations.

Pursuant to Colorado Racing Commission Rules #9.400 and #9.410 relating to the distribution of money from the aforementioned Fund, Mr. Hartman advised that, in his estimation, the request from the Colorado Greyhound Breeders' Association for the release of \$50,000 does not appear to meet the standards set forth in these rules to qualify to receive Fund money and, therefore, he recommended that the request be denied. He explained that the Colorado Greyhound Breeder's Association's report lists expenses for transportation to and from Racing Commission meetings, along with requests for reimbursements for meeting with legislators, National Greyhound Association membership dues and attorney fees as well as for the care, feeding, housing and medical treatment of greyhounds, which are not construed by the Division as refundable expenditures. He stated that the Fund was established for the purpose of assisting with expenses incurred to further greyhound adoptions, welfare and promotions, but not to subsidize greyhound breeders. Mr. Hartman declared that it is the Division's position that the expenses specified by the Colorado Greyhound Breeder's Association do not constitute a reasonable or defensible interpretation of Colorado Racing Commission Rules #9.400 and #9.410. He stated that, although the Commission voted previously to disburse some money to this organization, he would not recommend repeating this practice and recommended that the Commission decline to distribute any money to The Colorado Greyhound Breeders' Association at this time and until such time as the organization complies with the Commission's rule(s) relating to said distribution.

Mr. Hartman informed the Commission that the other applications meet the criteria set forth in the Commission's rules. The following applications included requests for specific dollar amounts: Colorado Greyhound Adoption has requested \$25,000; Rocky Mountain Greyhound Adoption, Inc. has requested \$6,200; and the Greyhound Hall of Fame has requested \$2,644.37. Friends of Retired Greyhounds and Greyhound

Connection have requested unspecified dollar amounts commensurate with the number of greyhounds cared for and placed by these organizations. Each of the aforementioned organizations has previously received Fund money. Notice was taken that a previous recipient of Fund money, Recycled Racers, had not submitted an application.

Mr. Hartman explained that, since its inception, over 300 greyhounds have been adopted due to the efforts of the greyhound welfare and adoption organizations. He commended their dedication and commitment to ensuring that the greyhounds receive ongoing proper care and treatment. Mr. Hartman advised that the fund was originally established by enactment of Senate Bill 09-174 subsequent to the cessation of live greyhound racing in Colorado in 2008. Prior to that time, the greyhound racetrack had brought in out-of-state simulcasts of greyhound races and the horse racetrack had offered out-of-state simulcasts of horse races. However, the aforementioned legislative change enabled the horse racetrack, Arapahoe Park, to apply to bring in out-of-state simulcasts of greyhound races as well as simulcasts of horse races since there was no active greyhound racetrack in the state. The revenue derived from greyhound simulcasting was treated in the same manner as the revenue generated from horse simulcasting and was then distributed to various accounts, such as those to augment purses as well as the Colorado State University Equine Research Fund.

Accordingly, Mr. Hartman presented the recommendation of the Division of Racing Events to the Commission for disbursement of \$40,000 from the Greyhound Purse, Welfare, Adoption and Greyhound Racing Promotion Fund and approval of the release of the following amounts from the subject Fund:

• To Colorado Greyhound Adoption:	\$ 8,724.00
• To Friends of Retired Greyhounds:	\$ 6,487.00
• To Greyhound Connection:	\$18,678.00
• To Greyhound Hall of Fame:	\$ 2,644.00
• To Rocky Mountain Greyhound Adoption, Inc.	\$ 3,467.00
	<hr/>
	\$40,000.00

Discussion ensued during which Mr. Melvin Johnson, a member of the Colorado Greyhound Breeders' Association, voiced his objections to the denial of his organization's request for release of funds. He stated that he believes that his organization has complied with the Commission's rules and regulations and deserves to be a recipient of money from the subject fund. The Commission disputed Mr. Johnson's assertions and informed him that his organization did not meet the necessary standards and criteria for receiving fund money. Mr. Hartman advised that he would be willing to meet with Mr. Johnson to determine how his organization might be able to comply with the requirements and criteria for reimbursement of money from the Greyhound Welfare and Promotion Fund. However, Mr. Hartman asserted that it would be reckless and irresponsible for the Commission to grant money to an organization for the purpose of breeding greyhounds to race when no live greyhound racing was being conducted in the state.

Additionally, Mr. Johnson requested that the Division provide information from each breed organization regarding a) the number of greyhounds adopted during the period; 2) the name of the state(s) where the greyhounds were bred; 3) the name of the state(s) where the greyhounds were received; and 4) the name of the state(s) where the greyhounds were placed. After considering whether Mr. Johnson's verbal request for information was properly presented to the Division of Racing Events and obtaining confirmation from Ms. Charmaine Rose, Assistant Attorney General for the Division, that the request, which was tendered on the record, could be construed and treated as an official request pursuant to Colorado Revised Statutes 24-4-104, Mr. Hartman stated that he would comply, noting that the Division has always responded to every request for information submitted to it by Mr. Johnson.

Further, Mr. Johnson requested that the term “greyhound welfare” be defined. Discussion ensued during which comments were exchanged between members of the Commission, Mr. Hartman, Ms. Rose and Mr. Johnson. The Commission acknowledged that the term might have numerous meanings and acknowledged that a single definition might be too limiting. Notice was then taken that Senate Bill 09-174 is scheduled to expire on June 30, 2014, after which it would not be allowable for a racetrack/simulcast facility to offer any broadcasts of live greyhound racing and the Fund would cease to exist. Mr. Hartman stated that, although the Commission and Division of Racing Events are not permitted or authorized to sponsor, endorse or advocate for any specific legislative initiative(s), both of them could offer suggestions concerning the wording of a draft proposal and could respond to a legislative proposal once it has been crafted.

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

After ascertaining that there were no further comments to be made, a motion was made by Commissioner Vail, seconded by Commissioner Kester and unanimously carried to release \$8,724.00 to Colorado Greyhound Adoption; \$6,487.00 to Friends of Retired Greyhounds; \$18,678.00 to Greyhound Connection; \$2,644 to the Greyhound Hall of Fame; and \$3,467.00 to Rocky Mountain Greyhound Adoption, Inc., which totals \$40,000.00, with the proviso that each organization is to provide preliminary and follow-up reports relating to the use of the subject funds and, further, that the Division of Racing Events has the ability to validate the reported number of adopted greyhounds prior to requesting release of money for distribution from the Greyhound Purse, Welfare, Adoption and Greyhound Racing Promotion Fund. The Commission and Mr. Hartman commended the services provided by the aforementioned greyhound organizations and expressed appreciation for their efforts.

Presentation Regarding Colorado State University Equine Research Fund

Dr. Sue VandeWoude, Associate Dean for Research and Graduate Education at the Colorado State University (hereinafter known as “C.S.U.”) College of Veterinary Medicine and Biomedical Sciences, introduced herself and her colleagues, Dr. Chris Kawcak, Associate Professor in the Department of Clinical Sciences, Orthopaedic Research Center; Dr. Wayne McIlwraith, University Distinguished Professor and Director of the Orthopaedic Research Center, and Dr. Ryan Ferris, Assistant Professor in the Department of Clinical Sciences, Equine Reproduction Laboratory, to the Commission.

Dr. VandeWoude explained that the funding provided by the Commission has been extremely beneficial to the University and is essential for the continued growth of the equine research program there. She informed the Commission that its annual financial contribution is leveraged approximately fifty-fold, which, along with the approximate \$2,300,000 in research funds generated by equine researchers and annual donations to equine research programs totaling approximately \$1,500,000 to \$2,000,000 forms the basis for obtaining grant funding for various research projects. She observed that the Commission’s financial contribution in 2012 racing receipts of approximately \$80,000 has been applied to fund the post-mortem surveillance project with the balance being used to fund “pilot” research projects in horses at Colorado State University. Dr. VandeWoude explained that the Commission’s funding is especially important because it affords researchers at C.S.U. the opportunity to work on projects that larger funding agencies would not accept without prior data to support such efforts. The preliminary data generated are then used to demonstrate to funding agencies that a research plan is realistic and, thus, this data forms the foundation for larger grants for continuation of a research project. She commented that, in order to select the research proposals to be funded, a committee of researchers in the College of Veterinary Medicine and Biomedical Sciences, after receiving input from breed association veterinarians, evaluates the large quantity of research proposals that are submitted for consideration and ranks

them in order of merit with funds being distributed to proposals in consideration of rankings and the best use of the available revenue. She noted that this is an extremely competitive process with far more proposals being tendered than can be subsidized. Dr. VandeWoude stated that, for 2012 funds, along with the postmortem project, 10 additional proposals were received requesting a total of \$231,000. She commented that the University was able to offer three awards totaling \$80,000 in funding via the competitive proposal process using Commission funds.

Dr. VandeWoude reported that the following equine research projects are currently funded and being performed at C.S.U.: 1) Evaluation of damage associated with molecular patterns as inhibitors of mesenchymal stem cell chondrogenesis – Dr. Kisiday; 2) Evaluation of heat shock protein 10 as the “early pregnancy factor” of mares – Dr. McCue; and 3) Immunogenic profiles of autologous and allogenic bone marrow derived mesenchymal stem cells – Dr. Goodrich; and 4) Colorado Racehorse Post-mortem Project – Dr. Kawcak. Dr. VandeWoude expressed her appreciation to the Commission for its ongoing support of and contribution to equine research at Colorado State University. She advised that the following are anticipated activities in 2013: 1) that C.S.U. will continue to offer racetrack visitations/exhibits that were begun in 2011; 2) that the postmortem program management will continue to be funded “up front” and that the reporting mechanism will continue to be standardized; and 3) that additional input on research topics relevant to the Colorado Racing Commission will continue to be provided.

The following presentations were offered for Commission consideration:

- 1) Dr. Chris Kawcak presented a status report on the Colorado Racehorse Post-mortem Program. He offered a slide presentation illustrating the nature and focus of the research and the materials and methods used in this study. He described how the development of new imaging devices, such as the tomographic (CT) scanner, has contributed significantly to improvement in detection capabilities. He explained that every horse that died or was euthanized at the Colorado racecourse was submitted for post-mortem analysis and that a full necropsy, along with detailed analysis of the horse’s limbs was performed. Dr. Kawcak stated that, if requested, by the Division of Racing Events, further testing was also undertaken. Dr. Kawcak presented the following statistics concerning the gender, ages and causes of death determined by means of post-mortem examinations conducted in 2012:

Gender: 6 geldings; 3 mares; 2 stallions

Ages: 5 two-year-olds; 2 three-year-olds; 2 four-year-olds; 1 five-year-old and 1 seven-year-old

Cause of death: colic (2 cases); trauma (1 case-gait injury); chronic infection (1 case-splint bone infection into hock joint) and cardiac arrest (1 instance-multiple small findings, but nothing sufficient to explain death)

Dr. Kawcak observed that, this past racing season, there was a low incidence of musculoskeletal injury with only six cases, two involving Thoroughbreds and four involving Quarter Horses. He commented that there were three carpal injuries, all of them in Quarter Horses.

Dr. Kawcak enumerated a list of plans for 2013 with regard to the Racetrack Post-mortem Surveillance Program. These include: 1) Preparing a report for the Racing Commission that describes the program and its historical results for dissemination to the racing industry; 2) Commencing post-mortem surveillance earlier than before due to having dedicated funds; 3) Performing pre-emptive tissue collection in case drug screening is requested; and 4) Continuing use of limbs to improve early diagnosis of injuries via such equipment as the aforementioned low cost CT scanner. Dr. Kawcak noted that he and Dr. McIlwraith had attended a horse racing medication conference during which they had participated with members of the Racing Medication Testing Consortium in

discussions of such topics as the lack of unified regulation of medications that creates variability in allowable medications, routes of administration, allowable thresholds, withdrawal periods, and so on. The Commission thanked Dr. Kawcak for his excellent report.

- 2) Dr. Wayne McIlwraith reported on a “Current Issues Threatening Horse Racing – A Scientific Perspective”. He discussed the following pressing subjects and the variability of professional positions relating to them: EIPH and the use of raceday furosemide (Lasix); the use of Corticosteroids; Fatal musculoskeletal injury; racetrack surfaces; and shockwave therapy. He observed there are conflicts within the racing and veterinary communities regarding the use of raceday Lasix. He noted that, in 2012, the Breeder’s Cup did not permit two-year-olds to be given Lasix on raceday and, in 2013, its raceday administration will be forbidden in all races. Also, the use of Corticosteroids is a highly controversial matter and there is renewed attention being paid to the subject. He offered the recommendations and conclusions presented by different groups and organizations concerning usage and/or prohibition. Dr. McIlwraith mentioned that future racing surface safety is of paramount concern and that he has prepared a “white paper” relating to this topic. He noted that, presently, there is no consistency across all racetracks. Further, Dr. McIlwraith observed that shock wave therapy is being evaluated for its effectiveness. Findings suggest that it is an anti-inflammatory with analgesic effects in evidence for three days. The Commission expressed its appreciation to Dr. McIlwraith for providing his observations regarding these important and relevant subjects.
- 3) Dr. Ryan Ferris updated the Commission on the rebuilding process of the Equine Reproduction Laboratory that has been underway for approximately one and one-half years. He offered a slide presentation depicting the new building and the research programs involving mares, stallions and assisted reproduction, as well as the clinical programs and availability of space for teaching that the facility, expanded from 6,000 square feet to 12,000 square feet, will accommodate. Dr. Ferris noted that the new building will be open on March 1, 2013 and that an open house will be held on April 26, 2013.

Dr. Ferris described the following types of research that will be conducted in the newly completed facility:

In mares, issues of oocyte viability, oviductal blockage and improvement of uterine environment, uterine health and infectious endometritis;

In stallions, issues of toxic seminal plasma; and development of new cool shipped and frozen semen extenders;

Research in assisted reproduction, including activation of an oocyte to improve cleavage; cryopreservation of ICSI embryos, selection of optimal sperm and transfer of ICSI-produced embryos as well as launching the development of a clinical program to continue this research that has proved successful in research mares.

Additionally, Dr. Ferris commented that the clinical programs coordinated by Dr. Pat McCue will involve foaling, breeding, embryo transfer and assisting problem mares. Dr. Ferris advised that the following teaching and associate positions would be open: two residents in equine theriogenology; six graduate students in equine reproduction; two breeding farm interns; 90-100 PVMs students and 80-120 undergraduate students. Dr. Ferris invited the Commissioners and others in attendance to attend the upcoming open house.

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

Adjournment

There being no further business to consider, the regular meeting of the Colorado Racing Commission was adjourned by Chairwoman Wells at 11:55 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Tuesday, March 12, 2013** in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

MARY SHARON WELLS, CHAIRWOMAN

SEAN BEIRNE, VICE-CHAIR

CHARLES VAIL, DVM, MEMBER

DANIEL KESTER, MEMBER

CINDY DAY, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, March 12, 2013 in Conference Room 110 (Enforcement Conference Room) at 1881 Pierce Street, Lakewood, Colorado. Chairwoman Wells called the meeting to order at 9:45 a.m.

Members Present

Mary Sharon Wells, Chairwoman
Sean Beirne, Vice-Chairman
Dan Kester, Member
Cindy Day, Member

Commission Member Charles Vail, DVM, was excused from the meeting.

Staff Present

Dan Hartman, Director, Division of Racing Events
Robert "Duke" Mann, Horse-Racing Coordinator
Pam Kilgore, Division Auditor
Charmaine Rose, Assistant Attorney General (present via teleconference call)
Sherry Gunnell, Assistant to the Director

Also Present

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

All items addressed at this meeting were stenographically recorded by Court Reporter, Angela Smith.

Approval of Minutes of February 12, 2013

A motion was made by Commissioner Kester, seconded by Commissioner Beirne and unanimously carried to approve the minutes of February 12, 2013 as submitted.

Recess of Regular Business Meeting

At 9:47 a.m., Chairwoman Wells recessed the regular business meeting for the purpose of convening the scheduled adjudicatory hearing.

Scheduled Adjudicatory Hearing – In the Matter of RAMON MARQUEZ-GONZALEZ

The scheduled adjudicatory hearing in the matter of Licensee Ramon Marquez-Gonzalez, Case Number 12-0734, was called to order by Chairwoman Wells. Mr. Ramon Marquez-Gonzalez was present, but was not represented by legal counsel. Ms. Charmaine Rose, Assistant Attorney General serving on behalf of the Division of Racing Events, entered her appearance via teleconference call.

The following introduction was read into the record by Chairwoman Wells: “Today’s date is March 12, 2013, the time is 9:48 a.m. and the Commission is commencing the hearing in the matter of Trainer Ramon Marquez-Gonzalez, case number 12-0734. My name is Mary Sharon Wells and I am the Chair of the Colorado Racing Commission. I will be conducting the hearing. This is a hearing before the Colorado Racing Commission pursuant to section 24-4-105 of the Colorado Revised Statutes. This hearing is being conducted in an open session of the Colorado Racing Commission in accordance and consistent with the Advisement of Rights attached to the Notice of Hearing issued on February 9, 2013 of the Colorado Revised Statutes and is being recorded and transcribed by the Division in accordance with section 24-6-402(2)(d.5(I)(A) of the Colorado Revised Statutes. No one else will be permitted to transcribe or record or review on either party’s behalf. Mr. Marquez-Gonzalez, have you read the Advisement of Rights and do you understand your hearing process rights. [Mr. Marquez-Gonzalez replied affirmatively.] The parties will begin with their opening statements, starting with the Attorney General’s Office on behalf of the Division of Racing Events, then the Division may call its witnesses. Mr. Marquez-Gonzalez may then cross-examine the Division’s witnesses and present his witnesses. The Division may cross-examine Mr. Marquez-Gonzalez’s witnesses. Then the parties will make their closing arguments, again starting with the Division. I ask that the opening statements and closing arguments be limited to 5 minutes each. From time to time, the Commissioners may have questions for the witnesses. In my discretion, the parties may have more time during their arguments to accommodate for those questions.” Chairwoman Wells inquired whether there were any questions regarding how the review would proceed and, after hearing none, she stated that the Division could begin its presentation.

At the commencement of the hearing, Ms. Rose explained that Mr. Ramon Marquez-Gonzalez, his attorney, Mr. James K. Kreutz, and Ms. Maegan Cavazos, the owner of the horse in question, MR. GOLDEN RULER, had been duly notified of a hearing to be held before the Colorado Racing Commission on October 9, 2012 in the matter of Case Number 12-0734. On October 9, 2012, the Commission was apprised that a Settlement Stipulation had been reached between the Licensee and the Division of Racing Events, the terms and conditions of which were placed on the record by Division Director Daniel J. Hartman, with clarification given by Ms. Y. E. Scott, Senior Assistant Attorney General, on behalf of the Division of Racing Events. The written Settlement Stipulation was provided to the Commission. Following discussion and deliberation, a motion was made and unanimously carried to accept and approve the Settlement

Stipulation as presented and adopt it as the Final Agency Order. In accordance with the motion of the Commission, the following Final Agency Order was issued and disseminated by the Division of Racing Events:

Accordingly, it was so ORDERED that:

- 1) Licensee was to pay a fine of Four Thousand Dollars (\$4,000.00), due and payable to the Division of Racing Events on or before January 1, 2013.
- 2) Licensee's license was suspended for one (1) year commencing at 12:00 midnight (Mountain Time) on January 1, 2013 and terminating at 12:00 midnight (Mountain Time) on December 31, 2013.
- 3) While serving the one (1) year license suspension period, the Licensee was not to enter upon or be present at or in the restricted area and racetrack premises of Arapahoe Park racetrack or any other racetrack in the United States for any reason. Licensee understood and agreed that:
 - (a) "Restricted area" of the Arapahoe Park racetrack or any other track in the United States shall mean all areas of the racetrack where a current validated license badge is required for access including, but not limited to, the paddock, track area, totalisator room, mutuels area, money room, kennel compound, judges'/stewards' stand and roof, stable area, jockey's room and test barn.
 - (b) "Racetrack premises" of the Arapahoe Park racetrack or any other track in the United States shall mean the entire area of the racetrack, including, but not limited to, simulcast facilities, parking lots, driveways, grandstands, out buildings, stable areas or kennel compounds and training facilities located on the racetrack premises or used by a licensed association to conduct a live and/or simulcast race meet.
- 4) In the event that the Licensee entered upon or was present at or in the restricted area or racetrack premises of Arapahoe Park or any other racetrack in the United States as described in paragraph 3 above for any reason whatsoever during the one (1) year license suspension period, the Licensee agreed and stipulated to the immediate revocation of his license by the Commission. The sole issue at any hearing held concerning the automatic revocation of Licensee's license will be whether there was a violation of the stipulated restrictions in paragraph 3 above.
- 5) Pursuant to Colorado Racing Commission Rule #5.441, while serving the one (1) year license suspension period, the Licensee was not to benefit financially from any and all racing-related activities in the State of Colorado to include, but not be limited to, the transfer of the horses in his care and control to family members licensed by the Commission.
- 6) The Horse, MR. GOLDEN RULER was declared disqualified and unplaced for every purpose with regard to the 8th race on July 13, 2012 except for pari-mutuel wagering.
- 7) Loss of purse for the Race.

THE COMMISSION FURTHER ORDERED that in the event that the total fine was not paid in a timely manner:

- A. Pursuant to Colorado Racing Commission Rule #6.700, a penalty fine equal to the amount of the Four Thousand Dollar (\$4,000.00) fine shall be imposed automatically, which total fine and penalty shall be immediately due and payable; and
- B. The matter will automatically revert to the Commission for such further sanction as it may deem appropriate, at which time the Licensee shall be notified of the Licensee's opportunity to appear before the Commission to show cause why the Licensee should not be sanctioned further.

Ms. Rose apprised the Commission of the allegation of the Division of Racing Events that Mr. Ramon Marquez-Gonzalez violated the Settlement Stipulation and the Commission's Final Agency Order in this case pursuant to section 12-60-507(I)(g), C.R.S. by failing to pay the fine of Four Thousand Dollars (\$4,000.00). Additionally, Mr. Marquez-Gonzalez did not request an extension of time to pay the fine of Four Thousand Dollars (\$4,000.00), which was due and payable to the Division of Racing Events on or before January 1, 2013 as stipulated and agreed by the Licensee, with advice of counsel, and as ordered by the Commission. Therefore, pursuant to Colorado Racing Commission Rule #6.700, a penalty fine equal to the amount of the Four Thousand Dollar (\$4,000.00) fine shall be automatically imposed, which total fine and penalty of Eight Thousand Dollars (\$8,000.00) shall be deemed immediately due and payable. Additionally, Ms. Rose stated that the suspension of Mr. Marquez-Gonzalez's license is to remain in effect pursuant to the Settlement Stipulation and the Commission's Final Agency Order. As a result of the alleged violations, this matter has been automatically referred to the Commission for such further sanction as the Commission may deem appropriate.

Sworn testimony was given by the following persons:

- 1. Mr. Ramon Marquez-Gonzalez; and
- 2. Mr. Daniel Hartman, Director, Division of Racing Events

Mr. Marquez-Gonzalez testified that, as a result of being incarcerated, he was unable to comply with the terms of the Settlement Stipulation. Further, Mr. Marquez-Gonzalez stated that he could not pay the fine and penalty assessments at this time.

Following closing arguments and after considering the evidence and testimony presented as well as the recommendation of the Division of Racing Events, a motion was made by Commissioner Kester and seconded by Commissioner Beirne to revoke the license of Mr. Ramon Marquez-Gonzalez. The Commission deliberated whether to mandate payment of the outstanding fine and penalty indebtednesses by a date certain. It was determined that Mr. Marquez-Gonzalez would be required to make full restitution of his outstanding fine and penalty amounts on or before December 31, 2013. Also, the Commission sought clarification from Ms. Rose and Mr. Hartman regarding Mr.

Marquez-Gonzalez's eligibility to re-apply for a Colorado racing license in the future and whether, while under revocation, he would continue to be forbidden to enter or be on the premises of any racing facility. Mr. Hartman confirmed that Mr. Marquez-Gonzalez would continue to be prohibited from having any involvement in any racing-related activity and would not be allowed on the premises of any racetrack, noting that virtually all racing jurisdictions in the United States would uphold the Commission's decision. Mr. Hartman verified that, in the event that Mr. Marquez-Gonzalez desires to re-apply for a racing license once his revocation has been served, he would be required to undergo a complete background investigation that would indicate all of his prior offenses.

Commissioner Beirne amended the pending motion as follows: that the license of Mr. Ramon Marquez-Gonzalez is hereby revoked effective March 12, 2013 for a period of one year through March 12, 2014 with the condition that the Division of Racing Events would not have the authority to grant a temporary license to Mr. Ramon Marquez-Gonzalez following his revocation; and to stipulate that Mr. Marquez-Gonzalez would only be able to re-apply for a license and undergo a thorough background investigation. The amended motion was seconded by Commissioner Kester and unanimously carried.

The hearing concluded at 10:35 a.m.

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

Convening of Scheduled Rule-Making Hearing

Pursuant to the published Notice of Rule-Making Hearing, Chairwoman Wells convened the scheduled Rule-Making Hearing at 10:35 a.m.

Mr. Dan Hartman, Director of the Division of Racing Events, explained that, in accordance with Governor Hickenlooper's directive to all State agencies, the Division had reviewed its rules and processes in order to determine whether certain rules had become outdated and/or no longer conformed to existing practice. He informed the Commission and attendees that the Division of Racing Events had complied with all preliminary rule-filing requirements, including submission of all rule proposals to the Office of the Secretary of State and the Department of Regulatory Agencies and publication of the Notice of Rule-Making Hearing in the Colorado Registry, whereupon he presented the packet of rules for Commission review. Mr. Hartman apprised attendees that copies of the rules had been made available both in written form and on the Division's website. He stated that two rule review workshops open to all interested parties had been conducted to allow industry participation in the initial phase of the rule consideration process and that rule proposals and recommendations had been solicited and accepted from industry representatives for presentation during this Hearing. Additionally, Mr. Hartman stated that certain rule proposals endorsed by the Association of Racing Commissioners International Model Rules Committee had been included for consideration at this time.

At this time, acknowledgment was made by both the Commission and the Division that an annual review of its entire rulebook is undertaken in order to: 1) ensure that its existing rules meet all statutory requirements; 2) determine whether the rules presently in effect accord with current industry practices; 3) correct any errors or deficiencies in the rules; and 4) consider new rule proposals and proposals to amend or repeal certain rules. Mr. Hartman explained that any published rule proposal brought forward for consideration may be modified during this Rule-Making Hearing.

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

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

- Consideration of Proposed Modified Rule 5.318: Mr. Hartman reviewed the text of proposed modified rule 5.318. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Kester, seconded by Commissioner Day and unanimously carried to adopt modified rule 5.318 as proposed 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 Modified Rule 3.500: Mr. Hartman reviewed the text of proposed modified rule 3.500. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation for adoption, a motion was made by Commissioner Kester, seconded by Commissioner Beirne and unanimously carried to adopt modified rule 3.500 as proposed 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 Modified Rule 3.802: Mr. Hartman reviewed the text of proposed modified rule 3.802. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation for adoption, a motion was made by Commissioner Beirne, seconded by Commissioner Kester and unanimously carried to adopt modified rule 3.802 as proposed 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 Modified Rule 3.804: Mr. Hartman reviewed the text of proposed modified rule 3.804. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation for adoption, a motion was made by Commissioner Kester, seconded by Commissioner Beirne and unanimously carried to adopt modified rule 3.804 as proposed 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 Modified Rule 3.402: Mr. Hartman reviewed the text of proposed modified rule 3.402, which reflects equipment and safety modifications that were adopted by the Racing Commissioners International in their model rules in July 2012. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation for adoption, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to adopt modified rule 3.402 as proposed 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 Modified Rule 5.308: Mr. Hartman reviewed the text of proposed modified rule 5.308, which reflects modifications and additions to prohibited medication practices that were adopted by the Racing Commissioners International in their model rules in July 2012. Discussion ensued during which interested parties offered views, opinions and arguments for and against adoption of this rule proposal as presented. After taking into consideration the issues that were raised and concerns that were expressed, a motion was made by Commissioner Beirne, seconded by Commissioner Wells and approved by a majority vote to adopt modified rule 5.308 as proposed. Commissioner Day voted against the motion. 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.

The Commission directed that this rule be revisited following the 2013 live Arapahoe Park race meet. At issue is the portion of the rule relating to extra-corporeal shockwave therapy and whether it should be allowed. The Commission specified that the Division should review the text of the rule and address the vagueness of the language relating to what may or may not happen as a result of use of the aforementioned therapy and, also, should review the proposed time frames. Further, the Commission directed that an open discussion concerning this rule be conducted with industry members during the 2013 rule review workshop(s).

- Consideration of Proposed Modified Rule 3.616: Mr. Hartman reviewed the text of proposed modified rule 3.616. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Beirne, seconded by Commissioner Kester and unanimously carried to adopt modified rule 3.616 as proposed 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 Modified Rule 7.500: Mr. Hartman reviewed the text of proposed modified rule 7.500, which reflects a modification to weight allowances that were adopted by the Racing Commissioners International in July 2012. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation for adoption, a motion was made by Commissioner Kester, seconded by Commissioner Day and unanimously carried to adopt modified rule 7.500 as proposed 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 Modified Rules 12.358 and 12.360: Mr. Hartman reviewed the texts of proposed modified rules 12.358 and 12.360, noting that portions of both rules are now obsolete. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation for adoption, a motion was made by Commissioner Kester, seconded by Commissioner Day and unanimously carried to adopt modified rules 12.358 and 12.360 as proposed and, as part of the motion to adopt, the Commission incorporated the Statements of Statutory Authority, Basis and Purpose into the rules. Copies of the subject rules are attached hereto and made a part of these minutes.

(At this time, Commissioner Kester was excused for the duration of the meeting.)

- Consideration of Proposed Modified Rule 5.320: Mr. Hartman reviewed the text of proposed modified rule 5.320, noting that the purpose of the proposed modification is to establish a more efficient method and timing than currently exists for the Division veterinarian to receive required medication information from practicing veterinarians. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to adopt modified rule 5.320 as proposed 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 Modified Rule 5.300(3): Mr. Hartman reviewed the text of proposed modified rule 5.300(3), noting that the purpose of the proposed modification is to make grammatical corrections to the language used in the Class C Drugs category. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to adopt modified rule 5.300(3) as proposed 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 Modified Rule 5.441: Mr. Hartman reviewed the text of proposed modified rule 5.441, noting that the purpose of the proposed modification is to incorporate by reference the penalty schedules that have been adopted by the Racing Commissioners International. Following its review of the rule proposal and after making additional amendments to it, the Commission ascertained that there were no objections to formal action being taken at this time and acknowledged the Division's recommendation to adopt the rule. Thereupon, a motion was made by Commissioner Day, seconded by Commissioner Beirne and unanimously carried to adopt modified rule 5.441 as proposed 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 Modified Rule 6.120: Mr. Hartman reviewed the text of proposed modified rule 6.120, noting that the purpose of the proposed modification is to delegate specific higher maximum sanctions as they relate to the violation of Rule 5.441 to the Board of Stewards or hearing officers. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to adopt modified rule 6.120 as proposed 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 Modified Rule 9.326: Mr. Hartman reviewed the text of proposed modified rule 9.326, noting that the purpose of the proposed modification is to specify that deposits are to be directly made to the purse fund trust account, not through the Commission. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to adopt modified rule 9.326 as proposed 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 Modified Rule 11.480: Mr. Hartman reviewed the text of proposed modified rule 11.480, noting that the purpose of the proposed modification is to remove repetitive language from the rule. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Day, seconded by Commissioner Beirne and unanimously carried to adopt modified rule 11.480 as proposed 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 Modified Rule 5.251: Mr. Hartman reviewed the text of proposed modified rule 5.251, noting that the purpose of the proposed modification is to prevent unauthorized therapy from being given to a horse on race day. After correcting a typographical error, ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Day, seconded by Commissioner Beirne and unanimously carried to adopt modified rule 5.251 as proposed 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 Modified Rule 5.317: Mr. Hartman reviewed the text of proposed modified rule 5.317, noting that the purpose of the proposed modification is to provide for both intravenous and intramuscular use of Furosemide (Lasix). After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to adopt modified rule 5.317 as proposed 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 Modified Rule 5.322: Mr. Hartman reviewed the text of proposed modified rule 5.322, noting that the purpose of the proposed modification is to require that a permanent stamp is placed on a foal certificate, not attached to it. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to adopt modified rule 5.322 as proposed 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 Deletion of Rule 5.326: Mr. Hartman reviewed the text of rule 5.326 proposed for deletion, noting that the purpose this rule served is no longer needed. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to delete rule 5.326 as proposed 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 Modified Rule 5.423: Mr. Hartman reviewed the text of proposed modified rule 5.423, noting that the purpose of the proposed modification is to permit the transfer of split samples to either a freezer or a refrigerator. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to adopt modified rule 5.423 as proposed 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 Modified Rule 5.425: Mr. Hartman reviewed the text of proposed modified rule 5.425, noting that the purpose of the proposed modification is to allow a Division representative other than the Division veterinarian to confirm the willingness of a split sample laboratory to perform the requested testing prior to shipment of samples. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Day, seconded by Commissioner Beirne and unanimously carried to adopt modified rule 5.425 as proposed 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 Modified Rule 5.427: Mr. Hartman reviewed the text of proposed modified rule 5.427, noting that the purpose of the proposed modification is to bring the rule into conformity with modified rule 5.423. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to adopt modified rule 5.427 as proposed 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 Modified Rule 5.611: Mr. Hartman reviewed the text of proposed modified rule 5.611, noting that the purpose of the proposed modification is to clarify that the Division veterinarian is the only person authorized to remove a horse from the veterinarian's list that was placed on the list for a positive drug test. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to adopt modified rule 5.611 as proposed 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 Deletion of Rule 5.800: Mr. Hartman reviewed the text of rule 5.800 proposed for deletion, noting that this rule is obsolete and does not conform to current practice. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to delete rule 5.800 as proposed 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 Modified Rule 5.508: Mr. Hartman reviewed the text of proposed modified rule 5.508, noting that the purpose of the proposed modification is to conform to current practice. After making an additional modification to the rule, ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to adopt modified rule 5.508 as proposed 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 Deletion of Rule 7.662: Mr. Hartman reviewed the text of rule 7.662 proposed for deletion, noting that this rule is obsolete and does not conform to current practice. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to delete rule 7.662 as proposed 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 Deletion of Rule 4.602: Mr. Hartman reviewed the text of rule 4.602 proposed for deletion, noting that this rule is obsolete and does not conform to current practice. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Day, seconded by Commissioner Beirne and unanimously carried to delete rule 4.602 as proposed 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 Modified Rule 3.508: Mr. Hartman reviewed the text of proposed modified rule 3.508, noting that the purpose of the proposed modification is to change the date pertaining to a trainer's continuing education requirement. Commissioner Beirne expressed his belief that this licensing requirement may not be necessary. Therefore, he requested that, prior to the next live racing season and as part of the next rule review cycle, the Division consider whether to retain the continuing education requirement for trainers. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to adopt modified rule 3.508 as proposed 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 Modified Rule 7.200: Mr. Hartman reviewed the text of proposed modified rule 7.200, noting that the purpose of the proposed modification is to prohibit jockey agents from entering a horse to race. Discussion ensued during which views and opinions were voiced for and against adoption of proposed modified rule 7.200. Mr. Hartman recommended that the Commission allow this change to be in effect during Arapahoe Park's upcoming live race meet and, afterward, to assess its effect. Commissioner Beirne directed that the Division provide feedback in the "2013 Arapahoe Park End of Meet Report" regarding the impact of this rule change and the response to it. Further, he requested that this rule be revisited during the next rule review cycle. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to adopt modified rule 7.200 as proposed 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.

There being no further rules to consider, the Rule-Making Hearing was adjourned at 12:20 p.m.

Re-opening of Regular Commission Meeting

At 12.20 p.m., Chairwoman Wells reconvened the regular Commission meeting.

Scheduling of 2014 Race Dates Hearing – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, recommended that the Commission continue its practice of conducting the annual Race Dates Hearing at its July 9, 2013 meeting.

A motion was thereupon made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to schedule the 2014 Race Dates Hearing on Tuesday, July 9, 2013 in conjunction with the Commission's regular July meeting. The probable location of both of these sessions will be Arapahoe Park, 26000 East Quincy Avenue, Aurora, Colorado.

Consideration of Conditional Approval of Arapahoe Park's Proposed 2013/14 Simulcast Schedule – Robert "Duke" Mann

Mr. Robert "Duke" Mann, Horse Racing Coordinator for the Division of Racing Events, reported on Arapahoe Park's proposed 2013/14 simulcast schedule. Mr. William Powers, Arapahoe Park's Property Facility Manager/Director of Racing and Simulcasting, appeared on behalf of the Racing Association.

Mr. Mann stated that it would be appropriate and allowable for the Commission to consider granting conditional approval of Arapahoe Park's 2013/2014 proposed simulcast schedule for the period of April 21, 2013 through April 20, 2014 because Arapahoe Park has complied with the requirement that its renewal application to conduct a live race meet in 2013 be received by the Division of Racing Events sixty days prior to the planned opening of the meet. Mr. Mann advised that the Division of Racing Events has received a signed and notarized renewal application from Racing Associates of Colorado d.b.a. Arapahoe Park to commence live racing on May 25, 2013 through August 18, 2013 for a total of thirty-nine (39) race days.

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

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

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

Further, he stated that the Division recommends that the Commission grant conditional approval for the range of dates and for the simulcasting proposal submitted by Arapahoe Park. The Commission acknowledged that the Division had received a copy of an approval letter from the Colorado Horse-Racing Association, the organization representing a majority of the horse racing community at Arapahoe Park, signed by President Mark McGregor on August 18, 2012, supporting both the sending out of the live signal from Arapahoe Park and the simulcast calendar and schedule for the period of April 20, 2013 through April 20, 2016, including the simulcasting of Arapahoe Park's live signal during the 2013 live race meet.

Mr. Mann noted that a Simulcast Calendar indicating the simulcast race days, including live racing days, has yet to be submitted to the Division of Racing Events, but will be provided to the Division in the near future.

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

Following its review and after acknowledging that the Division of Racing Events has recommended conditional acceptance of Arapahoe Park's proposed simulcast wagering schedule as presented, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to approve Arapahoe Park's request on a conditional basis to commence simulcast wagering on April 21, 2013 and to continue simulcast wagering through April 20, 2014 subject to the following terms and conditions:

- 1) That Arapahoe Park will submit its proposed Simulcast Calendar reflecting the simulcast race days, including the live racing days, to the Division of Racing Events as soon as possible;
- 2) That Arapahoe Park will inform the Division at least ten (10) days prior to adding a new track to its schedule. This will be followed by all required contracts;

- 3) That fully executed signed contracts and agreements for each racetrack from which broadcasts are to be received are provided to the Division no later than forty-eight (48) hours prior to the commencement of simulcasting from that site;
- 4) That adequate advance notice of the actual dates and simulcasting schedules for any and all venues be made part of Arapahoe Park's 2013/2014 roster be provided to the Division of Racing Events prior to the start of racing from that site;
- 5) That the Division of Racing Events may, in its discretion, 1) require any totalisator link that has not been tested to be tested prior to the date of operation; and 2) approve the telephone lines to be used;
- 6) That Arapahoe Park comply with all terms and conditions contained in the Interstate Horse Racing Act with regard to receipt of simulcast signals, presentation of approved simulcasts and broadcasting of its races to out-of-state venues; and
- 7) That the Commission delegate authority to the Director or his designee to approve schedules for pre-approved tracks when a specified envelope is determined and to approve any adjustments or amendments to the simulcast schedules as needed.

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

Adjournment

There being no further business to consider, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to adjourn the regular meeting of the Colorado Racing Commission at 1:00 p.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Tuesday, May 14, 2013** in Conference Room 110 (Enforcement Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

MARY SHARON WELLS, CHAIRWOMAN

SEAN BEIRNE, VICE-CHAIR

(EXCUSED)
CHARLES VAIL, DVM, MEMBER

(EXCUSED FOR PORTION OF MEETING)
DANIEL KESTER, MEMBER

CINDY DAY, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, May 14, 2013 at 1881 Pierce Street in Conference Room 110, Lakewood, Colorado. Chairwoman Mary Sharon Wells called the meeting to order at 9:30 a.m.

Members Present

Mary Sharon Wells, Chairwoman
Sean Beirne, Vice-Chairman
Charles Vail, DVM, Member
Dan Kester, Member
Cindy Day, Member

Staff Present

Dan Hartman, Director, Division of Racing Events
Mark Brown, Enforcement Supervisor/Acting Racing Coordinator
Robert "Duke" Mann, Senior State Steward
Pam Kilgore, Division Auditor
Melissa Anderson, Legal Assistant
Charmaine Rose, Assistant Attorney General representing the Division of Racing Events
Sherry Gunnell, Assistant to the Division Director

Also Present

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

Approval of Minutes of March 12, 2013

A motion was thereupon made by Commissioner Vail, seconded by Commissioner Kester and unanimously carried to approve the minutes of March 12, 2013 as submitted.

Observations Regarding 2013 Racing Commissioners International Spring Convention

Commissioner Mary Sharon Wells expressed her appreciation for the opportunity that she had been given to attend and participate in the Association of Racing Commissioners International Spring Convention, held in New Orleans, Louisiana from April 23, 2013 through April 25, 2013. She commented that the Convention had consisted of three full days of meetings with much attention being focused on such topics as threshold levels and withdrawal times for drugs and medications. Commissioner Wells observed that the Association of Racing Commissioners International desires all member racing jurisdictions to enact their Model Rules. She noted that Colorado has been especially supportive of and proactive in adopting many of the Association's Model Rules. Commissioner Wells advised that other subjects of great concern were raised and discussed, including the future of the racing industry, problems with ensuring integrity and honesty in the industry, expansion of various types of wagering, the decline in the foal population and the reduction in the number of race days.

Additionally, other attendees, Commissioner Charles Vail, Division Director Dan Hartman, Division Enforcement Supervisor Mark Brown and Executive Director of the Colorado Horse-Racing Association Shannon Rushton shared their views and opinions regarding the Convention.

Commissioner Vail advised that Ms. Petra Hartmann, Director of Drug Testing Services at The Industrial Laboratories Company, Inc., the Division's primary testing laboratory, had been commended for her outstanding contributions to the racing industry.

Introduction of Division's Newly Appointed Legal Assistant, Ms. Melissa Anderson

Mr. Dan Hartman, Director of the Division of Racing Events, introduced Ms. Melissa Anderson, who was recently selected to serve as the Division's Legal Assistant, to the Commission. He advised that he believes that Ms. Anderson's knowledge of and experience in regulatory law and enforcement will enable her to provide sound legal guidance to the Division staff. The Commission welcomed Ms. Anderson and congratulated her on her new position.

Announcement Regarding Certain Staffing/Position Changes – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that he had determined that certain staffing changes for the upcoming Arapahoe Park race meet would be desirable. He advised that Mr. Robert "Duke" Mann would become a full-time Senior State Steward and that Mr. Randy Blaseg would assume the position of State Steward this season. Further, Mr. Hartman stated that Mr. Mark Brown, the Division's Enforcement Supervisor, would also be serving as the Coordinator of day-to-day operations/activities at Arapahoe Park. Mr. Hartman explained that these staffing modifications should ensure consistent and competent regulation and oversight.

The Commission congratulated Ms. Anderson, Mr. Brown and Mr. Mann on their new assignments and expressed confidence in their capabilities.

Consideration of 2013 Renewal Application – Arapahoe Park's Live Race Meet – Mark Brown and Robert "Duke" Mann

Mr. Mark Brown, Acting Racing Coordinator, and Mr. Robert "Duke" Mann, Senior State Steward, presented their collaborative report regarding Arapahoe Park's 2013 renewal application. Mr. William Powers, Arapahoe Park's Property Facility Manager/Director of Racing, appeared on behalf of the Racing Association.

Mr. Mann stated that, on February 14, 2013, the Division of Racing Events had received a Class B Horse Racing renewal license application for its 2013 live race meet at Arapahoe Park signed by the Director of Racing Operations-Colorado, Bruce Seymore, representing Racing Associates of Colorado, Ltd., doing business as Arapahoe Park. He reported that he and Mr. Brown had reviewed the application and had found that the required information and exhibits requested in the application had either been received by the Division or would be submitted as mandated. He further stated that any inspections required by regulation or statute have already been conducted or are in the process of being scheduled.

Mr. Mann explained that Arapahoe Park intends to conduct a thirty-nine (39) day live race meet beginning on Saturday, May 25, 2013 and concluding on Sunday, August 18, 2013, with live performances to be offered on Friday, Saturday and Sunday throughout the meet, including a special program to be conducted on Monday, May 27, 2013 (Memorial Day observance). Additionally, the Commission noted that Arapahoe Park intends to offer nine races per day with a 1:00 p.m. post time on all live race days 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.

The Commission took notice that Arapahoe Park would be sending its live signal to the eleven (11) in-state simulcast facilities and to numerous out-of-state venues. Mr. Brown advised that Division representatives had inspected and approved each of the in-state simulcast facilities listed on the renewal application, including the newest one, the Celtic Tavern in Denver. Additionally, notice was taken that some contracts with out-of-state associations and simulcast providers are still in the process of being negotiated. It was acknowledged by the Commission that Arapahoe Park would need to notify the Division and seek approval of any future export contracts and agreements with out-of-state associations and simulcast providers forty-eight (48) hours prior to sending/receiving a simulcast signal. Further, the Commission noted that the Division had received a copy of the agreement from the Colorado Horse Racing Association

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

Additionally, Mr. Brown thanked Mr. Powers and Mr. Bruce Seymore, Executive Director of Colorado Racing Operations, who was not present, for making significant upgrades and improvements to the Division offices.

Division Director Dan Hartman apprised the Commission that a copy of Arapahoe Park's proposed wagering format had been submitted. He stated that Arapahoe Park's proposed take-out rates would be the same as they were in 2012: 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.

Additionally, Mr. Hartman explained that "Mile High USA, Inc." was organized as a corporation under the laws of the State of Delaware on December 8, 1989 and that the company is a wholly owned subsidiary of the Twin River Management Group, Inc. Further, he stated that Mile High USA, Inc. owns 100% of Racing Associates of Colorado, doing business as Arapahoe Park Racetrack in Aurora, Colorado. Mr. Hartman observed that Racing Associates of Colorado was organized as a limited partnership under the laws of the State of Colorado on March 8, 1991 and that the ownership of Racing Associates of Colorado, Ltd. complies with Colorado Racing Statutes.

The Commission reviewed the list of racing officials for Arapahoe Park's upcoming meet. Mr. Powers confirmed that the majority of the Arapahoe Park racing officials are returning from last year and that all of them are in good standing and hold current Colorado Racing licenses. He observed that Ms. Kim Wahl, proposed to serve as the Horsemen's Bookkeeper, would be new to her position this season, but had previously been employed by the Association. Mr. Powers expressed his confidence in Ms. Wahl's ability to handle capably the responsibilities of the Horsemen's Bookkeeper's position and requested that the Commission grant approval for her to hold this position. Notice was taken that the Division had received her resume, performed an initial background check on her and would recommend that she be approved to serve at the 2013 Arapahoe Park live meet.

Notice was also taken by the Commission that Mr. William Powers would again be serving as the Plant Manager, Racing Secretary and Director of Racing. Additionally, Mr. Powers advised that Mr. Keith Munson, who had served as Arapahoe Park's Security Director in 2012, would once again hold that position. Mr. Powers commended Mr. Munson's excellent performance, noting that he would be responsible for supervising and managing the security staff in the stable area, the stable/barn area, the backside, the Division's test barn and the grandstand. Mr. Powers assured the Commission that Mr. Munson would require all Association security personnel to be fully trained and competent in the performance of their duties, including the enforcement of the rules and policies of the Colorado Racing Commission governing the admittance of horses into the stable area and the safety and protection of licensees and patrons.

The Commission took notice that the consolidated financial statements for Mile High USA, Inc., doing business as Racing Associates of Colorado Ltd. had been submitted to the Division of Racing Events with Arapahoe Park's 2013 renewal license application and that Division Auditor Pam Kilgore and Commissioner Daniel Kester had reviewed the subject documents and had found them to be complete, in order and prepared in accordance with generally accepted accounting principles. Further, notice was taken that Twin Rivers Management Group, which owns 100% of Mile High USA, Inc., would be overseeing the Racing Association's financial matters. Commissioner Kester observed that it appears that the Association's financial status has substantially improved as a result of the last year's increase in handle, the continued popularity of both in-state and out-of-state simulcasting and the opening of additional simulcast venues. He commented that the Association is in a positive cash flow position at the present time, although Arapahoe Park would most likely continue to face financial challenges. Commissioner Kester asserted that he is confident that

the Association would be able to continue to meet its financial obligations. He expressed his opinion that increased advertising of the race meet would be helpful and would bring new patrons to the racetrack. Commissioner Kester commended Mr. Bruce Seymore and his staff on their ongoing efforts in making Arapahoe Park a successful and prosperous venture. Mr. Hartman recommended that the financial statements dated December 31, 2012 and 2011 be accepted as presented.

Notice was taken by the Commission that the following required exhibits had either been submitted with the renewal application or would be provided in a timely manner:

- An insurance binder for on-track accident coverage for the jockeys has been submitted;
- A copy of the current proof of adequate public liability insurance coverage to protect the public was also provided. However, since the expiration date on the Certificate of Insurance is July 1, 2013, a copy of the renewal contract must be submitted upon issuance;
- A current fire inspection report was submitted and no major issues were reported. Any subsequent fire inspection reports must be provided to the Division when issued;
- Current health/sanitation inspection reports for Arapahoe Park and each of its in-state simulcast facilities have not yet been received by the Division. These reports for Arapahoe Park and all affiliated in-state off-track wagering facilities must be submitted to the Division no later than five days prior to the opening of the meet;
- Copies of the most recent contracts between the Association and its service providers for video patrol, photo finish and totalisator services, products and materials have been provided for the upcoming race meet; and
- A copy of the Horsemen's Contract between the Colorado Horse Racing Association and Arapahoe Park, effective through April 20, 2016, was submitted with the application.

A surety bond to cover the Horsemen's Bookkeeper will not be required for the 2013 race meet. Mr. Hartman commented that the Division would release purse funds from the Escrow Account throughout the race meet upon the Association's request in order to satisfy the purse money owed and, in the event that any derogatory actions are subsequently brought against the Horsemen's Bookkeeper, the Commission would have the ability to reinstate the bond requirement on the Horsemen's Bookkeeper Account.

The Commission reviewed the list of recommendations set forth in Arapahoe Park's 2012 end of meet report, noting that Arapahoe Park had complied with or is in the process of addressing each of them. Again this season, the Division of Racing Events will be providing a Compliance Investigator to assist with the intake of horses, the preparation of associated paperwork and the facilitation of access to the restricted stable area. Notice was taken that Arapahoe Park would continue to employ an off-duty sheriff's deputy on live race days.

Mr. Hartman advised the Commission that the Association would, again this season, 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. He commented that, approximately one week prior to the commencement of the race meet, a complete inspection of the entire facility and grounds will be conducted.

The Commission was advised that the same racing surface maintenance protocols in effect during the 2012 race meet would be utilized during the upcoming live racing season. He observed that the Track Superintendent, Mr. William Byers, has been consistently scrupulous in his care, preparation and maintenance of the racing surface during each meet at which he has served. The Commission expressed its endorsement of the continuation of the subject maintenance routines. Further, it was agreed that the Association should continue to ensure that soil sampling is performed and depth measurements are taken at regular intervals as deemed necessary. Notice was taken that Soil and Plant Laboratory, Inc. performed a favorable soil analysis on January 14, 2013.

Mr. Hartman stated that the renewal license application submitted by Racing Associates of Colorado, Ltd. (Arapahoe Park) to conduct a 2013 live race meet appears to comply with the Colorado Revised Statutes and the Colorado Racing Commission Rules and, therefore, the Division of Racing Events would recommend that the Commission grant conditional approval of Arapahoe Park's 2013 renewal application.

Following review and discussion, a motion was made by Commissioner Beirne, seconded by Commissioner Kester and unanimously carried to approve Arapahoe Park's 2013 renewal application to operate as a Class B racetrack during the period specified in the application; to approve the retention and hiring of all Racing Officials noted in the renewal license application; to approve the take-out rates as specified in Arapahoe Park's renewal application; and to make this approval contingent upon satisfaction of the following conditions:

- 1) That Arapahoe Park will submit to a full and complete pre-meet facility inspection by the Division of Racing Events. (If it is determined via the inspection that there are areas of concern or matters to be addressed, specific time frames for compliance will be imposed.);
- 2) That, in the event that a vacancy occurs among the Racing Officials for longer than one racing day, the Association shall fill the vacancy with an official approved by the Division and shall notify the Division in writing of the substitution prior to making the change;
- 3) That Arapahoe Park will ensure that its public liability insurance policy is in effect and will provide a copy of the renewed Certificate of Insurance to the Division on or before its July 1, 2013 expiration date;
- 4) That Arapahoe Park will provide copies of all intrastate simulcast contracts and/or agreements entered into by the applicant to the Division no later than five (5) days prior to receipt of the simulcast signal;
- 5) That Arapahoe Park will submit copies of its certified health/sanitation inspection report no later than five (5) days prior to the commencement of the live meet, and, further, any additional health/sanitation and fire inspection reports for Arapahoe Park's in-state simulcast or track facilities are to be provided to the Division when completed;
- 6) That Arapahoe Park will provide copies of all new service contracts not presently on file with the Division no later than five days prior to the commencement of the meet; and
- 7) That the Commission may determine, in its discretion, to impose additional conditions at any time prior to or during Arapahoe Park's live meet.

Subsequent to the meeting, the following Notice of Issuance of Meet License with Conditions was issued and provided to Arapahoe Park's management 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 Saturday, May 25, 2013 through the closing day of the meet, which is Sunday, August 18, 2013 for an envelope of thirty-nine days. The following racing schedule was requested by the Association and approved by the Commission: Friday, Saturday and Sunday: nine (9)-race matinee performances per day. Additionally, a nine (9)-race matinee program is to be conducted on Monday, May 27, 2013 (Memorial Day observance). The meet shall be a mixed meet consisting of Thoroughbreds, Quarterhorses, Paints, Appaloosas and Arabians.

That, prior to any modification being made to Arapahoe Park's approved nine-race program schedule, a request must be submitted in writing to the Director of the Division of Racing Events or his designee for his consideration.
2. The Association shall keep in force at all times a public liability insurance policy. Although a copy of the current proof of adequate public liability insurance was included with the renewal application, the expiration date of the Certificate of Insurance is July 1, 2013. A copy of the renewal contract must be submitted to the Division as soon as it is re-issued.
3. The Association shall keep in force adequate insurance coverage for the protection of the Jockeys. A copy of the insurance binder for on-track accident coverage for the Jockeys was submitted with the application. (NOTE: It is essential that the Association provide appropriate notice to all Exercise Riders and Pony Persons, because they are considered independent contractors, that 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. Any currently vacant racing official positions shall be filled no later than five days (5) prior to the commencement of the meet. (If a vacancy occurs among the Racing Officials for a period of longer than one racing day, the Association shall fill the vacancy with an official approved by the Division and shall notify the Division in writing of the substitution prior to the change.) Additionally, the Division, Arapahoe Park management and the Board of Stewards will be working with the Racing Officials to ensure that their duties are performed in a professional and safe manner. The Division will monitor the performance of employees new to their positions throughout the 2013 live race meet.

The Track Superintendent position will be the only racing official position held by the licensee.

Arapahoe Park will provide a radio for the Stewards' office during training hours in order to assist them in monitoring the training activities on the racetrack, including workouts, removal of horses from the Stewards' List and the qualifying of licensees for exercising and ponying horses.

5. 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.

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 an 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.

The Association shall also make a full accounting to the Department of Revenue through the Division each week of all amounts due to the Greyhound Welfare and Promotion Fund.

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. The Commission delegates to the Director or his designee the ability to approve schedules for pre-approved tracks when a specified envelope is determined.

Copies of all intrastate simulcast contracts and/or agreements entered into by the applicant will be submitted no later than five (5) days prior to the beginning of the simulcast signal.
12. Current certified fire and health/sanitation inspection reports for Arapahoe Park and all in-state simulcast facilities that have not already been received by the Division must be submitted to it no later than five days prior to the commencement of Arapahoe Park's live meet. (In the event that additional wagering facilities are to be opened during Arapahoe Park's upcoming race meet, they are subject to this requirement no later than five days prior to opening.) Any

additional health and sanitation reports received for Arapahoe Park and its in-state facilities will be provided to the Division when completed.

13. It is acknowledged that approval of the renewal application and simulcast race programs shall be subject to the continuation of an appropriation by the Colorado Legislature for the Commission to have funding and spending authority for its fiscal year 2013/2014 and subsequent budget years.
14. To permit the Division to coordinate staffing for simulcast programs, the applicant shall provide the Commission with all modifications to its simulcast program as approved by the Commission one week prior to the proposed modifications.
15. That copies of all new service contracts that are not presently on file with the Division shall be submitted no later than five days prior to the opening of the meet.
16. That Arapahoe Park and its facilities comply with the Division of Racing Events' Video Surveillance Policy throughout the 2013 Arapahoe Park race meet.
17. 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.
18. 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).

The Racing Secretary will continue to train and supervise racing office personnel in the proofreading of the entries.

Racing office personnel will maintain and post to the licensees the written schooling lists for the Starter, Paddock, Stewards and Veterinarian.

19. 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.
20. 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.
21. Arapahoe Park will make arrangements to satisfy the Colorado Racing Commission and the Division in providing an adequate water supply to the racetrack, stable area and grandstands at all times.
22. That the walking surface must be completed with the installation of new dirt and ground rubber to repair ruts and soften the walking surface for the horses and their handlers. Further, as part of its required test barn maintenance, Arapahoe Park is to continue to monitor the performance of the Misting System to ensure that it is effective in cooling the testing stalls and continue to maintain proper water drainage behind the wash rack areas.
23. That, when entries are being taken, only authorized persons are allowed to be behind the counter of the Racing Office. Further, all accesses to the Racing Office's restricted areas are to have locking devices in place during the taking of entries. The Racing Secretary is to ensure that all visitors to his office are escorted.
24. Notice was taken by the Commission that Soil & Plant Laboratory, Inc. performed a favorable soil analysis on January 14, 2013.
25. 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.

Failure to comply with the applicable conditions prior to or during the 2013 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 15th day of May, 2013.

BY ORDER OF THE COLORADO RACING COMMISSION

s/ Dan Hartman, Director, Division of Racing Events

Consideration of Contents of “Horsemen’s Information Packet” – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, presented and identified each of the documents contained in the “Horsemen’s Information Packet”. He commented that, not only is the packet a reference tool, but it serves as a study guide for new trainers who must take their trainer’s tests. He stated that, upon Commission acceptance, the subject packet would be made available in the Arapahoe Park Division office and would be given to all trainers and other interested parties participating in the upcoming Arapahoe Park race meet when they arrive to obtain or validate their racing licenses. Additionally, the “Horsemen’s Information Packet” will be available in the Arapahoe Park Racing Office and, also, will be placed on the Division’s website for access by all interested owners. Thereupon, the Commission reviewed the contents of the “Horsemen’s Information Packet”, noting that the material contained in it remains essentially unchanged from last year:

- 1) Stewards’ Guidelines and Groundrules: The Commission reviewed the proposed Stewards’ Guidelines and Groundrules for 2013. Mr. Hartman observed that this document, which is informational in nature, is intended to provide all track license-holders with generic instructions regarding conduct, restrictions and prohibitions. He stated that the current version includes a prohibition on the use of alcohol and/or marijuana and cautions that detection of either substance in a random or “for cause” drug test would be a violation of the Commission’s rule. Those in attendance were afforded an opportunity to comment on the document and offer views and opinions relating to it. No objections were raised to acceptance of this document as presented.
- 2) Horse Racing Medication Guidelines and Veterinary Practices: Mr. Hartman explained that, prior to each live horse racing season, the Division staff veterinarian(s) prepare(s) an informational bulletin designed to provide updated information to all horse owners, trainers and practicing veterinarians concerning medication rules, regulations, policies and procedures of the Colorado Racing Commission. Mr. Hartman advised that the current document includes references to the date(s) upon which any rule modifications were made.

The Commission took notice that, during the upcoming live racing season, the protocol that was implemented in 2012 whereby a Division representative would witness the administration of a furosemide (Lasix) injection to any horse specified to race on it would be continued.

Additionally, Mr. Hartman informed the Commission that, during the upcoming meet, the medication testing options implemented in 2012 would be employed. Mr. Hartman explained that the “Wednesday medication sampling protocol” affords any trainer the ability to request the Division veterinarian or a practicing veterinarian to perform preliminary sample testing of horses prior to racing in order to establish the presence of any type of medication in a horse’s system. Mr. Hartman commented that, in the event that an owner decides to remove his/her horse from a race based upon a pre-race positive test result, such removal would be considered a veterinarian’s scratch and the trainer of the horse would not be subject to any type of penalty.

Mr. Hartman outlined the following sampling options and costs, noting that a sample must be provided to the test barn by 10:00 a.m. Wednesday morning with the required funds for the test selected. Options include:

1. \$50.00 - to test for a specific medication that the trainer has determined is present. The test result will be available for that same weekend's races.
 2. \$125.00 – to test for a full panel. The test results would not be available for the same weekend's races.
- 3) Split-Sample Policy: The Commission reviewed the proposed Split-Sample Policy for 2013. Mr. Hartman explained the protocol associated with the handling of a request for split-sample testing. The Commission noted that the five “pre-approved reference laboratories” have agreed to continue to accept samples from Colorado. However, if a “pre-approved reference laboratory” declines to accept or return samples in a timely manner, that laboratory may be disqualified.

Mr. Hartman advised that, as is customary, he and Ms. Petra Hartmann will continue to ensure that all of the “pre-approved reference laboratories”, (those laboratories that the Division has approved for Split-Sample Testing) are: 1) capable of professionally performing all of the necessary laboratory tests; 2) are willing, generally, to receive Split-Samples for the purpose of confirmation testing; and 3) will provide written verification from their laboratory managers that they are using the same equipment and testing methodology for every test that Industrial Laboratories uses. After considering Mr. Hartman's observations, the Commission found the document to be acceptable as presented.

Stable Roster: Following its review, the Commission found this document to be acceptable.

- 4) Colorado Racing Commission Rule #11.544 Pertaining to Stable Inspections: The Commission reviewed the text of Rule #11.544 and took notice of its inclusion in the “Horsemen's Information Packet”.
- 5) Stable Inspection Procedures: Mr. Hartman reviewed with the Commission the current edition of the Stable Inspection Procedures, noting that the procedures remain unchanged from last year and only the Barn/Stable Inspection Report form has been updated. 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. Mr. Hartman advised that Division personnel conduct a minimum of one complete inspection of every stable in the barn area during the live race meet and the inspection report is kept on file. He noted that the Division may conduct an inspection of a stable at any time.
- 6) Colorado Division of Racing Events Estimated Therapeutic Medication Withdrawal Times: Mr. Hartman called attention to the inclusion of this document in the packet, noting that it remains unchanged from last year.
- 7) Policy Regarding Commission-Approved Examinations for Eligibility for Entry and Form Designating a Horse to the Veterinarian's List: In light of actions taken by the Division/Commission prior to last season's live race meet, Mr. Hartman explained that the subject policy and designation form had been prepared and incorporated into the “Horsemen's Information Packet”.
- 8) Copies of New Rules (Effective May 15, 2013): In conjunction with review of its new rules, the Commission took notice that a document entitled “Information Concerning the Use of Medical Marijuana” was also provided in the “Horsemen's Information Packet”.

Mr. Hartman concluded this presentation by recommending that the Commission approve the aforementioned documents.

Following discussion, a motion was made by Commissioner Vail, seconded by Commissioner Kester and unanimously carried to accept all of the documents, rules and pertinent supplementary material contained in the “2013 Horsemen’s Information Packet” as presented by Mr. Hartman and to direct that the subject packet be made available for distribution as soon as possible.

Consideration of Proposed “Colorado Division of Racing Events Estimated Therapeutic Medication Withdrawal Times” – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, presented the proposed estimated therapeutic medication withdrawal times for Arapahoe Park’s 2013 live racing season. He observed that the proposed time frames are identical to those approved by the Commission for last year’s Arapahoe Park live race meet and recommended that they remain in effect during the upcoming meet.

The Commission inquired of Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, whether he believed that this document had been beneficial to members of the Arapahoe Park horse-racing community. Mr. Rushton observed that the proposed estimated medication withdrawal times and the availability of pre-race sample testing had provided some level of comfort to practicing veterinarians as well as to owners and trainers and had alleviated some of their concerns regarding the potential for positive test results.

A motion was made by Commissioner Kester, seconded by Commission Beirne and unanimously carried to approve the proposed estimated therapeutic medication withdrawal times for 2013.

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

Mr. Dan Hartman, Director of the Division of Racing Events, commended the greyhound welfare and adoption organizations and acknowledged that they deserve to receive compensation for their outstanding work and service. He reported that the Division is in receipt of four applications for release of money from the Greyhound Purse, Welfare, Adoption and Greyhound Racing Promotion Fund. He observed that the requesting organizations are: 1) Colorado Greyhound Adoption; 2) Friends of Retired Greyhounds; 3) Greyhound Connection; and 4) Rocky Mountain Greyhound Adoption, Inc. Mr. Hartman advised that he and Division Auditor Pam Kilgore had reviewed each of the subject applications. He apprised the Commission that, currently, there is approximately \$40,000 in the Fund.

Mr. Hartman explained that the Division is using the new distribution methodology discussed and adopted at the last Commission meeting. This methodology reimburses organizations based upon the number of greyhounds placed during the six-month application period divided into the available amount of fund money. He stated that, during the subject six-month period, there were 302 greyhounds placed by the applicants. This would mean that the organizations would receive \$132.45 per placed greyhound ($\$40,000/302=\132.45). Before distribution of funds would be made, the Division would again review the paperwork from the requesting organizations to ensure that accurate numbers had been reported and used in all calculations. Further, Mr. Hartman stated that, since the Division is no longer requiring the requesting organizations to submit receipts as part of their application documentation, he would recommend that, prior to release of funds, Division investigators be granted authorization to conduct on-site inspections and verifications of each organization’s adoption reports and records.

Mr. Hartman confirmed that all of the applications meet the criteria set forth in the Commission’s rule(s). In the applications, Colorado Greyhound Adoption requested \$20,000, Rocky Mountain Greyhound Adoption, Inc. requested \$7,200, but Friends of Retired Greyhounds and the Greyhound Connection did not request specific amounts.

Notice was taken that each of these organizations has previously received Fund money and that each of them is currently licensed by the Division of Racing Events. Mr. Hartman stated that the Division of Racing Events would recommend that the Commission approve the following disbursements totaling \$39,999 from the Greyhound Promotion and Welfare Fund:

• To Colorado Greyhound Adoption:	\$10,993.00
• To Friends of Retired Greyhounds:	\$ 5,563.00
• To Greyhound Connection:	\$18,675.00
• To Rocky Mountain Greyhound Adoption, Inc.	\$ 4,768.00
	<hr/>
	\$39,999.00

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

After ascertaining that there were no further comments to be made, a motion was made by Commissioner Vail, seconded by Commissioner Beirne and unanimously carried to release \$10,993.00 to Colorado Greyhound Adoption; \$5,563.00 to Friends of Retired Greyhounds; \$18,675.00 to Greyhound Connection; and \$4,768.00 to Rocky Mountain Greyhound Adoption, Inc., which totals \$39,999.00, with the proviso that each organization is to provide preliminary and follow-up reports relating to the use of the subject funds and, further, that, for the purpose of verifying the accuracy of its reported adoption totals, each organization is required to undergo an inspection of its adoption reports/records by Division investigators prior to the release of funds from the Greyhound Promotion and Welfare Fund.

Comments Relating to Colorado Greyhound Breeder's Association – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, advised the Commission that he has attempted to provide guidance and assistance to members of the Colorado Greyhound Breeder's Association since the 2008 cessation of live greyhound racing in the state and the resultant decline in breeding activity in Colorado. He explained that, due to the fact that no live greyhound racing is being conducted in the state, the greyhound kennels that have continued to engage in breeding dogs for racing and breeding purposes have been exempted from inspection requirements, although they must be licensed by the Division of Racing Events. However, he reported that, to date, only three of the remaining thirteen racing greyhound breeders in Colorado have complied with the terms and conditions required for the retention and continuation of their kennel operator's licenses. Mr. Hartman stated that the Division has been contacting Colorado Greyhound Breeder's Association members regarding their responsibility to be duly licensed by the Division.

Mr. Hartman provided certain background information relating to the establishment of a Memorandum of Understanding between the Department of Agriculture, through the Pet Animal Care and Facilities Act, and the Department of Revenue, through the Division of Racing Events, in May 2012. This agreement provided for the following actions to be taken in accordance with each agency's statutory authority:

- That the Department of Revenue-Division of Racing Events would continue to exercise its statutory authority to perform annual facility inspections of all kennels that are licensed with the Department of Revenue;
- That, on an annual basis, with the established date of July 1st, the Department of Revenue would provide to the Pet Animal Care and Facilities Act, a list of any greyhound kennel that had, within the past twenty-four months, been licensed with the Department of Revenue as a

kennel involved in breeding, raising, maintaining or adopting racing greyhounds.

- That the Pet Animal Care and Facilities Act, pursuant to its authority to make inspections upon its own motion, would schedule inspections with the facilities that are not licensed with the Department of Revenue to ensure compliance with the Pet Animal Care and Facilities Act's licensure requirements for pet animal care facilities.
- That the Pet Animal Care and Facilities Act and the Department of Revenue agreed to share information regarding their inspections, where allowed by law and not in conflict with any statutory provision to the contrary, to assist with timely and complete inspection processes.

Mr. Hartman asserted that, in the event that the kennels that are presently non-compliant fail to satisfy the Division's licensing requirements, he would nullify their exemptions from inspections and would require them to undergo inspections by the Division of Racing Events. Further, he stated that he would pursue a statutory change to make them subject to the Pet Animal Care Facilities Act inspection standards.

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

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that the request from the Colorado Thoroughbred Breeders' Association for early release of \$156,000 from the Owners/Breeders Awards Fund for the purpose of supplementing the Colorado-Bred Stakes schedule at Arapahoe Park in 2013 had not been provided to the Division in accordance with the time frame specified in Colorado Racing Commission Rule #9.324, which is "no later than April 1". The request was submitted to the Division on April 25, 2013. Mr. Hartman stated that the Division was not offering a recommendation to the Commission for or against approval of the Colorado Thoroughbred Breeders' Association request, but merely apprising the Commission of the tardiness of its submission. Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, advised that, in the absence of Mr. Mark McGregor, President of the Colorado Thoroughbred Breeder's Association, he would speak on behalf of the organization's request.

Ms. Pam Kilgore, Division Auditor, explained that, by Rule, no breed organization could request more than 80% (eighty percent) of its total accrual. She informed the Commission that, upon receiving the aforementioned request, she had itemized the amounts accrued by the Colorado Thoroughbred Breeders' Association during the period of January through March 2013 and had prepared a report reflecting her projections, noting that the amount requested by the Colorado Thoroughbred Breeder's Association would approximate 38% of the organization's annualized accrual and would be statutorily allowable. Ms. Kilgore stated that she was confident that sufficient funds would be available for the requested amount of \$156,000 to be distributed to the Colorado Thoroughbred Breeder's Association. Ms. Kilgore stated that, if the request is approved, she would perform another audit of the purse fund monies in order to confirm that the requested amount would be available for distribution by July 1, 2013.

Mr. Rushton apologized on behalf of Colorado Thoroughbred Breeder's Association, noting that denial of the early release of funds to the organization would jeopardize its ability to conduct its stakes races.

Following discussion, a motion was made by Commissioner Beirne, seconded by Commissioner Vail and unanimously carried to accept the tardy request from the Colorado Thoroughbred Breeder's Association for early distribution (by July 1, 2013) of \$156,000 to subsidize its stakes program conditioned upon confirmation of the availability of funds; and to grant a one-time waiver of the submission date specified in Colorado Racing Commission Rule #9.324 with the proviso that the Colorado Thoroughbred Breeder's Association is to be notified that any future requests are to be provided in accordance with the stipulated time frame.

Legislative Update – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, apprised the Commission that Senate Bill 13-0179, eliminating the Sunset provision that was scheduled to take effect on June 30, 2014 and allowing in-state simulcast facilities to continue to receive out-of-state simulcasts of greyhound races through an in-state facility located on the premises of a licensed class B horse track after that date, was signed by the Governor and, thereby, enacted on May 11, 2013. Mr. Hartman noted that an amendment to the measure removed any statutory provisions for or references to promotional organizations, but retained provisions for the continued existence of and support for welfare and adoption groups.

Acknowledgment of and Farewell to Commissioner Dan Kester – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, announced that this would be Commissioner Dan Kester's final Commission meeting after four years of dedicated service. Mr. Kester's fellow Commissioners and industry associates offered expressions of appreciation and tributes in his honor. The Commission expressed its desire to recognize Mr. Kester's many contributions to the racing industry and the citizens of Colorado.

Mr. Kester responded that he had enjoyed his term as a Commissioner and that he appreciated greatly the support and helpfulness of his fellow Commissioners, members of the racing industry and the Division staff during his term.

Adjournment

After determining that there was no further business to consider, a motion was made by Commissioner Kester, seconded by Commissioner Vail and unanimously carried to adjourn the meeting at 11:05 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Tuesday, July 9, 2013** at Arapahoe Park, 26000 East Quincy Avenue, Aurora, Colorado.

The undersigned hereby approve the foregoing Minutes.

MARY SHARON WELLS, CHAIRWOMAN

SEAN BEIRNE, VICE-CHAIR

CHARLES VAIL, DVM, MEMBER

DANIEL KESTER, MEMBER

CINDY DAY, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, July 9, 2013 in the Directors' Room at Arapahoe Park, 26000 East Quincy Avenue, Aurora, Colorado. Chairman Mary Sharon Wells called the meeting to order at 9:45 a.m.

Members Present

Mary Sharon Wells, Chairwoman
Sean Beirne, Vice-Chair
Charlie Vail DVM, Member
Cindy Day, Member

Staff Present

Daniel Hartman, Director Division of Racing Events
Mark Brown, Horse Racing Coordinator
Melissa Dougherty Anderson, Legal Assistant
Charmaine Rose, Assistant Attorney General

Also Present

Lois Rice, Executive Director Colorado Gaming Association
John Hammes, UICC President, Rocky Mountain Quarter Horse Association
Shannon Rushton, Colorado Horseman's Association Executive Director

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

Election of officers

A motion was made by Chairwoman Wells, seconded by Commissioner Vail and unanimously carried by acclamation to re-elect Mary Sharon Wells as Chairwoman and Sean Burn as Vice Chairman of the Colorado Racing Commission. Both appointments will remain in effect through June 2014.

Approval of Minutes

A motion was made by Chairwoman Wells, seconded by Commissioner Vail and unanimously carried to approved minutes from May 14, 2013 meeting.

Softball Country

Mr. Daniel Hartman apprises the Commission of the following matter. Softball Country is an off track betting company who took in a signal that they were not authorized to take. The Division recently

received a check for \$1115.60 from Softball Country to pay off the fine assessed in full. Mr. Hartman asks that the Commission approves the stipulation, so that the check can be processed.

- Dr. Charlie Vail asks “How did they [Softball Country] get that signal turned on?”
- Daniel Hartman answers, “The Assistant Manager turned it on by calling the Hub in Portland. They caught the right person at the right time.”
- Dr. Charlie Vail asks, “What is your level of confidence that this will never happen again?”
- Daniel Hartman answers, “Pretty High.”
- MSW asks “When a new OTB comes on line, are there training procedures in place...?”
- Arapahoe Park General Manager Bruce Seymore speaks, “We have oversight.”

Chairwoman Mary Sharon Wells moved the motion it was seconded and approved.

Status Report

Mark Brown Horse Racing Enforcement Supervisor and Horse Racing Coordinator gives the track status report. Mr. Brown says, “The track has been running smoothly so far. Joni and Vet staff doing great job.” A summary of his statement of status is as follows: So far, the division has processed files and validations and up to date with the case management systems. There were 106 investigations conducted up to date. All the barns have been inspected. In addition, the Division has conducted 36 human drug tests and finding one positive result, which has resulted in a 14 day suspension. The Division has opened 22 cases this season to date.

Mr. Bruce Seymore speaks regarding Arapahoe Park benefitting from the best handle he has ever seen with regards to the OTB simulcasting. Mr. Seymore maintains that the Quarter horses and out-of-state people are helping a lot. He says, “Field size really starting to work, and signal will hopefully be carried at other tracks. Increase in numbers and he feels like the economy is getting better.” He sadly says that 3 horses had to be put down in the meet from accidents this season. The track conditions are reported as being “still very good,” but a little deep on the rail from moving material. Attendance is a little down. Sundays is family day, and Saturday is bread-and-butter days. Mr. Seymore says, College kids are tuning into our races, with the simulcasting.

Chairwoman Mary Sharon Wells asks “Why are not the results in the paper?”

Bruce Seymore mentions that the newspaper is too expensive and Altitude sports advertising not in place this year. This year they have twitter and facebook. Jonathan Horowitz talking about Dues and Donuts. Better than ever done here. 2-3 calls a week on people wanting to have additional OFB facilities in their places.

Chairwoman Mary Sharon Wells says, “The website leads a lot to be desired.”

Mr. Bruce Seymore maintains, the website does look a lot better.

Chairwoman Mary Sharon Wells says, I will have to look at the website again.

Mr. Daniel Hartman comments, “Having our full time people in key positions is helping to make things smoother from an administrative perspective. We are always doing things to make things so they don’t get comfortable. So far with the proactive stance – we have had a cleaner racing season. Made a big difference. “

Chairwoman Mary Sharon Wells says, “Congratulations to you Mr. Brown.”

Recess the meeting of Commission.

Call to Order Race Dates Hearing

Arapahoe park request May – August for 2014 over a 13 week permission. Mr. Daniel Hartman asks for the envelopes to be granted by the Commission. The exact dates are TBD.

Mr. Bruce Seymore says, “I think we have created a niche. Arizona is hot comparatively. New Mexico has increased the stakes and they are now way out of the league of Arapahoe Park.”

Commissioner Charlie Vail DVM says, “I worry about the Colorado Bred states and futures.”

Mr. Bruce Seymore says, “They are finding other places to race. Breed races don’t go like they did 4-5 years ago.”

Mr. Shannon Rushton mentions, “177 this year compared to 240 last year. 60-70 of those are 2 year olds. Their 3 and up numbers are scares. You are crippling the younger horses. The Colorado Derby horse race was only 5 horses deep. This is the lowest number of Colorado breeds in quite a while. It’s a scary time. The foal horses are down.”

Mr. John Hammes of the Rocky Mountain Quarter Horse Association speaks and says, “Nationally quarter horse numbers for foals are down”.

Mr. Dan Hartman says “foals are down across the country.

Chairwoman Mary Sharon Wells says, “They keep telling me that they are coming back. I hope they are back.”

Moved by Charlie Vail and seconded by Cindy Day to approve the 2014 race dates. Passed.

Last Minute Order of Business

Dan Hartman says that he got a call regarding a fair meet and the possibility to revive this. There are no longer subsidies any longer. Mr. Hartman says that operating one of these fairs, would indeed be within the Division budget. But subsidies are gone. Mr. Hartman indicates, that as these talks progress he will update the Commission.

Dr. Vail asks, "Is it just one place?"

DH – "Just one place."

CV – "I would sure approve that because of the decline of horse racing and those meets."

DH – "The bottom line may be scarier than the excitement."

MSW – "Success breeds success."

Move to adjourn.

The hearing concluded at 10:25 am.

Mr. Mark Brown, Lead Investigator and Horse Racing Coordinator recorded the proceeding. A tape recording of the proceeding is on file in the Division's Lakewood office.

In accordance with the motion of the Commission, the following Rulings and Settlement Stipulations were issued and disseminated by the Division of Racing Events:

BEFORE THE BOARD OF STEWARDS
STATE OF COLORADO

CASE NUMBER: 13-0083

RULING # 13-02: PURSE REDISTRIBUTION – READY SET ZIP

IN THE MATTER OF:

KEMPER, KERRY LEE

License Type: Trainer

License Number: 20121084

Licensee.

1. The horse called "READY SET ZIP" trained by Kerry Lee Kemper, was the 1st place finisher of the 1st race on May 27, 2013 at Arapahoe Park (hereafter, the "Race").
2. Industrial Laboratories Company, Inc., official chemist for the State of Colorado, Department of Revenue, Division of Racing Events reported that the post-race blood sample of the horse contained Phenylbutazone and Flunixin as certified in the Affidavit of the ILC's Director of Veterinary Drug Testing, Petra G. Hartmann, dated June 7, 2013.
3. Following the race on **May 27, 2013**, employees of the Division took and labeled a blood and urine sample (Sample Tag # **137726**) (hereafter, the "Sample") from **Ready Set Zip** in accordance with CRCR 5.420. The Sample was properly and securely transferred to the Commission's official chemist, Industrial Laboratories Company, Inc. (hereafter, "ILC"), an ISO-17025-compliant and A2LA-accredited laboratory.
4. ILC analyzed the Sample utilizing sample-analysis procedures consistent with the recommendations of the Association of Official Racing Chemists.
5. ILC determined that the blood Sample was positive for **Phenylbutazone and Flunixin**, as certified in the Affidavit of ILC's Director of Veterinary Drug Testing, Petra G. Hartmann, dated **June 7, 2013**.
6. ILC determined that the blood Sample was positive for **Flunixin**. The **Flunixin** tested at **7ng/mL**, as certified in the Affidavit of ILC's Director of Veterinary Drug Testing, Petra G. Hartmann, dated **June 7, 2013**.

7. **Flunixin** is a non-steroidal anti-inflammatory drug (NSAID) approved for horse racing at certain levels pursuant to CRCR 5.312.
8. ILC determined that the blood Sample was also positive for **Phenylbutazone** at concentration **2.6 µg/ mL**, as certified in the Affidavit of ILC's Director of Veterinary Drug Testing, Petra G. Hartmann, dated **June 7, 2013**.
9. **Phenylbutazone** is a non-steroidal anti-inflammatory drug (NSAID) approved for horse racing in certain levels pursuant to CRCR 5.312.
10. Following a hearing held in this regard on June 20, 2013, prior to which the Licensee stipulated to a basis in fact for the medication violation and to the penalty to be imposed, the Board of Stewards ("the Board") issued its Ruling #13-02, imposing a fine of \$500.00 and loss of purse. This was issued to Kerry Kemper as trainer to READY SET ZIP, and ordering the disqualification of READY SET ZIP from the race.
11. In the Settlement Stipulation reached by and between the Licensee and the Division of Racing Events ("the Division"), Licensee waived all appeal rights in this regard.
12. Colorado Racing Commission Rule # 5.502 reads, in pertinent part:

...If the chemical analysis of a sample indicates the presence of an unauthorized drug or medication regardless of the effect on 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. "Unplaced for every purpose" means any placement based upon the race would be declared invalid and the purse or prize for any such race would be returned. "Unplaced for every purpose" includes, but is not limited to, any placement, purses or prizes that an owner may have earned in subsequent races, for which the horse would not have been qualified due to the presence of an unauthorized medication found in a previous race. A trophy received by the owner of the animal shall be returned.

THEREFORE, pursuant to the Settlement Stipulation, The Board's Ruling #13-02 and the provisions of Colorado Racing Commission Rule #5.502, the horse READY SET ZIP is hereby DISQUALIFIED and declared UNPLACED from the Race. The new order of finish is as follows:

- 1- LAKE CIDE STORM
- 2- LEECH
- 3- GINS AND GIGGLES

- 4- SURVIVING THE ODDS
- 5- GIZZY BOY
- DQ – READY SET ZIP

This ruling shall not affect the pari-mutuel wagering of the race.

Based upon the LOSS OF PURSE, DISQUALIFICATION and UNPLACED status of READY SET ZIP pursuant to C.R.C.R. #5.502, return and collection of any purse or prize monies distributed to the Jockey Russell Vicchrilli of the horse READY SET ZIP in the 1st race on May 27, 2013 at Arapahoe Park is required and hereby authorized and ordered.

ACCORDINGLY, all purse and prize monies shall be dispersed according to the new order of finish.

FINALLY, in furtherance of the provisions of the Board's Ruling #13-02 signed by the Board as of June 21, 2013, notice of which has been given by mail to the Licensee and Owner, the Arapahoe Park track record shall be amended and corrected to remove any racing industry achievement or recognition accomplished by READY SET ZIP in the 1st race on May 27, 2013 at Arapahoe Park.

IT IS SO ORDERED this _____ day of _____, 2013

BY ORDER OF THE BOARD OF STEWARDS

Robert "Duke" Mann, State Steward

Randy Blaseg, State Steward

Hank Demoney, Association Steward

BEFORE THE BOARD OF STEWARDS
STATE OF COLORADO

CASE NUMBER: 13-0083

RULING # 13-02

IN THE MATTER OF:

KEMPER, KERRY LEE

License Type: Trainer

License Number: 20121084

Licensee.

HEARING

Kerry Lee Kemper ("Licensee") was duly notified of a hearing to be held in this case before the Colorado Racing Board of Stewards held at Arapahoe Park 26000 E. Quincy Avenue, Aurora, CO 80016 on June 20, 2013 at 3:00pm., by a Notice of Hearing hand delivered and signed by Mr. Kerry Kemper.

At the commencement of the hearing, The Board of Stewards was notified that a Settlement Stipulation was arranged between the Licensee and the Division of Racing Events ("the Division"). Although the stipulation and agreement was reached in this matter, Licensee still decided to appear at the scheduled hearing.

The terms and conditions of the stipulation reached between the parties were placed on the record by Charmaine C. Rose, Assistant Attorney General, Revenue & Utilities Section, on behalf of the Division, and the written Settlement Stipulation provided to the Board of Stewards.

ORDER

THE BOARD ACCEPTED AND APPROVED the Settlement Stipulation, and adopted it as the Final Agency Order in this case. Accordingly, it is hereby ORDERED as follows:

1. Licensee shall pay a fine of \$500.00; due and payable in 20 days (on JULY 10, 2013).
2. The horse **READY SET ZIP** shall be declared disqualified and unplaced for every purpose with regard to the 1st race on May 27, 2013 ("the Race") except for pari-mutuel wagering.
3. Loss of purse for the Race.

RESPONSIBILITIES AND RIGHTS

All fines are due and payable within TWENTY (20) calendar days of notification of this Order pursuant to Colorado Racing Commission Rule #6.700. Notification shall be the date of hand-delivery or the date the ruling was placed in the mail as determined by the certificate of service attached to this ruling. If both methods of service were used, the earliest date shall be the date of notification.

You have the right to appeal to the Colorado Racing Commission any final action taken by the Board or by an assigned Hearing Officer that adversely affects you. (Note: You must also, at least seven (7) days before the appeal hearing, provide to the Commission a copy of the transcript of the Hearing. You are responsible for all the costs to obtain or produce this copy of the transcript.

IT IS FURTHER ORDERED that if the total fine is not paid in a timely manner:

- A. Pursuant to **Colorado Racing Commission Rule #6.700**, a penalty fine equal to the amount of the total fine (in this case Five Hundred Dollar (\$500.00) fine) shall be imposed automatically, which total fine and penalty shall be immediately due and payable, and;
- B. Pursuant to **Colorado Racing Commission Rule #6.120**, *(Modified Effective date May 15, 2013)* When the Board or a Hearing Officer determines, in compliance with the provisions of these Rules, that a violation of these Rules or of the law has occurred, it has the authority to suspend a license for a period not to exceed one hundred and eighty (180) days, or to impose a fine not in excess of Five Hundred Dollars (\$500), or both ... and will be referred to the Commission.
- C. The matter will automatically be referred to the Colorado Racing Commission for such further sanction as it may deem appropriate, at which time the Licensee will be notified of the Licensee's opportunity to appear before the Commission to show cause why the Licensee should not be sanctioned further.

Dated this 21st day of June, 2013.

BY ORDER OF THE BOARD OF STEWARDS

Robert "Duke" Mann, State Steward

Randy Blaseg, State Steward

Hank Demoney, Association Steward

BEFORE THE BOARD OF STEWARDS
COLORADO DIVISION OF RACING EVENTS

CASE NUMBER: 13-0087

SETTLEMENT STIPULATION

IN THE MATTER OF:

TEMPLE DEAN RUSHTON, Licensee

License Type: Trainer

License Number: 201310078

Licensee.

On June 19, 2013, Notice of Hearing was served by hand delivery upon Temple Dean Rushton (hereafter, the "Licensee"), as owner of the horse **SINAAN**.

In response to the Notice and in consideration of the costs and uncertainties of litigation, the Division of Racing Events ("the Division") and the Licensee hereby submit and agree to the following:

1. Commission Rule 5.502 states:

The trainer shall be responsible for and the absolute insurer of the condition of the animals entered for his or 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 or medication regardless of the effect on 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. "Unplaced for every purpose" means any placement based upon the race would be declared invalid and the purse or prize for any such race would be returned. "Unplaced for every purpose" includes, but is not limited to, any placement, purses or prizes that an owner may have earned in subsequent races, for which the horse

would not have been qualified due to the presence of an unauthorized medication found in a previous race. A trophy received by the owner of the animal shall be returned.

2. Commission Rule 5.500 states:

Whenever the laboratory test results are obtained as indicated herein, there shall be a rebuttable presumption that the trainer and/or assistant trainer of the animal were responsible for the administration of the unauthorized medication. At any hearing conducted to determine responsibility for the administration of any unauthorized medication, unless other evidence of sufficient credibility and weight is presented to the contrary, the Board, a hearing officer, or the Commission may make a finding in accordance with the presumption.

3. Commission Rule 5.304 states:

A person shall not administer or apply or cause to be administered or applied to any animal any medication which might have the effect of stimulating, exciting or depressing any animal or which could otherwise alter the normal performance of an animal during a race. Any medication so administered or applied shall be deemed unauthorized as defined in this section.

4. Commission Rule 5.300 (in relevant part) states:

The following outline describes the types of substances placed in each category. . . .

Class 4

This category is comprised primarily of therapeutic medications routinely used in racehorses. These may influence performance, but generally have a more limited ability to do so. Groups of drugs assigned to this category include the following:

(E) Anti-inflammatory drugs—Those that may reduce pain as a consequence of their anti-inflammatory actions, which include:

(I) Non-steroidal anti-inflammatory drugs (NSAIDS);

(II) Corticosteroids (Glucocorticoids); and

(III) Miscellaneous anti-inflammatory agents.

5. Licensee has engaged in a violation of CRCR 5.312 which provides that:

Phenylbutazone, Flunixin (Banamine) and Ketoprofen will be the only non-steroidal anti-inflammatory drugs (NSAID) approved for horse racing.

a) When approved, the test level for Phenylbutazone or its metabolite, Oxyphenylbutazone shall not exceed 5 micrograms per milliliter of blood, serum, or plasma.

FIRST OFFENSE PER TRAINER PER YEAR

<u>Phenylbutazone</u>	<u>Flunixin (Banamine)</u>	<u>Ketoprofen</u>	<u>Penalty</u>
2.5 to 5.0 mcg.:	.25 to .50 mcg.:	5 to 10 ng/ml:	verbal warning
5.1 to 7.5 mcg.:	.51 to .75 mcg.:	11 to 15 ng/ml:	\$200.00 fine
7.6 to 10.0 mcg.:	.76 to 1.0 mcg.:	16 to 20 ng/ml:	\$250.00 fine
above 10.0 mcg.:	above 1.0 mcg.:	above 20 ng/ml:	\$500.00 fine, loss of purse summary suspension and search

6. At all times relevant to this case, the **Temple Dean Rushton** was licensed by the Division as a trainer.

7. At all times relevant to this case, **Fred Dean Morgheim** was licensed by the Division as the owner.

8. The Horse, "**SINAAN**," ran in the **8th** race on **June 2, 2013**, at Arapahoe Park (hereafter, the "Race").

9. **"SINAAN"** finished in **2nd** place in the Race.
10. The Licensee was the trainer of record for **"SINAAN"** at the time of the Race.
11. Following the Race on **June 2, 2013**, employees of the Division took and labeled a blood and urine sample (Sample Tag # **E137787**) (hereafter, the "Sample") from **Sinaan** in accordance with CRCR 5.420. The Sample was properly and securely transferred to the Commission's official chemist, Industrial Laboratories Company, Inc. (hereafter, "ILC"), an ISO-17025-compliant and A2LA-accredited laboratory.
12. ILC analyzed the Sample utilizing sample-analysis procedures consistent with the recommendations of the Association of Official Racing Chemists.
13. ILC determined that the blood Sample was positive for **Phenylbutazone** as certified in the Affidavit of ILC's Director of Veterinary Drug Testing, Petra G. Hartmann, dated **June 17, 2013**.
14. **Phenylbutazone** is an unauthorized medication and is a **Class 4, Penalty Class E(I)** drug pursuant to CRCR 5.300.
15. ILC determined that the blood Sample was positive for **Phenylbutazone** at **6.4 mcg/mL**, as certified in the Affidavit of ILC's Director of Veterinary Drug Testing, Petra G. Hartmann, dated **June 17, 2013**.
16. **Phenylbutazone** is a non-steroidal anti-inflammatory drug (NSAID) approved for horse racing at certain levels pursuant to CRCR 5.312.
17. The Rules of the Commission hold the trainer of the horse accountable for the presence of any unauthorized medication determined to be in a horse's system at the time the horse runs in a race under the jurisdiction of the Commission.
18. By being the trainer of the horse, **SIAAN**, which ran with the medication overage, in the horse's system at Arapahoe Park on August 10, 2012, the Licensee violated each of the following Colorado Racing Commission Rules: C.R.C.R. # 5.312(a); # 5.502; C.R.C.R. # 5.304.
19. The Licensee confirms that he has not committed any relevant medication or drug violations within this or any other jurisdiction within the 365-day period prior to this violation.
20. As required by the Commission Rules, all mitigating and aggravating factors present in this case have been considered and the parties agree that the factors do not support

downward departure from the minimum penalty recommended by Commission Rule and *the Guidelines* in this regard.

21. The Division and the Licensee agree to the following penalty for the violation:

(a). A fine of Two Hundred Dollars (\$200.00)

22. The Division and the Licensee further agree as follows with respect to the total amount of the fine in the Race that the total fine is Two Hundred dollars (\$200.00) and that the:

a. Two Hundred dollar (\$200.00) fine is due and payable within TWENTY (20) calendar days of notification of the imposition of the fine, pursuant to **Colorado Racing Commission Rule #6.700**. Notification shall be the date of hand-delivery or the date the ruling was placed in the mail as determined by the certificate of service attached to this ruling. If both methods of service were used, the earliest date shall be the date of notification.

b. If the Two Hundred dollar (\$200.00) fine is not paid in a timely manner:

1) Pursuant to **Colorado Racing Commission Rule #6.700**, a penalty fine, equal to the amount of this Two Hundred dollar (\$200.00) fine shall be imposed automatically, which total fine and penalty shall be immediately due and payable; and,

2) The matter will automatically be referred to the Colorado Racing Commission for such further sanction, including fine, suspension, or revocation of license privileges, as it may deem appropriate, at which time the Licensee will be notified of the Licensee's opportunity to appear before the Colorado Racing Commission to show cause why the Licensee should not be sanctioned further.

28. Licensee and the Division expressly agree and acknowledge that each has entered into this Stipulation and Agreement knowingly and voluntarily. Licensee hereby acknowledges that he has had the opportunity to discuss this Settlement Stipulation with an attorney of his choice at his own expense prior to signing this Settlement Stipulation, and that he has voluntarily executed this Settlement Stipulation and understands the legal consequences of this Settlement Stipulation. Licensee acknowledges and agrees that no promise, threat, or inducement of any kind has been made to cause him/her to enter into this Settlement Stipulation.

29. Licensee and the Division agree that, upon execution of this Stipulation and Agreement, no subsequent action or assertion shall be maintained or pursued by the Division or by Licensee asserting the invalidity in any manner of this Settlement Stipulation.
30. Both the Licensee and the Division knowingly and voluntarily enter into this Settlement Stipulation. With regard to this case filed by the Division, Licensee understands and knowingly and voluntarily waives the following rights:
- a. The right to a formal hearing on the merits of the matters forming the basis of this Settlement Stipulation with respect to the case and the right to require the Division to meet its burden of proof in a formal hearing.
 - b. The right to confront and cross-examine all witnesses against the Licensee at a formal hearing.
 - c. The right to subpoena witnesses, present evidence, and to testify on the Licensee's behalf at a formal hearing.
 - d. The right to engage in pre-hearing discovery of the Division's evidence that may be presented at such a hearing.
31. The Licensee understands that this Settlement Stipulation can only become effective upon the approval of the Hearing Officer assigned to this matter. The Hearing Officer must review this Stipulation and can either approve it or reject it. If the Hearing Officer approves the Stipulation, the Hearing Officer will sign his or her approval and enter the Stipulation into the official record for this case. If the Hearing Officer rejects this Stipulation, the matter will be reset for Hearing within the terms of the original Notice of Hearing.
32. The Licensee has thoroughly read and understands the terms of this Stipulation, and understands that, once signed, the Stipulation is final and that he will have no opportunity to appeal this Stipulation or its penalties.
33. Licensee does hereby acknowledge and understand that the terms and conditions of the Settlement Stipulation contained herein will be reported by the Division to the Association of Racing Commissioners International.
34. Licensee represents and confirms to the Division that he has been in contact Fred Dean Morgheim who was the owner of record for the horse **SINAAN** at the time of the Race

Temple Dean Rushton Date
Licensee

Daniel J. Hartman Date
Director, Division of Racing Events

The foregoing Settlement Stipulation entered into and agreed upon by the Division and Temple Dean Rushton is hereby ACCEPTED and APPROVED this _____ day of _____, 2013.

BY ORDER OF THE BOARD OF STEWARDS

Robert "Duke" Mann, State Steward

Randy Blaseg, State Steward

Hank Demoney, Association Steward

BEFORE THE BOARD OF STEWARDS
COLORADO DIVISION OF RACING EVENTS

CASE NUMBER: 13-0087

RULING # 13-03

IN THE MATTER OF:

TEMPLE DEAN RUSHTON, Licensee

License Type: Trainer/ Owner

License Number: 201310078

Licensee.

HEARING

Mr. Temple Dean Rushton ("Licensee") was duly notified of a hearing to be held in this case before the Colorado Racing Board of Stewards held at Arapahoe Park 26000 E. Quincy Avenue, Aurora, CO 80016 on June 27, 2013 at 9:00 a.m., by a Notice of Hearing hand delivered and signed by Mr. Temple Dean Rushton.

At the commencement of the hearing, The Board of Stewards was notified that a Stipulation of Facts was arranged between the Licensee and the Division of Racing Events ("the Division"). Licensee appeared at the scheduled hearing.

The terms and conditions of the stipulation reached between the parties were placed on the record by Charmaine C. Rose, Assistant Attorney General, Revenue & Utilities Section, on behalf of the Division. Accordingly, the written Stipulation of Facts were submitted to the Board of Stewards, and are hereby adopted at the Findings of Facts in this case.

CONCLUSIONS OF LAW

22. Commission Rule 5.502 states:

The trainer shall be responsible for and the absolute insurer of the condition of the animals entered for his or 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 or medication regardless of the effect on 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. "Unplaced for every purpose" means any placement based upon the race would be declared invalid and the purse or prize for any such race would be returned. "Unplaced for every purpose" includes, but is not limited to, any placement, purses or prizes that an owner may have earned in subsequent races, for which the horse would not have been qualified due to the presence of an unauthorized medication found in a previous race. A trophy received by the owner of the animal shall be returned.

23. Commission Rule 5.500 states:

Whenever the laboratory test results are obtained as indicated herein, there shall be a rebuttable presumption that the trainer and/or assistant trainer of the animal were responsible for the administration of the unauthorized medication. At any hearing conducted to determine responsibility for the administration of any unauthorized medication, unless other evidence of sufficient credibility and weight is presented to the contrary, the Board, a hearing officer, or the Commission may make a finding in accordance with the presumption.

24. Commission Rule 5.304 states:

A person shall not administer or apply or cause to be administered or applied to any animal any medication which might have the effect of stimulating, exciting or depressing any animal or which could otherwise alter the normal performance of an animal during a race. Any medication so administered or applied shall be deemed unauthorized as defined in this section.

25. Commission Rule 5.300 (in relevant part) states:

The following outline describes the types of substances placed in each category. . . .

Class 4

This category is comprised primarily of therapeutic medications routinely used in racehorses. These may influence performance, but generally have a more

limited ability to do so. Groups of drugs assigned to this category include the following:

(E) Anti-inflammatory drugs—Those that may reduce pain as a consequence of their anti-inflammatory actions, which include:

(I) Non-steroidal anti-inflammatory drugs (NSAIDS);

(II) Corticosteroids (Glucocorticoids); and

(III) Miscellaneous anti-inflammatory agents.

26. Licensee has engaged in a violation of CRCR 5.312 which provides that:

Phenylbutazone, Flunixin (Banamine) and Ketoprofen will be the only non-steroidal anti-inflammatory drugs (NSAID) approved for horse racing.

b) When approved, the test level for Phenylbutazone or its metabolite, Oxyphenylbutazone shall not exceed 5 micrograms per milliliter of blood, serum, or plasma.

FIRST OFFENSE PER TRAINER PER YEAR

<u>Phenylbutazone</u>	<u>Flunixin (Banamine)</u>	<u>Ketoprofen</u>	<u>Penalty</u>
2.5 to 5.0 mcg.:	.25 to .50 mcg.:	5 to 10 ng/ml:	verbal warning
5.1 to 7.5 mcg.:	.51 to .75 mcg.:	11 to 15 ng/ml:	\$200.00 fine
7.6 to 10.0 mcg.:	.76 to 1.0 mcg.:	16 to 20 ng/ml:	\$250.00 fine
above 10.0 mcg.:	above 1.0 mcg.:	above 20 ng/ml:	\$500.00 fine, loss of purse summary suspension and search

27. The Rules of the Commission hold the trainer of the horse accountable for the presence of any unauthorized medication determined to be in a horse's system at the time the horse runs in a race under the jurisdiction of the Commission.

28. By being the trainer of the horse, **SIAAN**, which ran with the medication overage, in the horse's system at Arapahoe Park on June 2, 2013, the Licensee violated each of the following Colorado Racing Commission Rules: C.R.C.R. # 5.312(a); # 5.502; C.R.C.R. # 5.304.

29. As required by the Commission Rules, all mitigating and aggravating factors present in this case have been considered and the parties agree that the factors do not support downward departure from the minimum penalty recommended by Commission Rule and *the Guidelines* in this regard.

DECISION

The total amount of the fine is Two Hundred dollars (\$200.00) and that the:

a. Two Hundred dollar (\$200.00) fine is due and payable within TWENTY (20) calendar days of notification of the imposition of the fine, pursuant to **Colorado Racing Commission Rule #6.700**. Notification shall be the date of hand-delivery or the date the ruling was placed in the mail as determined by the certificate of service attached to this ruling. If both methods of service were used, the earliest date shall be the date of notification.

b. If the Two Hundred dollar (\$200.00) fine is not paid in a timely manner:

- 3) Pursuant to **Colorado Racing Commission Rule #6.700**, a penalty fine, equal to the amount of this Two Hundred dollar (\$200.00) fine shall be imposed automatically, which total fine and penalty shall be immediately due and payable; and,
- 4) The matter will automatically be referred to the Colorado Racing Commission for such further sanction, including fine, suspension, or revocation of license privileges, as it may deem appropriate, at which time the Licensee will be notified of the Licensee's opportunity to appear before the Colorado Racing Commission to show cause why the Licensee should not be sanctioned further.

ORDER

THE BOARD ACCEPTED AND APPROVED the Stipulation of Facts, and adopted it into the record. The Board of Stewards, hereby, ORDERS as follows:

Licensee shall pay a fine of \$200.00; due and payable in 20 days (on JULY 18, 2013).

RESPONSIBILITIES AND RIGHTS

All fines are due and payable within TWENTY (20) calendar days of notification of this Order pursuant to Colorado Racing Commission Rule #6.700. Notification shall be the date of hand-delivery or the date the ruling was placed in the mail as determined by the certificate of service attached to this ruling. If both methods of service were used, the earliest date shall be the date of notification.

You have the right to appeal to the Colorado Racing Commission any final action taken by the Board or by an assigned Hearing Officer that adversely affects you. (Note: You must also, at least seven (7) days before the appeal hearing, provide to the Commission a copy of the transcript of the Hearing. You are responsible for all the costs to obtain or produce this copy of the transcript.

IT IS FURTHER ORDERED that if the total fine is not paid in a timely manner:

- D. Pursuant to **Colorado Racing Commission Rule #6.700**, a penalty fine equal to the amount of the total fine shall be imposed automatically, which total fine and penalty shall be immediately due and payable, and;
- E. Pursuant to **Colorado Racing Commission Rule #6.120**, *(Modified Effective date May 15, 2013)* When the Board or a Hearing Officer determines, in compliance with the provisions of these Rules that a violation of these Rules or of the law has occurred, the licensee shall be suspended for up to one hundred eighty (180) days.
- F. The matter will automatically be referred to the Colorado Racing Commission for such further sanction as it may deem appropriate, at which time the Licensee will be notified of the Licensee’s opportunity to appear before the Commission to show cause why the Licensee should not be sanctioned further.

Dated this 29th day of June, 2013.

BY ORDER OF THE BOARD OF STEWARDS

Robert “Duke” Mann, State Steward

Randy Blaseg, State Steward

Hank Demoney, Association Steward

BEFORE THE BOARD OF STEWARDS
COLORADO DIVISION OF RACING EVENTS

CASE NUMBER: 13-0086

SETTLEMENT STIPULATION (amended)

IN THE MATTER OF:

JUAN M. TRIANA, Licensee

License Type: Trainer

License Number: 201600118

Licensee.

On June 19, 2013, Notice of Hearing was served by hand delivery upon Juan Triana (hereafter, the "Licensee"), as trainer of the horse **BANKER BOB**.

In response to the Notice and in consideration of the costs and uncertainties of litigation, the Division of Racing Events ("the Division") and the Licensee hereby submit and agree to the following:

30. Commission Rule 5.502 states:

The trainer shall be responsible for and the absolute insurer of the condition of the animals entered for his or 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 or medication regardless of the effect on 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. "Unplaced for every purpose" means any placement based upon the race would be declared invalid and the purse or prize for any such race would be returned. "Unplaced for every purpose" includes, but is not limited to, any placement, purses or

prizes that an owner may have earned in subsequent races, for which the horse would not have been qualified due to the presence of an unauthorized medication found in a previous race. A trophy received by the owner of the animal shall be returned.

31. Commission Rule 5.500 states:

Whenever the laboratory test results are obtained as indicated herein, there shall be a rebuttable presumption that the trainer and/or assistant trainer of the animal were responsible for the administration of the unauthorized medication. At any hearing conducted to determine responsibility for the administration of any unauthorized medication, unless other evidence of sufficient credibility and weight is presented to the contrary, the Board, a hearing officer, or the Commission may make a finding in accordance with the presumption.

32. CRCR 5.612

Any horse from which a positive test sample was collected and confirmed by the Commissions' primary testing laboratory shall be placed on the veterinarian's list and must pass a Commission-approved examination before becoming eligible for entry. Subsequent laboratory testing that may be required in the approved examination process shall be at the expense of the owner or trainer of the horse. Any horse from which a positive test sample was collected and confirmed by the Commissions' primary testing laboratory in the initial sample test or in any required subsequent laboratory testing, may also be subject to disciplinary action by the stewards, a hearing officer or the Commission prior to the horse's next entry.

33. Pursuant to CRCR 5.331:

Androgenic-Anabolic Steroids (AAS)

- (1) No AAS shall be permitted in test samples collected from racing horses, except for residues of the major metabolite of Stanozolol, Nandrolone, and the naturally occurring substances, Boldenone and Testosterone, at concentrations less than the indicated thresholds.

- (2) Concentrations of these AAS shall not exceed the following urine threshold concentrations for total drug (i.e., free drug or metabolite and drug or metabolite liberated from its conjugates):
- (a) 16 β -hydroxystanozolol (metabolite of Stanozolol (Winstrol®)) – 1 ng/ml in urine for all horses regardless of sex;
 - (b) Boldenone (Equipoise® is the undecylenate ester of Boldenone) in male horses other than geldings --- 15 ng/ml in urine. No Boldenone shall be permitted in geldings or female horses.
 - (c) Nandrolone (Durabolin® is the phenylpropionate ester and decadurabolin® is the decanoate ester)
 - 1. In geldings --- 1 ng/ml in urine
 - 2. In fillies and mares --- 1 ng/ml in urine.
 - 3. In male horses other than geldings --- 45 ng/ml in urine
 - (d) Testosterone
 - 1. In geldings --- 20 ng/ml in urine
 - 2. In fillies and mares --- 55 ng/ml in urine
 - 3. In male horses other than geldings minimum thresholds will not apply
- (3) All other AAS are prohibited in racing horses.
- (4) Post-race urine samples must have the sex of the horse identified to the laboratory.
- (5) Any horse to which an anabolic steroid has been administered in order to assist in the recovery from illness or injury may be placed on the veterinarian's list in order to monitor the concentration of the drug or metabolite in urine. After the concentration has fallen below the designated threshold for the administered AAS, the horse is eligible to be removed from the list. Any laboratory testing to determine the concentration of an administered AAS shall be done at the trainer's and/or the owner's sole expense.

34. CRCR 7.200 - *(Modified Effective date May 15, 2013)*

Before a horse is eligible to race, it must be duly entered into that race. Only a licensed owner, trainer, or authorized agent may enter a horse into a race.

35. Pursuant to C.R.S 12-60-507(1)(d) the term misrepresentation is defined as follows:

“[F]raud, 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.

36. At all times relevant to this Case, **Juan M. Triana**, was licensed by the Division of Racing Events (hereafter, the “Division”) as a Trainer.

37. At all times relevant to this Case, **Mason A. King**, was licensed by the Division as an Owner.

38. The gelding, “**Banker Bob**,” ran in the **5th** race on **June 2, 2013**, at Arapahoe Park (hereafter, the “Race”).

39. **Banker Bob** finished in **1st** place in the Race.

40. According to official records of the Division, **Juan M. Triana** was the trainer of record for **Banker Bob** at the time of the Race.

41. According to official records of the Division, **Mason A. King**, was the owner of record for **Banker Bob** at the time of the Race.

42. Following the Race on **June 2, 2013**, employees of the Division took and labeled a blood and urine sample (Sample Tag # **E137782**) (hereafter, the “Sample”) from **Banker Bob** in accordance with CRCR 5.420. The Sample was properly and securely transferred to the Commission’s official chemist, Industrial Laboratories Company, Inc. (hereafter, “ILC”), an ISO-17025-compliant and A2LA-accredited laboratory.

43. ILC analyzed the Sample utilizing sample-analysis procedures consistent with the recommendations of the Association of Official Racing Chemists.
44. ILC determined that the blood Sample was positive for **Testosterone**, as certified in the Affidavit of ILC's Director of Veterinary Drug Testing, Petra G. Hartmann, dated **June 17, 2013**. The **Testosterone** was confirmed in blood and urine: 517 +/- 23 pg/ml (blood), 411 +/- 47 ng/mL (urine, as sulfate).
45. **Testosterone**, if in the form of an anabolic &/or androgenic steroid, is an unauthorized medication and is a **Class 3** drug pursuant to CRCR 5.300 and a **Penalty Class B** drug pursuant to the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances.
46. **Mason A. King** (owner) by and through his veterinarian **Dr. Robert Moak**, submitted two blood samples from **BANKER BOB** on June 26, 2013, to Colorado State University for an HCG Stimulation Test. The first blood draw was taken at 11:00 am (pre HCG) and the second draw was taken at 1:00 pm (post HCG).
47. On July 1, 2013 **Colorado State University Reproductive Endocrine Laboratory** sent the State of Colorado Division of Racing Events the results of the HCG Stimulation Test on **BANKER BOB**. The result showed the **Pre HCG result of 0.624 ng/mL** and the **Post HCG result of 0.754 ng/mL**.
48. **Colorado State University Reproductive Endocrine Laboratory** places the normal range of testosterone as follows: **in a stallion (at greater than) > 0.5 ng/mL**; in a cryptorchid (at greater than) > 0.1 ng/mL; and in a gelding (at less than) < 0.1 ng/mL.
49. **The HCG Stimulation Test** result determines **BANKER BOB is considered a stallion** with regards to his testosterone production.
50. Taking into consideration that the HCG Stimulation results indicate the testosterone production of a stallion, it can be inferred this result is naturally occurring and not from an anabolic steroid. As such, the Division will at this time and for purposes of the stipulation modify the charges relating to a medical violation in this case. The Division takes note that **BANKER BOB** has been on the Vet's list for more than 4 days. **The Division will request that the Division Vet will remove BANKER BOB from the Vet's list.**
51. However, the trainer Juan Triana did not duly enter **BANKER BOB** in the correct race category, through an omission of a material misrepresentation of fact on the entry card. Whether such misrepresentation is intended or willful is not at issue. Even an **omission of fact is sufficient to constitute fraud or misrepresentation** under C.R.S 12-60-507(1)(d). Therefore the omission of fact, that **BANKER BOB** is not a Gelding, made on

the entry card, means the horse is hereby deemed ineligible from the 5th race on June 2, 2013, at Arapahoe Park (hereafter, the "Race").

52. The trainer Juan Triana is **fined \$100 (One Hundred) all of which to be held in abeyance**, provided that there are no more violations of this type for the remainder of the 2013 Arapahoe Park racing season. Should there be a violation, this fine is due and payable in addition to any other fines incurred.
53. **BANKER BOB will be reclassified as a Ridgling** for future races, until such time as he is medically conditioned to change into another category. Even though he is producing the testosterone levels of a stallion, for breeding purposes he would be classified as a Ridgling. In the event, another medical castration procedure is given to BANKER BOB, it would be advisable to as not to repeat this type of violation, to have another HCG Stimulation test done.
54. Because **BANKER BOB**, is hereby deemed ineligible from the 5th race on June 2, 2013, at Arapahoe Park (hereafter, the "Race"), the horse will be **disqualified and the purse redistributed**.
55. Licensee and the Division expressly agree and acknowledge that each has entered into this Stipulation and Agreement knowingly and voluntarily. Licensee hereby acknowledges that he has had the opportunity to discuss this Settlement Stipulation with an attorney of his choice at his own expense prior to signing this Settlement Stipulation, and that he has voluntarily executed this Settlement Stipulation and understands the legal consequences of this Settlement Stipulation. Licensee acknowledges and agrees that no promise, threat, or inducement of any kind has been made to cause him/her to enter into this Settlement Stipulation.
29. Licensee and the Division agree that, upon execution of this Stipulation and Agreement, no subsequent action or assertion shall be maintained or pursued by the Division or by Licensee asserting the invalidity in any manner of this Settlement Stipulation.
35. Both the Licensee and the Division knowingly and voluntarily enter into this Settlement Stipulation. With regard to this case filed by the Division, Licensee understands and knowingly and voluntarily waives the following rights:
 - e. The right to a formal hearing on the merits of the matters forming the basis of this Settlement Stipulation with respect to the case and the right to require the Division to meet its burden of proof in a formal hearing.
 - f. The right to confront and cross-examine all witnesses against the Licensee at a formal hearing.

Randy Blaseg, State Steward

Hank Demoney, Association Steward

*Note: This Settlement Stipulation contained a clerical error in the final paragraph, containing the name Temple Rushton in error. Please disregard this error on the prior version signed by Juan M. Triana and Mason A. King. It was an erroneous error, and is not material to the contents of this Stipulation Agreement.

BEFORE THE BOARD OF STEWARDS
COLORADO DIVISION OF RACING EVENTS

CASE NUMBER: 13-0086

RULING # 13-04: RULING AND PURSE REDISTRIBUTION – BANKER BOB

IN THE MATTER OF:

JUAN M. TRIANA, Licensee
License Type: Trainer
License Number: 201600118

Licensee.

13. The horse called "**BANKER BOB**" was the **1st place** finisher of the 5th race on June 2, 2013 at Arapahoe Park (hereafter, the "Race").
14. According to official records of the Division, **Juan M. Triana** was the trainer of record for **Banker Bob** at the time of the Race.
15. According to official records of the Division, **Mason A. King**, was the owner of record for **Banker Bob** at the time of the Race.
16. Following the Race on **June 2, 2013**, employees of the Division took and labeled a blood and urine sample (Sample Tag # **E137782**) (hereafter, the "Sample") from **Banker Bob** in accordance with CRCR 5.420. The Sample was properly and securely transferred to the Commission's official chemist, Industrial Laboratories Company, Inc. (hereafter, "ILC"), an ISO-17025-compliant and A2LA-accredited laboratory.
17. Industrial Laboratories Company, Inc., official chemist for the State of Colorado, Department of Revenue, Division of Racing Events reported that the post-race blood sample of the horse contained Testosterone as certified in the Affidavit of the ILC's Director of Veterinary Drug Testing, Petra G. Hartmann, dated June 17, 2013. The **Testosterone** was confirmed in blood and urine: 517 +/- 23 pg/ml (blood), 411 +/- 47 ng/mL (urine, as sulfate).
18. ILC analyzed the Sample utilizing sample-analysis procedures consistent with the recommendations of the Association of Official Racing Chemists.
19. **Testosterone**, if in the form of an anabolic &/or androgenic steroid, is an unauthorized medication and is a **Class 3** drug pursuant to CRCR 5.300 and a **Penalty Class B** drug pursuant to

the Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances.

20. **Mason A. King** (owner) by and through his veterinarian **Dr. Robert Moak**, submitted two blood samples from **BANKER BOB** on June 26, 2013, to Colorado State University for an HCG Stimulation Test. The first blood draw was taken at 11:00 am (pre HCG) and the second draw was taken at 1:00 pm (post HCG).
21. On July 1, 2013 **Colorado State University Reproductive Endocrine Laboratory** sent the State of Colorado Division of Racing Events the results of the HCG Stimulation Test on **BANKER BOB**. The result showed the **Pre HCG result of 0.624 ng/mL** and the **Post HCG result of 0.754 ng/mL**.
22. **Colorado State University Reproductive Endocrine Laboratory** places the normal range of testosterone as follows: **in a stallion (at greater than) > 0.5 ng/mL**; in a cryptorchid (at greater than) > 0.1 ng/mL; and in a gelding (at less than) < 0.1 ng/mL.
23. **The HCG Stimulation Test** result determines **BANKER BOB is considered a stallion** with regards to his testosterone production.
24. Taking into consideration that the HCG Stimulation results indicate the testosterone production of a stallion, it can be inferred this result is naturally occurring and not from an anabolic steroid. As such, the Division will at this time and for purposes of the stipulation modify the charges relating to a medical violation in this case. The Division takes note that **BANKER BOB** has been on the Vet's list for more than 4 days. **The Division will request that the Division Vet will remove BANKER BOB from the Vet's list.**
25. However, the trainer Juan Triana did not duly enter **BANKER BOB** in the correct race category, through an omission of a material misrepresentation of fact on the entry card. Whether such misrepresentation is intended or willful is not at issue. Even an omission of fact is sufficient to constitute fraud or misrepresentation under C.R.S 12-60-507(1)(d). Therefore the fact, that **BANKER BOB is not a gelding**, made on the entry card, means the horse is hereby deemed ineligible from the 5th race on June 2, 2013, at Arapahoe Park (hereafter, the "Race").
26. The trainer Juan Triana is **fined \$100 (One Hundred) all of which to be held in abeyance**, provided that there are no more violations of this type for the remainder of the 2013 Arapahoe Park racing season. Should there be a violation, this fine is due and payable in addition to any other fines incurred.
27. **BANKER BOB will be reclassified as a Ridgling** for future races, until such time as he is medically conditioned to change into another category. Even though he is producing the testosterone levels of a stallion, for breeding purposes he would be classified as a Ridgling. In the event, another medical castration procedure is given to **BANKER BOB**, it would be advisable to as not to repeat this type of violation, to have another HCG Stimulation test done.

28. Because **BANKER BOB**, is hereby deemed ineligible from the 5th race on June 2, 2013, at Arapahoe Park (hereafter, the "Race"), the horse will be **disqualified and the purse redistributed**.
29. Following a settlement conference held in this regard on July 2, 2013, prior to which the Licensee stipulated to a basis in fact for an omission which resulted in the misrepresentation of a material fact and to the penalty and redistribution of the purse from the aforementioned race. Even an omission of fact is sufficient to constitute fraud or misrepresentation under C.R.S 12-60-507(1)(d). Therefore the omission of fact, that **BANKER BOB is not a gelding**, made on the entry card, means the horse is hereby deemed ineligible from the 5th race on June 2, 2013, at Arapahoe Park (hereafter, the "Race").
30. The Board of Stewards ("the Board") issued its Ruling and Purse Redistribution #13-04, imposing a **fine of \$100.00 (One Hundred) all of which to be held in abeyance**, provided that there are no more violations of this type for the remainder of the 2013 Arapahoe Park racing season. Should there be a violation, this fine is due and payable in addition to any other fines incurred.
31. CRCR 7.200 - *(Modified Effective date May 15, 2013)*

Before a horse is eligible to race, it must be duly entered into that race. Only a licensed owner, trainer, or authorized agent may enter a horse into a race.

32. Pursuant to C.R.S 12-60-507(1)(d) the term misrepresentation is defined as follows:

"[F]raud, 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.

33. In the Settlement Stipulation reached by and between the Licensee and the Division of Racing Events ("the Division"), Licensee waived all appeal rights in this regard.
34. This Ruling and Purse Redistribution was issued to Juan M. Triana as trainer and Mason A. King as owner of **BANKER BOB**, and thus ordering the disqualification of **BANKER BOB** from the race.

THEREFORE, pursuant to the Settlement Stipulation, The Board's Ruling #13-04 and the provisions Colorado Revised Statute §12-60-507(1)(d) and CRCR 7.200, due to the fact there was a material misrepresentation on the entry card which makes the horse ineligible for the

aforementioned race, the horse BANKER BOB is hereby DISQUALIFIED and declared UNPLACED from the Race. The new order of finish is as follows:

- 1- FINEWINEATNINE
 - 2- HESA TRIP
 - 3- FUZZY LOVIN
 - 4- NO DOUBLE DIPPEN
- DQ - BANKER BOB
SCRATCHED – QUEENS PRIZE

This ruling shall not affect the pari-mutuel wagering of the race.

Based upon the LOSS OF PURSE, DISQUALIFICATION and UNPLACED status of BANKER BOB C.R.S. §12-60-507(1)(d) and CRCR 7.200, return and collection of any purse or prize monies distributed to the Jockey John Rochabrun, of the horse BANKER BOB in the 5th race on June 2, 2013 at Arapahoe Park is required and hereby authorized and ordered.

ACCORDINGLY, all purse and prize monies shall be dispersed according to the new order of finish.

FINALLY, in furtherance of the provisions of the Board's Ruling #13-04 signed by the Board of Stewards, notice of which has been given by mail to the Licensee and Owner, the Arapahoe Park track record shall be amended and corrected to remove any racing industry achievement or recognition accomplished by BANKER BOB in the 5th race on June 2, 2013 at Arapahoe Park.

IT IS SO ORDERED this _____ day of _____, 2013

BY ORDER OF THE BOARD OF STEWARDS

Robert "Duke" Mann, State Steward

Randy Blaseg, State Steward

Hank Demoney, Association Steward

Thanks to Mr. Seymore for Hosting the Meeting

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

Adjournment of Regular Business Meeting

There being no further business to consider, the meeting was adjourned by acclamation at 10:40 am.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on
XXXXXXXXXXXXXXXXXXXX in XXXXXXXXXXXXXXXXXXXXXXX.

The undersigned hereby approve the foregoing Minutes.

MARY SHARON WELLS, CHAIR

SEANE BEIRNE, VICE-CHAIR

CHARLES VAIL, DVM, MEMBER

CINDY DAY, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, October 8, 2013 in Conference Room 110 (Enforcement Conference Room) at 1881 Pierce Street, Lakewood, Colorado. Chairwoman Mary Sharon Wells called the meeting to order at 9:30 a.m.

Members Present

Mary Sharon Wells, Chairwoman
Cindy Day, Member

Commissioners Sean Beirne and Charles Vail, DVM, participated in the meeting via teleconference calls. (Commissioner Beirne was in attendance at the outset of the meeting. Commissioner Vail joined the session at approximately 10:00 a.m.)

Staff Present

Dan Hartman, Director, Division of Racing Events
Mark Brown, Enforcement Supervisor/Acting Racing Coordinator
Robert "Duke" Mann, Senior State Steward
Ashley Leary, Division Investigator
Pam Kilgore, Division Auditor
Melissa Anderson, Legal Assistant
Charmaine Rose, Assistant Attorney General representing the Division of Racing Events
Sherry Gunnell, Assistant to the Division Director

Also Present

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

Approval of Minutes of July 9, 2013

A motion was thereupon made by Commissioner Day, seconded by Commissioner Beirne and unanimously carried to approve the minutes of July 9, 2013 as submitted.

Consideration of Report and Recommendation of the Race Review Committee: In the Matter of the Disqualification of the Horse, "ONE FAMOUS FIRE" – Dan Hartman

As a preliminary matter, Division Director Dan Hartman provided a brief history concerning the establishment of the "Race Review Committee". He advised that, approximately five years ago, the Commission had adopted a rule that declared that the decisions of the Board of Stewards with respect to race-related matters were final and could not be appealed to the Commission. The purpose for the adoption of the rule was to relieve the Commission of the burden of having to review races and make decisions regarding them after the Board had already ruled on them. However, the rule created dissent and controversy among members of the horse racing community and, therefore, in order to preserve the rights of anyone who wished to object to a Board decision regarding the running or outcome of a race, the Commission instituted the "Race Review Committee", a three-member body composed of a representative of the Association, a representative of the Colorado Horse-Racing Association and a representative of the Division of Racing Events. The "Race Review Committee", acting exclusively in an advisory capacity, was assigned the responsibility for reviewing videotapes of the race in question and rendering a decision either in support of or in opposition to the finding of the Board of Stewards. The party who objected to the Board's decision was then allowed to appeal the decision of the "Race Review Committee" and to be heard by the Commission, if he/she desired. However, in the event that no further objection was made, the report and recommendation of the Race Review Committee was brought before the Commission for final agency action. Mr. Hartman stated that each "Race Review Committee" has been attentive to and deliberate in the performance of its duties and the

Commission has been very pleased with how well the “Race Review Committee” concept has been implemented.

Mr. Hartman advised the Commission that, on August 7, 2013, the Race Review Committee had met and conducted a hearing in the matter of Case No. 13-0705, the objection of Owner/Trainer Jose Barron to the decision of the Arapahoe Park Board of Stewards in Ruling #13-05 issued on August 2, 2013. The decision of the Board of Stewards in Ruling #13-05 had been to disqualify the horse, “ONE FAMOUS FIRE”, which ran in post position #8 in the 8th race on August 2, 2013 and was the original first place finisher in the race, and place it behind BLUE EYED VISIONS, which ran in the post position #9 in the subject race and finished in tenth place. On August 4, 2013, Mr. Barron filed a Statement of Objection under Colorado Racing Commission Rule #6.401.

Mr. Hartman presented for Commission consideration the following background information relating to this matter:

- 1) That, on August 2, 2013, the Board of Stewards at Arapahoe Park issued Ruling #13-05, “Disqualification on Straightaway”;
- 2) That the Board in the Disqualification Ruling disqualified the horse, “ONE FAMOUS FIRE”, racing in the 8th post position in the 8th race at Arapahoe Park Racetrack on August 2, 2013 and established a new official order of finish for the subject race;
- 3) That, prior to the Disqualification Ruling, “ONE FAMOUS FIRE” had finished in first place in the subject race. As a result of the Disqualification Ruling, “ONE FAMOUS FIRE” was demoted to tenth place in the subject race behind the horse “BLUE EYED VISIONS”;
- 4) That, on August 4, 2013, Jose Barron, a duly licensed Owner/Trainer in good standing with the Colorado Division of Racing Events and the trainer of record for the horse “ONE FAMOUS FIRE” filed a Statement of Objection with respect to the Disqualification Ruling. According to the Official Records of the Division, the duly licensed owner of the horse, “ONE FAMOUS FIRE”, at the time of the subject race was Hugo Sierra Barron and Alejandro Luna, a duly licensed jockey, was the rider aboard “ONE FAMOUS FIRE” in the subject race.
- 5) That the Director of the Division of Racing Events performed the required review of the Objection for compliance with the “Race Review Committee Policy and Procedural Directive” and determined that the Division must establish and convene a Race Review Committee;
- 6) In response to the Objection, the Division established the Committee in accordance with the terms and guidelines of the Policy and set the hearing for August 7, 2013 at 2:00 p.m. at the Office of the Board of Stewards. The members of the Committee were: Robert J. (“Duke”) Mann (Division of Racing Events), Kenneth B. (“Bruce”) Seymore (Executive Director of Colorado Operations for Arapahoe Park and Mile High USA) and Reed Jenkins (Horsemen’s Representative Appointee).
- 7) Mr. Robert J. (“Duke”) Mann acted as the Chairperson of the Race Review Committee.

Mr. Hartman advised the Commission that, after thorough review and after concluding that the Trainer’s Objection failed to set forth a meritorious claim, it was the unanimous decision of the Race Review Committee to recommend that the Colorado Racing Commission uphold the decision of the Board of Stewards and retain the Board’s Ruling #13-05 with the results the Board determined to be correct. Mr. Hartman noted that Mr. Barron, the Trainer of the Horse, “ONE FAMOUS FIRE”, waived his right to reconsideration by not filing a response to the outcome specified in the Race Review Committee’s Report and Recommendation.

In accordance with Section III(J)(I) of the Race Review Committee Policy and Procedural Directive, the Commission is required “to take final agency action on any Objection that has progressed through the Committee process to Commission review. . .”. Thereupon, Mr. Hartman requested and recommended that the Commission accept the recommendation of the Race Review Committee at this time.

After being advised by Mr. Hartman that the deliberation and decision-making process of the Race Review Committee in the aforementioned matter had been properly executed and that no objections had been raised to the decision of the Race Review Committee, a motion was made by Commissioner Day, seconded by Commissioner Beirne and unanimously carried to accept the report and adopt the recommendation of the Race Review Committee in the matter of the horse, "ONE FAMOUS FIRE".

Therefore, the official order of finish for the 8th race on August 2, 2013 shall be the following:

- First Place: "COLEIDASCOPE"
- Second Place: "CORONAS FIRST DREAM"
- Third Place: "IM A SPECIAL DIP"
- Fourth Place: "BOBCAT FLATS"
- Fifth Place: "TYME FOR A CORONA"
- Sixth Place: "RUNNIN NAKED"
- Seventh Place: "OCEANS OF BLISS"
- Eighth Place: "IM HAYLEY TWO"
- Ninth Place: "BLUE EYED VISIONS"
- Tenth Place: "ONE FAMOUS FIRE"

End of Meet Report – Arapahoe Park’s 2013 Live Race Meet – Mark Brown

Mr. Mark Brown, Division Coordinator, presented his end of meet report for Arapahoe Park’s 2013 live race meet. Ms. Kathy Keeley, Mutuel Manager/Money Room Manager, and Mr. Gil Romero, Assistant Racing Secretary at Arapahoe Park appeared on behalf of the Association. Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, appeared on behalf of the Arapahoe Park horse racing community.

In his report, Mr. Brown advised that the thirty-nine (39) day live meet at Arapahoe Park commenced on May 25, 2013 and concluded on August 18, 2013. Notice was taken that Arapahoe Park had been granted permission by the Division of Racing Events to run ten (10) races instead of nine (9) beginning on July 19, 2013 until the end of the meet. Eighty-six (86) days of out-of-state simulcasting of pari-mutuel horse and greyhound racing were also offered during the live meet.

Mr. Brown provided various audited statistics for the 2013 live race meet, including those for out-of-state horse simulcasting, along with comparative figures for the 2012 live and simulcast race meet. Mr. Brown observed that this year’s total mutuel handle, including simulcasting, was \$21,037,027, a slight increase from the 2012 total mutuel handle of \$20,940,799. In his report, Mr. Brown indicated that the total number of live races in 2013 was 366 and that there were a total of 12,662 simulcast races offered during the live season. Additionally, he commented that the total horse/greyhound simulcast handle was \$6,980,744. The average number of live races per day in 2013 was 9.4. Additionally, Mr. Brown observed that the 2013 live handle at Arapahoe Park was \$5,974,067; that the 2013 in-state live handle was \$2,543,538; that the out-of-state live portion was \$3,430,529; and that the on-track live handle was \$2,108,149. He offered the following average daily handle figures for 2013: 1) the average daily handle on-track was \$54,055; 2) the average daily handle in-state was \$65,219; 3) the average daily out-of-state handle was \$87,962; and 4) that this season’s average daily total handle was \$153,181.

Mr. Brown provided the following statistics relating to disbursement of purses by breed of race:

	<u>Races</u>	<u>Purses Paid with Fees Added</u>
Thoroughbred	250 (68%)	\$2,964,905
Quarter Horse	90 (25%)	\$1,140,740
Arabian	25 (7%)	\$ 254,000
Totals	<hr style="width: 100%; border: 0.5px solid black;"/> 365	<hr style="width: 100%; border: 0.5px solid black;"/> \$4,359,645

Mr. Dan Hartman, Director of the Division of Racing Events, apprised the Commission that, during the 2013 live racing season, the number of positive tests was significantly lower than in previous years. He stated that he believed that this reduction was, at least, partially attributable to the Division's testing program and test barn policies. He commented that the patrons, Association management and horse-racing community members have endorsed the Division's efforts to improve equity and fairness in racing by implementing and/or continuing such practices as: 1) having witnesses present during the administration of Lasix (Furosemide); 2) permitting pre-race drug screen testing; 3) continuing utilization of the guideline pertaining to therapeutic drug/medication withdrawal times; and use of the form created to ensure proper designation of a horse to the Division of Racing Events' Veterinarian's List; delegation of authority (pursuant to Colorado Racing Commission Rule #5.611) by the Division's veterinarian; and proper designation of a horse to the Division of Racing Events' Veterinarian's List; delegation of authority pursuant to Colorado Racing Commission Rule #5.611 by the Division's Veterinarian; and adherence to the Commission-approved policy/procedure regarding examinations to establish eligibility for entry of a horse into a race.

Mr. Brown recommended that the Division discontinue full screens and research testing. Mr. Hartman expressed his belief that full screens may have been used by certain veterinarians to attempt to determine timelines for administration of medications/substances.

INJURIES TO HORSES (Racing and Training-Related):

Mr. Brown presented the following racing and training-related injury statistics and observed that the injury rate is significantly lower than in 2012:

	<u>2012</u>	<u>2013</u>
Total Starts	2994	3100
Total Injuries	76	26
Career ending injuries*	3	3
Catastrophic*	5	5
Died or Euthanized due to sickness or accident (Non-Racing Related)	8	7

*Catastrophic means that the horse died as a result of a racing-related injury. Career-ending means that a horse is injured so severely that it is no longer able to race, but is not euthanized.

TESTING:

For the 2013 race meet, Mr. Brown reported that the veterinary staff took 588 total samples from all first-place winning horses and randomly selected horses from the racetrack.

MEDICATION VIOLATIONS:

Mr. Brown indicated that Industrial Laboratories reported a total of five (5) positive tests resulting in four (4) unauthorized medication violations during the 2013 meet, which violated Colorado Racing Commission Rule No. 5.301 – Unauthorized Medication. The medication violation breakdown is as follows:

- ***Flunixin and Phenylbutazone*** (both found in blood sample);
- ***Clenbuterol***;
- ***Prednisone/Prednisolone***; and
- One ***Phenylbutazone*** threshold overage pursuant to Colorado Racing Commission Rule #5.312

TEST BARN:

Mr. Brown reported that the Division and the Racing Association had continued to work together to address any maintenance issues that arose during the 2013 meet. He noted that some concerns were addressed by the Track Superintendent and Arapahoe Park management to ensure a safe and secure environment for the horses, trainers and their employees and for Division Test Barn personnel while they were performing their duties.

In his report, Mr. Brown recommended that Arapahoe Park continue or implement certain improvements and practices for and during its 2014 live race meet. These include, but are not limited to the following: 1) ensure that the walking surface continues to have dirt and ground rubber added at the beginning of and throughout the live race meet; 2) ensure that dirt is added to the inside of the testing stalls; 3) resurface the wash rack area; 4) have maintenance performed on the misting system; 5) provide stall shade cover on the west side; 6) maintain proper water drainage behind the wash rack area; and 7) maintain the oscillating fans. Mr. Brown observed that Division Veterinarian Joni Smith, who was unable to attend today's meeting, would be submitting additional recommendations for items to be addressed during the off-season.

BOARD OF STEWARDS & REPORT OF ADMINISTRATIVE VIOLATIONS:

The Board of Stewards for 2013 was composed of: Senior State Steward Robert "Duke" Mann, State Steward Randy Blaseg and Association Steward Hank Demoney. The Board issued nine (9) administrative rulings and three (3) administrative citations. One (1) Race Review Committee hearing was conducted which upheld the decision of the Board of Stewards. The total amount of fines assessed to date from these rulings and citations was \$2,550.00.

DIVISION RANDOM DRAW – HUMAN DRUG AND ALCOHOL TESTING:

The Division of Racing Events performed random drug testing pursuant to Colorado Racing Commission Rule No. 3.437 during Arapahoe Park's 2013 race meet. The policy for the performance of this testing was the same as last year. A representative from the Colorado Horse-Racing Association or Arapahoe Park witnessed the drawing of the names. Five (5) lists were generated from the license validation files. From these five (5) lists, one name was drawn for each of the five (5) days, Wednesday through Sunday, for the five (5) different job categories listed below:

- Trainers, Assistant Trainers, Owners/Trainers (164);
- Jockeys (46);
- Exercise Riders, Pony Persons and Miscellaneous (42);
- Grooms (97); and
- Racing Officials (83)

Mr. Brown observed that a total of sixty (60) random drug tests were conducted resulting in one positive test result for BZD (Benzodiazepine). For a total of seven (7) days during the meet, no random drug tests were conducted due to the unavailability for testing of those whose names.

The Commission commended Arapahoe Park and the horse-racing community for supporting these programs and encouraging their perpetuation.

LICENSING:

The following licensees were issued and validated during the meet with the resultant fees being collected:

• 4	Key Applications	\$300.00
• 6	Minor Business Applications	\$1,180.00
• 493	Support (3 year) Applications	\$10,030.55
• 192	Registration (1 year) Applications	\$1,564.80
• 3	Additional licenses	\$30.00
• 43	Duplicate Badges	\$430.00
<hr/>		<hr/>
Total:	741	\$13,535.35

STABLE INSPECTIONS:

Pursuant to Colorado Revised Statutes 12-60-501(a) and (b), the Division conducted a total of 107 barn/trainer inspections, including the required pre-meet inspection. All physical problems found during these inspections were reported via memorandum to the backside maintenance manager. Work orders were also made available to trainers, who had specific problems in their stable areas that needed to be addressed. Mr. Brown commented that Division Investigators Ashley Leary and William Johnson had ably performed the stable inspections.

Mr. Brown offered the following recommendations for improvements to be made in the stalls and stable area: 1) prior to the 2014 racing season, the Association needs to bring in dirt to level out the ground in the stalls. Mr. Brown stated that he had received complaints from horsemen regarding the significant number of holes in the stalls; 2) some electrical outlets in most barns need to be repaired or replaced; 3) overhead light fixtures in most barns need to be inspected and, most likely, would require repair or replacement; 4) gutters in most barns need to be repaired or replaced due to drainage problems; 5) the number(s) on the outside of barns 14 and 16 have worn off and need to be repainted; 6) grating and holes need to be filled in on the south and west side road of barns 29 and 33, on the south side of barn 7 and in the road surrounding the RV park. The Commission took notice of these recommendations and observed that the Division would be ensuring compliance with them during its pre-meet inspection.

COMMISSION REQUEST – COMPLIANCE WITH RULES:

Comments were made in response to Commissioner Beirne’s request for a follow-up report on the impact of the modifications made to Colorado Racing Commission Rule 7.200, which became effective on May 15, 2013. The modified rule eliminated the provisions for jockey agents to enter horses into races. Mr. Brown and Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, stated that not only were there no issues or problems reported concerning the effect of the rule modification, but, according to Mr. Rushton, races that had failed to fill in the past had done so due to this modification. He stated that he believed that the rule change had had a positive impact.

ARAPAHOE PARK ASSOCIATION:

RACETRACK: The Track Superintendent and his staff continued to maintain a safe racetrack on extreme weather days. No water well issues were reported during the meet. No major complaints regarding the racing surface were reported to Arapahoe Park management, the Track Superintendent or the Division.

RACING OFFICIALS: The Clerk of Scales tagged randomly selected horses to be tested that were coming off of the racetrack. No significant problems were reported. Mr. David Vobach, the Clerk of Scales, continued to ensure that all horses that were randomly selected by the Board of Stewards and/or the Division Veterinarian were properly tagged prior to reporting to the Division’s Test Barn for post-race testing.

DIVISION OF RACING EVENTS OFFICES: The Commission and Mr. Brown commended the Association's upgrades to the Division offices. They thanked the Association for doing such fine work in painting the floors and walls and installing a new door inside the offices. Additionally, the Association handled effectively any maintenance issues that were raised relating to the Division's offices and their internal facilities. Mr. Brown recommended that, because the air conditioning unit failed to work properly, it should be repaired or replaced before the commencement of the 2014 meet.

ARAPAHOE PARK RACING OFFICE: Arapahoe Park continued to use the Incompass Software for accepting entries and preparing programs. Mr. Brown commended Ms. Dakotah Muniz, who served in the Racing Office, for providing a timely initial proof of the entries and jockeys to the Division and, in this way, afforded the Board of Stewards sufficient time to complete their review in compliance with the Division's licensing policies. Mr. Brown observed that the Division's Licensing personnel discovered some typographical errors and misspellings in the program. He recommended that continued cooperation and good communication be encouraged between the Racing Office staff and the Division's Licensing staff to resolve such issues in the future.

ARAPAHOE PARK SECURITY: Mr. Brown advised the Commission that Mr. Keith Munson served as the Security Director for the 2013 meet. Mr. Munson appointed two supervisors to handle incidents and staffing needs in the grandstand and stable gate/backside areas. An off-duty Arapahoe County Sheriff was hired to assist in crowd control, routine patrol of the parking lot and to perform surveillance on the backside. Division Investigators performed random checks of the barn area for the purpose of citing unlicensed individuals and finding violators/violations of Division policies. During the meet, several persons were escorted out of the barn area for failing to be licensed, for failure to have visitor's passes and/or for violating Arapahoe Park's and/or Division's rules and policies. Overall, no major incidents were reported to either the Division Enforcement staff or the Board of Stewards.

Mr. Brown expressed his appreciation to Mr. William Powers, Arapahoe Park's Director of Racing and Plant Facilities Manager, and to Mr. Bruce Seymore, Executive Director of Colorado Operations for Arapahoe Park/Mile High USA, for their cooperation and assistance throughout the meet. He thanked all of the Arapahoe Park and Division staff members and the members of the Arapahoe Park horse-racing community for their support and cooperation during Arapahoe Park's 2013 live race meet. Mr. Brown stated that Arapahoe Park's 2013 season had been extremely successful thanks to all concerned. The Commission commended everyone associated with and involved in conducting and regulating the 2013 Arapahoe Park meet. Mr. Hartman commented that the Division staffing reorganization that was implemented this year had proved to be successful and beneficial and he was pleased with the camaraderie and cooperation among staff members.

A motion was made by Commissioner Day, seconded by Commissioner Beirne and unanimously carried to approve all of Mr. Brown's recommendations and to accept his End of Meet Report for Arapahoe Park's 2013 live racing season as presented. The Commission thanked Mr. Brown for his comprehensive report.

Approval of 2014 Commission Meeting Dates

Mr. Dan Hartman, Director of the Division of Racing Events, apprised the Commission that he had been notified by Commissioner Vail that he would not be available to attend meetings on some of the proposed 2014 Commission meeting dates. Therefore, Mr. Hartman recommended that the Commission defer scheduling its 2014 meeting dates until its Tuesday, February 11, 2014 meeting at which time the remaining 2014 Commission meeting dates could be selected. After taking notice that each Commissioner would be available to meet on Tuesday, February 11, 2014, this matter was held over until that time.

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

As a preliminary matter, Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that, based upon a statutory change made by the Colorado Legislature during its 2013 session, the Colorado Racing Commission is no longer empowered to consider requests based solely upon promotional activities/events. He stated that the Fund is now exclusively dedicated to providing financial support to greyhound welfare and adoption groups/organizations.

Mr. Hartman reported that the Division is in receipt of four applications for release of money from the Greyhound Purse, Welfare and Adoption Fund. He observed that the requesting organizations are: 1) Colorado Greyhound Adoption; 2) Friends of Retired Greyhounds; 3) Greyhound Connection; and 4) Rocky Mountain Greyhound Adoption, Inc. He observed that he and Division Auditor Pam Kilgore have reviewed these applications. He apprised the Commission that, currently, there was approximately \$40,000 in the Fund.

Mr. Hartman explained that the Division is using the new distribution methodology discussed and adopted at the Commission's February 2013 meeting. The methodology reimburses organizations based on the number of greyhounds placed in the six-month application period divided into the available amount of fund money. He stated that, during the subject six-month period, there were 256 greyhounds placed by the applicants. This would mean that the organizations would receive \$156.25 per placed greyhound ($\$40,000/256=\156.25). Before distribution of money from the fund, the Division would again review the paperwork from the requesting organizations to ensure that accurate numbers have been reported and used in all calculations.

Mr. Hartman informed the Commission that the other applications meet the criteria set forth in the Commission's rules. The following applications included requests for specific dollar amounts: Colorado Greyhound Adoption has requested \$20,000; and Rocky Mountain Greyhound Adoption, Inc. has requested \$5,000. Both Friends of Retired Greyhounds and Greyhound Connection requested unspecified dollar amounts commensurate with the number of greyhounds cared for and placed by the organizations. Each of the aforementioned organizations has previously received Fund money. Notice was taken that a previous recipient of Fund money, Recycled Racers, did not submit an application.

Mr. Hartman commended the dedication and commitment of each of the referenced greyhound welfare and adoption organizations for ensuring that many greyhounds that might otherwise be abandoned or mistreated receive ongoing proper care, treatment and affection. Mr. Hartman advised that the Fund was originally established by enactment of Senate Bill 09-174 subsequent to the cessation of live greyhound racing in Colorado in 2008. Prior to that time, the greyhound racetrack had brought in out-of-state simulcasts of greyhound races and the horse racetrack had offered out-of-state simulcasts of horse races. However, the aforementioned legislative change enabled the horse racetrack, Arapahoe Park, to apply to bring in out-of-state simulcasts of greyhound races as well as simulcasts of horse races since there was no active greyhound racetrack in the state. The revenue derived from greyhound simulcasting was treated in the same manner as the revenue generated from horse simulcasting and was then distributed to various accounts, such as those to augment purses as well as the Colorado State University Equine Research Fund.

In accordance with the recommendation of the Division of Racing Events to the Commission for disbursement of \$40,000 from the Greyhound Purse, Welfare and Adoption Fund, a motion was made by Commissioner Day, seconded by Commissioner Beirne and unanimously carried to approve the release of the following amounts from the subject Fund:

• To Colorado Greyhound Adoption:	\$ 12,813.00
• To Friends of Retired Greyhounds:	\$ 7,344.00
• To Greyhound Connection:	\$15,938.00
• To Rocky Mountain Greyhound Adoption, Inc.	\$ 3,906.00
	\$40,000.00

(At approximately 10:00 a.m., Commissioner Vail joined the meeting via teleconference call.)

Presentation of Request from Greyhound Hall of Fame for Release of Money from the Greyhound Purse, Welfare and Adoption Fund – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission that the Division had received a request for release of \$3,136.00 from the Greyhound Hall of Fame. He explained that, pursuant to Colorado Racing Commission Rules #9.400 and #9.410 relating to the distribution of money from the Greyhound Purse, Welfare and Adoption Fund and subject to modifications to Fund distribution criteria set forth in enacted Senate Bill 13-179, he did not believe this request would meet the criteria to qualify to receive Fund money. He recommended that the subject request be denied at this time.

However, Mr. Hartman observed that he is aware that the Greyhound Hall of Fame supports greyhound welfare and provides a kiosk that offers information concerning the availability of greyhounds for adoption. In light of this, Mr. Hartman advised that the Division would correspond with the Greyhound Hall of Fame and recommend that any future applications from this organization for the release of Fund money be modified to reflect tangible results citing numbers of greyhounds helped or adopted through the organization's work. He noted that this would enable the Colorado Racing Commission to consider the possibility of funding their efforts.

The Commission endorsed Mr. Hartman's proposal and encouraged the Division to continue to engage in a dialogue with representative(s) of the Greyhound Hall of Fame and assist them with the preparation of any future applications for release of money from the Greyhound Purse, Welfare and Adoption Fund.

Recognition of Mr. Bill Lee, Former Assistant General Manager of Mile High Greyhound Park – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, advised the Commission that Mr. Bill Lee, who was formerly Assistant General Manager of Mile High Greyhound Park, was being inducted into the Greyhound Hall of Fame at its upcoming meeting. The Commission and Mr. Hartman acknowledged Mr. Lee's dedicated service to the greyhound racing industry and his commitment to the citizens of Colorado. The Commission directed that the Division send a congratulatory letter to Mr. Lee in recognition of this many contributions and in acknowledgment of this prestigious honor.

(At approximately 10:15 a.m., Commissioner Beirne excused himself from the remainder of the meeting.)

Announcement Regarding Decisions of the Colorado Court of Appeals in Colorado Racing Commission Case Numbers 11-0869, 11-0895 and 11-0870

Mr. Dan Hartman, Director of the Division of Racing Events, advised that, on August 15, 2013, the Colorado Court of Appeals had announced and issued its decisions in Colorado Racing Commission Case Numbers 11-0869 (Wesley Giles, Melvin Neugebauer and Marty Neugebauer, Petitioners-Appellants), 11-0895 (Elizabeth Brand, Petitioner-Appellant) and 11-0870 (Farrell Christoffersen and Willard Burbach, Petitioners-Appellants). He stated that the Colorado Court of Appeals had affirmed the orders of the Colorado Racing Commission and had found as follows: 1) that the Colorado Racing Commission did not act arbitrarily in finding violations for

administering Methylprednisolone to the horses; and 2) that the Colorado Racing Commission did not act arbitrarily in sanctioning the plaintiffs for violating Colorado Racing Commission Rule 5.301. The Commission expressed its satisfaction with the decisions rendered by the Colorado Court of Appeals. Additionally, Mr. Hartman advised the Commission that no objections to the decisions or petitions for reconsideration of them have been filed by opposing counsel, Mr. James Kreutz.

Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, inquired whether the appellants who had received trophies prior to the disqualification of their horses would need to return them to the Division. Mr. Hartman confirmed that this was correct and that the Division would notify the affected appellants of their obligation to return the subject trophies pursuant to the Rules of the Colorado Racing Commission.

The Commission commended the efforts of its former Assistant Attorney General, Ms. Y. E. Scott, for her outstanding legal representation during the prosecution of these cases. Additionally, the Commission took notice that the three decisions were issued in a combined document; that the Orders had been affirmed by Division IV Opinion by Judge Webb with Hawthorne and Richman, JJ., concurring; that the decisions were not published pursuant to C.A.R. 35(f).

Discussion of Rule Review Process and Scheduling of Rule Review Workshop – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, announced that, in anticipation of commencing the annual rule-making process and in accordance with standard procedure, the first rule review workshop would be conducted on Monday, October 28, 2013 at 12:30 p.m. in the Conference Room 110 at 1881 Pierce Street, Lakewood, Colorado. He invited anyone wishing to participate in the rule review process to attend this discussion session. He requested that those persons wishing to discuss proposals for new rules, proposed amendments to existing rules or proposals for rules to be repealed bring their recommendations to the workshop.

Mr. Hartman stated that newly enacted legislation requires every State agency to undertake a thorough review of its rules to determine what revisions may need to be made to its existing rules. He observed that the Division of Racing Events performs periodically a comprehensive review of its entire set of rules and noted that Division staff have already begun to perform an internal analysis of the current rules in an effort to ascertain what rules may be obsolete or need to be revised in order to bring them into conformity with current practices and standards. He commented that, to date, Division personnel have reviewed approximately 20% of the existing rules in compliance with the Governor's directive. Mr. Hartman emphasized that the Division desires to streamline its rules and eliminate any redundancies in the rule texts. He provided copies of a form that has been created for the purpose of affording interested parties an opportunity to suggest rule changes to the Divisions of the Department of Revenue.

Adjournment

There being no further business to consider, the regular meeting of the Colorado Racing Commission was adjourned by Chairwoman Wells at 10:25 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Tuesday, February 11, 2014** in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

MARY SHARON WELLS, CHAIRWOMAN

(PRESENT VIA TELECONFERENCE)

SEAN BEIRNE, VICE-CHAIR

(PRESENT VIA TELECONFERENCE)

CHARLES VAIL, DVM, MEMBER

CINDY DAY, MEMBER