

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, March 10, 2015 in Conference Room 110 (Enforcement Conference Room) at 1881 Pierce Street, Lakewood, Colorado. In Chairwoman Wells' absence, Vice-Chairman Beirne served as Acting Chairman. He called the meeting to order at 9:40 a.m.

### Members Present

Sean Beirne, Acting Chairman  
Charles Vail, DVM, Member  
Cindy Day, Member  
Pam Inmann, Member

Mary Sharon Wells, Chairwoman, was excused from the meeting, but voted via teleconference call in the matter of Clyde William "Bill" Brashears.

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Mark Brown, Agent-in-Charge  
Robert "Duke" Mann, Senior State Steward  
Pam Kilgore, Division Auditor  
Ashley Leary, Division Investigator  
Charmaine Rose, Assistant Attorney General for the Division of Racing Events  
Sherry Gunnell, Assistant to the Director

### Also Present

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

### Approval of Minutes of February 10, 2015

A motion was made by Commissioner Inmann, seconded by Commissioner Vail and unanimously carried to approve the minutes of February 10, 2015 as submitted.

### Commission's Deliberations and Decision in the Matter of Licensed Trainer CLYDE WILLIAM "BILL" BRASHEARS

As a preliminary matter, Assistant Attorney General Charmaine Rose clarified for the Commission that it would be unnecessary for an Executive Session to be convened since the Commission would not be engaging in a discussion of legal matters with its attorney. At the outset of its deliberations, the Commission thanked Ms. Rose and Mr. Scott Meiklejohn, Attorney representing Mr. Clyde William "Bill" Brashears for their timely submission of the requested post-hearing briefs for Commission review.

Thereupon, Acting Chairman Beirne afforded each Commissioner an opportunity to present views and comments regarding the determination and the ruling of the Hearing Officer. Discussion ensued during which a motion was made by Commissioner Beirne and seconded by Commissioner Vail to impose the following penalties in the matter of Clyde William “Bill” Brashears: for the violation that occurred on July 11, 2014, a fine in the amount of \$500 with no suspension and one point; for the violation that occurred on July 13, 2014, a fine in the amount of \$1,000, a fifteen-day (15) suspension and one point for a total penalty assessment of \$1,500, a fifteen-day (15) suspension and two points. Further, for the record, Commissioner Beirne stated that he believed that the findings of mitigating factors by the Hearing Officer were not supported by the evidence and should be considered arbitrary and capricious.

Commissioner Inmann amended the motion to combine the second and third violations and assess a \$500 fine and one point. Commissioner Day seconded the motion. The vote on the amendment was two each and the amendment failed for lack of a majority with Commissioners Inmann and Day in favor of the amendment and Commissioners Beirne and Vail in opposition to the amendment.

Commissioner Beirne restated that original motion. The motion was again seconded by Commissioner Vail. Commissioners Inmann and Day opposed adoption of the motion. The Commission elected to contact Commissioner Wells via speakerphone in order to render its decision.

#### Recess of Deliberations -- Convening of Executive Session

At approximately 10:10 a.m., Acting Chairman Beirne announced that the Commission would be entering into Executive Session for the purpose of consulting with and receiving legal advice from its legal counsel, Assistant Attorney General Rose pursuant to Colorado Revised Statute 24-4-402(3)(a)(II). A motion was thereupon made by Commissioner Day, seconded by Commissioner Vail and unanimously carried to convene the Executive Session for the aforementioned purpose.

#### Adjournment of Executive Session – Reconvening of Deliberations

At approximately 10:20 a.m., the Commission adjourned the Executive Session and reconvened the subject deliberations. Acting Chairman Beirne announced that the Commission had reached a decision in the matter of Case Numbers 14-0684 and 14-0685. A motion was made by Commissioner Beirne, seconded by Commissioner Vail and unanimously carried to impose the following penalties in the matter of Clyde William “Bill” Brashears: for the violation that occurred on July 11, 2014, a fine in the amount of \$500 with no suspension and one point; for the violation that occurred on July 13, 2014, a fine in the amount of \$1,000, a fifteen-day (15) suspension and one point for a total penalty assessment of \$1,500 in fines, a fifteen-day (15) suspension and two points.

Further, the Commission directed that the Division of Racing Events be delegated responsibility to prepare and issue the ruling as adopted by the Commission and to specify for the record that the Commission disagreed with the findings of fact enunciated by the Hearing Officer and did not believe that the evidence supported these findings. Commissioner Wells stated that she accepted and concurred with the terms of the motion as stated above. The Commission was polled and each member voted in favor of the motion. After being advised by Division Director Hartman that the Commission could specify on what date the fifteen-day suspension would go into effect, a motion was made by Commissioner Inmann, seconded by Commissioner Vail and unanimously carried to designate that the subject suspension would begin on April 10, 2015.

Commissioner Well was excused from the remainder of the meeting.

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

#### Presentation Regarding Arapahoe Park's Upcoming Live Racing Season – Bruce Seymore

As a preliminary matter, Mr. Bruce Seymore, Executive Director of Colorado Operations for Mile High Racing and Entertainment, introduced the following members of his staff who were present at the meeting: Ms. Sallie Wittmann, Resources Director and Horsepersons' Bookkeeper; Ms. Jordan Matthews, Community Relations and Event Coordinator; Ms. Nonnie Pedraza Saul, Assistant to the Executive Director; Mr. William Byers, Track Superintendent; Ms. Kathy Keeley, Director of Mutuels and Off-Track Wagering Operations; Mr. Gil Romero, Assistant Racing Secretary; and Mr. Jonathan Horowitz, Announcer and Director of Media Relations. Mr. Seymore acknowledged Mr. Bill Powers, Plant Manager and Director of Racing, who was not present.

Mr. Jonathan Horowitz, narrated slide/video presentations encompassing a "behind the scenes" look at the preparations for racing on a regular race day along with a preview of one of the upcoming television programs "Gates Open at Arapahoe Park", a magazine program. He observed that some of the program's content will include an introduction relating to how horses reach the racetrack, their training and preparation to race and the aftermath of their racing careers.

Additionally, Mr. Horowitz provided visual material and commentary previewing Arapahoe Park's varied promotional, advertising and marketing approaches for the upcoming racing season. He emphasized Arapahoe Park's expanded involvement in the following areas:

- Social media (Facebook, Twitter, QR Code, on-line presence);
- Increased media coverage, both in print form (interviews with reporters from The Denver Post) and via television (two cable programs on the Altitude Channel, one with a magazine-interview format and another presenting replays of recent and previous years' races);

- Additional plans for improvements in racing (a) tying purses to field size, (b) eliminating conditions for eligibility in \$5,000 claiming races; (c) revamping its stakes program and holding two \$100,000 Thoroughbred Stakes races on the same day; and (d) continuing to attract high-quality racehorses);
- Wide range of community outreach endeavors/events, projects, endorsements and affiliations (sponsorship of and donations to numerous civic, educational, sports/recreational and charitable organizations, for example, the Permanently Disabled Jockeys Fund; holding fundraisers for various groups); and
- Focus on enhancing the experience of the racing fans (a) adding the new cabana enclosure, which is designed to accommodate up to 200 guests; (b) offering prizes to patrons and mailing redeemable coupons; (c) opening the facilities for use by groups during the off-season; (d) performing facility upgrades, including repair of the roof, installation of a new sound system and servicing the racing surface; (e) ensuring that all simulcast facilities provide outstanding service and amenities to customers; (f) undertaking strategies to reach out demographically and broaden the fan base; and (g) offering introductory classes – “Horse Cents” – to familiarize Arapahoe Park’s new patrons with wagering terminology, protocols and handicapping techniques.

Mr. Horowitz offered highlights from the 2014 live meet, including reports on some of the top performing horses at the meet and the successful and widely praised launch of the first “Race-Day Medication-Free Incentive Program” in the country whereby trainers who won a race with a horse void of any race-day medication received a \$1,000 bonus per victory paid from a special fund created by Arapahoe Park. The program will remain in effect during the 2015 meet. The Commission commended Arapahoe Park for initiating this program. Commissioner Vail expressed his belief that it will prove to be instrumental in spearheading drug and medication prohibitions at racetracks, both in the United States and abroad.

Mr. Seymore expressed his appreciation to the Commission for its ongoing support and its willingness to take part in events at Arapahoe Park.

Commissioner Beirne and Mr. Horowitz complimented each other as respective former and current Announcers. Commissioner Beirne credited Mr. Horowitz as the “Face of Arapahoe Park”.

#### Scheduling of 2016 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 meeting. He noted that, at that time, the Commission would not be specifying actual race dates, but would be reviewing and accepting envelopes (ranges) of dates.

A motion was thereupon made by Commissioner Vail, seconded by Commissioner Inmann and unanimously carried to schedule the 2016 Race Dates Hearing on Tuesday, July 14, 2015 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 Approval of Arapahoe Park's Proposed 2015/16 Simulcast Schedule – Mark Brown/Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, reported on Arapahoe Park's proposed 2015/2016 simulcast schedule. Mr. Bruce Seymore, Executive Director of Colorado Operations for Mile High Racing and Entertainment, appeared on behalf of the Racing Association.

Mr. Hartman stated that it would be appropriate and allowable for the Commission to grant approval of Arapahoe Park's 2015/2016 proposed simulcast schedule for the period of April 21, 2015 through April 20, 2016 since Arapahoe Park had complied with the requirement that its renewal application to conduct a live race meet in 2015 ending of the meet. Mr. Hartman noted that, on March 4, 2015, the Division of Racing Events had received a renewal application from Racing Associates of Colorado d.b.a. Arapahoe Park reflecting its intention to commence live racing on Friday, May 22, 2015 and conclude its live meet on Sunday, August 16, 2015 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. Hartman observed that Arapahoe Park's request for approval of its simulcast schedule includes an open letter asking for blanket approval to send and receive interstate wagers and simulcasts from the following sources subject to contract and Division approval, excluding specific listing of racecourses and simulcast dates:

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

Further, he stated that the Division would recommend that the Commission grant approval for the range of dates and for the simulcasting proposal submitted by Arapahoe Park. The Commission acknowledged that the Division had received copies of two approval letters from the Colorado Horse-Racing Association, the organization representing a majority of the horse racing community at Arapahoe Park, signed by President Mark McGregor on 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 2015 live race meet.

Mr. Hartman 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. Hartman assured the Commission that final approval for simulcasting from any racecourse would not be given unless the Division had received both a racing schedule and a simulcast contract. He noted that the Division would apprise the Commission of the racing dates and schedules as they are made available.

Following its review and after acknowledging that the Division of Racing Events recommended acceptance of Arapahoe Park's 2015/2016 proposed simulcast wagering schedule as presented, a motion was made by Commissioner Vail, seconded by Commissioner Inmann and unanimously carried to approve Arapahoe Park's request to commence simulcast wagering on April 21, 2015 and to continue simulcast wagering through April 20, 2016 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 2015/2016 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. An Order with Conditions signed by Director Hartman will be issued to Arapahoe Park reflecting the Commission's action.

Announcement Regarding Upcoming Workshop on Newly Adopted Amendment to Rule 5.312 – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, advised that, within the next month, a workshop would be conducted to afford practicing equine veterinarians and all interested horsepersons an opportunity to discuss the modification to Colorado Racing Commission Rule 5.312 pertaining to the allowable level of Phenylbutazone. Mr. Hartman commented that, during this meeting, he would present reports from other racing jurisdictions concerning the subject modification. No action was taken at this time.

Adjournment

There being no further business to consider, a motion was made by Commissioner Day, seconded by Commissioner Inmann and unanimously carried to adjourn the regular meeting of the Colorado Racing Commission. The meeting was adjourned by Acting Chairman Beirne at 11:10 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Tuesday, May 12, 2015** in Conference Room 110 (Enforcement Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

(EXCUSED FOR MAJORITY OF MEETING)  
MARY SHARON WELLS, CHAIRWOMAN

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SEAN BEIRNE, VICE-CHAIR

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CHARLES VAIL, DVM, MEMBER

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CINDY DAY, MEMBER

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PAM INMANN, MEMBER