

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, February 11, 2014 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  
Cindy Day, Member  
Pam Inmann, Member

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Mark Brown, Enforcement Supervisor  
Pam Kilgore, Division Auditor  
Ashley Leary, Division Investigator  
Kathleen Apodaca, Licensing Supervisor  
Alma Godines, Licensing Assistant  
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 Pam Inmann

Ms. Mary Sharon Wells, Chairwoman of the Commission, introduced Ms. Pam Inmann, who was recently appointed by Governor Hickenlooper to serve a four-year term on the Commission as a representative who has been engaged in business in a management-level capacity for at least five years. Ms. Inmann's term of service will remain in effect until 2017.

Ms. Inmann, a resident of Castle Rock, observed that she is now retired, but had formerly been the Executive Director of the Western Governors' Association, a position that she held for approximately eight years. She noted that she had previously held directorships with both Phillip Morris (Altria Corporate Services, Inc.) and the Rocky Mountain Oil and Gas Association. Ms. Inmann stated that she is very pleased to be serving as a Racing Commission member.

Each of the Commissioners and meeting attendees welcomed Ms. Inmann and congratulated her on her appointment. Commission Chairwoman Wells noted that Ms. Inmann would appear for her Senate confirmation hearing on Wednesday, February 12, 2014.

### Approval of Minutes of October 8, 2013

A motion was made by Commissioner Vail, seconded by Commissioner Beirne and unanimously carried to approve the minutes of October 8, 2013 as submitted.

### Recess of Regular Business Meeting

At 9:40 a.m., Chairwoman Wells recessed the regular business meeting for the purpose of convening the scheduled Rule-Making Hearing.

## Convening of Scheduled Rule-Making Hearing

Pursuant to the published Notice of Rule-Making Hearing, Chairwoman Wells convened the scheduled Rule-Making Hearing at 9:40 a.m. It was established by a poll of the Commission that a quorum was in attendance.

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 noted that, pursuant to Executive Order #2, each State agency was charged by the Governor with the responsibility for evaluating twenty percent (20%) of its rules on an annual basis for the aforementioned purpose. Further, 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. Following discussion, by motion of the Commission, it was decided to vote on each rule on an individual basis.

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

- Consideration of Proposed Modified Rule 5.441: Mr. Hartman reviewed the texts of two proposed modified versions of rule 5.441. He stated that the recommendation of the Division would be that the Commission adopt the second proposal. He observed that, this year, the Association of Racing Commissioners International adopted ARCI-001-0020 Medications and Prohibited Substances penalties for Multiple Medication Violations (MMV), and that, as a member jurisdiction, Colorado should incorporate this document into its rules. Views and opinions were entertained by 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 Day, seconded by Commissioner Beirne and unanimously carried to adopt the second version of 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 6.330: Mr. Hartman reviewed the texts of two proposed modified versions of rule 6.330 and stated that the Division would recommend adoption of the second proposal. 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 Day, seconded by Commissioner Vail and unanimously carried to adopt the second version of modified rule 6.330 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(4): Mr. Hartman reviewed the text of proposed modified rule 5.308(4). Mr. Hartman advised that the purpose for proposing adoption of this modified version of the rule was to address the vagueness in language relating to what "may or may not happen as a result" of extra-corporeal shockwave therapy on a horse, and what penalty the Department should administer for offenders. He explained that Colorado had forbidden the use of the subject therapy and would impose a Class A penalty for violation of this prohibition. Mr. Hartman and Commissioner Vail stated that extra-corporeal shockwave therapy involves the use of a machine to induce numbness in certain areas of the body that could result in harm to a racing animal. They advised that it should be considered for use only as part of long-term therapy and not for applications on horses participating in a live race meet. 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 Vail and unanimously carried to adopt modified rule 5.308(4) 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 Definition of "Fraud/Misrepresentation": Mr. Hartman reviewed the text of the proposed modified definition of "fraud/misrepresentation" and explained that the purpose for modifying this definition was to correct the erroneous reference to 1993 when referring to the Racing Statute. 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 Vail, seconded by Commissioner Beirne and unanimously carried to adopt the modified definition of "fraud/misrepresentation" as proposed and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the definition. A copy of the subject definition is attached hereto and made a part of these minutes.
- Consideration of Proposed Modified Definitions of "Colorado Bred (Horse)" and "Breeder (Horse)": Mr. Hartman requested that the Commission consider simultaneously both proposed modified definitions of "Colorado Bred (Horse)" and "Breeder (Horse)". He reviewed the texts of the subject definitions and recommended adoption of the proposed modified version of "Colorado Bred (Horse)" and the second proposed modification to the definition of "Breeder (Horse)". Additional amendments to both proposals were made and accepted by the Commission. After modifying the definitions accordingly and 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 Day, seconded by Commissioner Vail and unanimously carried to adopt the modified definition of "Colorado Bred (Horse)" as amended and the second modified definition of "Breeder (Horse)" as amended and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the definitions. Copies of the subject definitions are attached hereto and made a part of these minutes.
- Consideration of Proposed Deletion of Definition of "Body Fat Scale": Mr. Hartman explained that the subject definition is obsolete due to technological advancements and, therefore, the Division would recommend its deletion. 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 Vail, seconded by Commissioner Beirne and unanimously carried to approve deletion of the definition of "Body Fat Scale" and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the definition. A copy of the deletion is reflected in the attachment and made a part of these minutes.

- Consideration of Proposed Modified Definition of "Animal Cruelty": Mr. Hartman requested that the Commission adopt the second proposed modification to the definition of "Animal Cruelty". He explained that the purpose of this modification is to correct the statutory cite. 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 Vail and unanimously carried to adopt the second modified definition of "Animal Cruelty" as proposed and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the definition. A copy of the subject definition is attached hereto and made a part of these minutes.
- Consideration of Proposed Modified Rules 9.400 and 9.410: Mr. Hartman recommended that the Commission consider simultaneously proposed modified rules 9.400 and 9.410. He explained that the purpose for these modifications is to bring both rules into conformity and compliance with recent statutory changes. 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 Day, seconded by Commissioner Vail and unanimously carried to adopt modified rules 9.400 and 9.410 as proposed and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rules. A copy of the subject rules is attached hereto and made a part of these minutes.
- Consideration of Proposed Modified Rule 3.708 and Proposed New Definition of "Racing Club": Mr. Hartman recommended that the Commission consider simultaneously proposed modified rule 3.708 and the proposed new definition of "Racing Club". He reviewed the text of the rule 3.708 and recommended adoption of the second proposed amended version of this rule and adoption of the new definition of "Racing Club". Mr. Hartman stated that the purpose for proposing modifications to rule 3.708 and for proposing adoption of the new definition of "Racing Club" is to allow Racing Clubs to operate in Colorado subject to rules similar to those in effect in Kentucky, Indiana, Minnesota and those adopted by the Association of Racing Commissioners International. Discussion ensued during which Mr. Hartman explained the licensing criteria for a racing club and its members as well as the potential benefits that it might produce. Commissioner Vail inquired whether the Commission rules expressly prohibit racing officials from participating in a racing club. Assistant Attorney General Rose confirmed that Commission rule 4.106 does forbid such participation by any Colorado racing official. 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 Vail, seconded by Commissioner Day and unanimously carried to adopt the second modified version of rule 3.708 and the new definition of "Racing Club" as proposed and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule and definition. A copy of the subject rule and definition is attached hereto and made a part of these minutes.

#### Recess of Rule-Making Hearing/Reconvening of Regular Meeting

At 10:35 a.m., the Commission recessed its formal Rule-Making Hearing and reconvened its regular business meeting in order to afford certain members of the veterinary teaching/research staff from Colorado State University the opportunity to present their annual report regarding the use of equine research funds.

Presentation Regarding Colorado State University Equine Research Fund – Drs. VandeWoude, Kawcak and McCue

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, Professor in the Department of Clinical Sciences, Equine Orthopedic Research Center; and Dr. Pat McCue, Iron Rose Ranch Professor of Theriogenology 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, and, along with the approximate \$2,000,000 in research funds generated by equine researchers and annual donations to equine research programs totaling approximately \$1,500,000 to \$2,000,000, it forms the basis for obtaining grant funding for various research projects. She observed that the Commission’s financial contribution in 2013 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 2013 funds, along with the postmortem project, 10 additional proposals were received requesting a total of \$220,000. She commented that the University was able to offer four awards totaling \$82,000 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) Colorado Racehorse Postmortem Project – Dr. Chris Kawcak; 2) Effect of maternal obesity on metabolism, inflammation and lipid homeostasis in equine uteri and blastocysts – Dr. Elaine Carnevale; 3) Effects of STAT3 inhibitors on cytokine production in equine keratinocytes – Dr. Britte Leise; 4) Impact of phenylmethimazole on clinical parameters, inflammatory markers and survival in horses with gastrointestinal disease – Dr. Diana Hassel; and 5) Use of a cationic contrast agent in CT arthrography (CECT) for identification of cartilage injury in an impact model of equine osteoarthritis – Dr. Alex Valdex. 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 2014: 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 Surveillance 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. Further, he advised that he relayed preliminary results to the referring veterinarian to ascertain whether there were issues pertaining to potentially contagious diseases. He reported that a detailed necropsy report is submitted after the completion of the histologic examination. However, he noted that it could take from several weeks to a few months before an official medical record might be received. He expressed his concern about owners failing to receive such reports.

Dr. Kawcak presented the following statistics concerning the genders, ages and causes of death determined by means of post-mortem examinations conducted in 2013:

Number and breed of horses: 6 Thoroughbreds; 7 Quarter Horses;  
Gender: 8 geldings; 4 mares; 1 stallion;  
Ages: 2 two-year-olds; 4 three-year-olds; 1 five-year-old; 3 six-year-olds; and 1 eight-year-old (2 of unknown age);  
Cause of death: catastrophic (musculoskeletal injury) – 7 cases; colic - 2 cases; head trauma – 2 cases; respiratory -- 1 case; and laminitis – 1 case.

Dr. Kawcak provided a graph depicting the total number of deaths by racing season from 2000 through 2013 and a table reflecting the deaths/1000 starts and the race and training deaths/1000 starts that occurred at Arapahoe Park. The graph and table indicated that the total number of deaths that occurred in 2013 was higher than usual.

Further, Dr. Kawcak enumerated a list of plans for 2014 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) Performance of pre-emptive tissue collection in case drug screening is requested; and 4) Continuing the use of limbs to improve early diagnosis of injuries via such equipment as the aforementioned low cost CT scanner.

Dr. Kawcak informed the Commission of the benefits derived from performance of a dynamic endoscopy in the detection of upper respiratory disease. He observed that a self-retained endoscope allows for a horse to continue its normal work without the use of a high-speed treadmill and permits an evaluation to be performed in the field under normal working conditions.

Mr. Bruce Seymore, Executive Director of Colorado Operations for Mile High Racing and Entertainment, expressed his desire to receive the postmortem reports in order to share the findings with members of the Arapahoe Park horse-racing community. Dr. Kawcak advised that it would be helpful if there was a single conduit, such as the Division of Racing Events or the Commission, for transmission/dissemination of this information. Mr. Seymore concurred with this recommendation, but asserted that he would definitely request to be included in the informational process and routing in order to determine what changes might need to be made in racetrack surface maintenance routines.

The Commission thanked Dr. Kawcak for his excellent report.

- 2) Dr. Pat McCue updated the Commission on the rebuilding process and expansion of the Equine Reproduction Laboratory in the aftermath of the devastating fire that had occurred there on March 20, 2011. He offered a

slide presentation depicting views of the new facility that was opened in March 2013. He explained that CSU had allowed the Equine Reproduction Laboratory to enlarge its physical plant from 6,000 square feet to 12,000 square feet, in order to accommodate future growth as well as to provide for the rebuilding and replacement of one of the horse barns. Also, Dr. McCue commented upon the research programs involving mares, stallions and assisted reproduction, as well as the clinical programs and availability of space for teaching that the facility affords.

Dr. McCue reported on research relating to “HSP10: the proposed ‘early pregnancy factor’ in the mare”, which was first described by Bob Morton in 1974 in conjunction with a slide presentation. He advised that the “early pregnancy factor”, or EPF, appears in maternal serum within twenty-four hours after fertile mating and has been identified in mice, sheep, horses, pigs, cows and humans. In 1994, it was further described as the extracellular homolog of heat shock protein 10. Dr. McCue stated that EPF was detected until the second trimester; that studies have demonstrated that EPF decreases in donor mares following embryo recovery; and increase in recipient mares following transfer. He explained that the goals of the EPF research are to: 1) determine if HSP10 could be identified in equine embryos; 2) determine if HSP10 can be detected in embryo culture media and blood samples from pregnant mares; and 3) ultimately, determine if HSP10 could be used as a marker for early pregnancy and pregnancy loss in mares. He described the experimental design of the research and offered a summary of the study’s findings. These included: 1) that HSP10 mRNA and protein were positively detected in day 8 and 25 equine embryos; that the equine embryo has been determined to secrete HSP10/EPF protein; and that HSP10 has been identified in samples taken from both pregnant and non-pregnant mares. Dr. McCue observed that future studies will allow researchers to continue to evaluate methods for measuring HSP10 production during embryo culture and for evaluation of methods for measuring HSP10 in peripheral blood plasma or serum.

Drs. VandeWoude, Kawcak and McCue 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.

#### Closing of Regular Business Meeting/Reconvening of Formal Rule-Making Hearing

At 11:20 a.m., the Commission closed the regular business meeting and reconvened its formal Rule-Making Hearing.

- Consideration of Proposed Modified Definition of “Owner”: Mr. Hartman requested that the Commission adopt the proposed modification to the definition of “Owner”. He explained that the purpose of this modification is to update the existing definition to specify that an owner is limited to training only when licensed to do such conditioning. 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 Vail, seconded by Commissioner Inmann and unanimously carried to adopt the modified definition of “Owner” as proposed and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the definition. A copy of the subject definition is attached hereto and made a part of these minutes.
- Consideration of Proposed Modified Rule 3.510: Mr. Hartman reviewed the text of proposed modified rule 3.510 and observed that the purpose for modifying this rule is to add practical language regarding the posting of a stable roster in the tack room. 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 Vail and unanimously carried to adopt modified rule 3.510 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 3.524: Mr. Hartman reviewed the text of proposed modified rule 3.524 and recommended that the Commission adopt the second proposed modified version of the rule. Discussion ensued during which the Commission deliberated whether to incorporate an additional modification to the rule relating to licensure of Assistant Trainers. Views and opinions were expressed for and against inserting this amendment. After referring this matter to Assistant Attorney General Rose for her consideration and after obtaining Mr. Hartman's views, the Commission accepted the additional modification as proposed. After ascertaining that there were no further objections to formal action being taken at this time and acknowledging the Division's recommendation for adoption, a motion was made by Commissioner Vail, seconded by Commissioner Beirne and unanimously carried to adopt the second modified version of rule 3.524 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 5.220: Mr. Hartman reviewed the text of proposed modified rule 5.220 and recommended that the Commission adopt the second proposed modified version of the rule. He explained that this modification was requested by the Division Veterinarian in order to ensure that the Commission and/or Racing Association have as much current health-related documentation on file as possible to protect the horse population on the backside. 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 Day, seconded by Commissioner Vail and unanimously carried to adopt the second modified version of rule 5.220 as proposed and, as part of the motion to adopt, the Commission incorporated the Statements of Statutory Authority, Basis and Purpose into the rules. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Deletion of Rule 5.328: Mr. Hartman explained that rule 5.328 is obsolete and, therefore, the Division would recommend its deletion. 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 Vail, seconded by Commissioner Day and unanimously carried to approve deletion of rule 5.328, as proposed and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the definition. A copy of the deletion is reflected in the attachment 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 add information concerning a valid health certificate being less than thirty days old. Mr. Hartman verified that Colorado does allow for the movement of horses into and out of the state, except in instances where there are health-related issues. He commented that, depending upon circumstances that exist here or in another racing jurisdiction, the Arapahoe Park Racing Association should have the ability to prevent horses from being moved into or out of Colorado and, as needed, be able to impose a quarantine. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation for adoption of proposed modified rule 5.508, a motion was made by Commissioner Vail, 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 Modified Rule 3.602: Mr. Hartman reviewed the text of proposed modified rule 3.602 and recommended that the Commission adopt the second proposed modified version of this rule. He explained that the purpose for this modification is to enforce a consistent protocol for licensing and testing all applicants for jockey licenses, whether for apprentice licenses or regular ones. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation for adoption of the second proposed modification, a motion was made by Commissioner Inmann, seconded by Commissioner Vail and unanimously carried to adopt the second modified version of rule 3.602 as proposed and, as part of the motion to adopt, the Commission incorporated the Statements of Statutory Authority, Basis and Purpose into the rules. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Modified Rule 5.412: Mr. Hartman reviewed the text of proposed modified rule 5.412 and recommended that the Commission adopt the second proposed modified version of this rule. He explained that the purpose for recommending the proposed modification is to add the Association of Racing Commissioners International (ARCI) Model Rules information concerning Out of Competition for Blood and Gene Doping Agents to the Colorado Racing Commission Rules. He observed that technological advancements could afford owners and trainers the ability to cheat and administer drugs/prohibited substances to their horses on an incremental basis over time in an attempt to avoid detection. Following its review of the rule proposal and after making an additional amendment 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 second modified version of rule 5.412. Thereupon, a motion was made by Commissioner Vail, seconded by Commissioner Inmann and unanimously carried to adopt the second modified version of rule 5.412 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 3.506 and Proposed Deletion of Rule 3.508: Mr. Hartman reviewed the text of proposed modified rule 3.506 and recommended that the Commission adopt the second proposed modified version of this rule, noting that the purpose of the proposed modification is to add comprehensive details to the trainer's licensing requirements. Further, he advised the Commission that this proposed modified rule incorporates all of the language of rule 3.508 in its entirety and, thus, existing rule 3.508 is no longer needed and should be deleted. 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 Vail and unanimously carried to adopt the second modified version of rule 3.506 as proposed and to delete rule 3.508 and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rule. Copies of subject rule 3.506 and the deletion of rule 3.508 are attached hereto and made a part of these minutes.
- Consideration of Proposed Deletion of Rule 11.544(i): Mr. Hartman explained that rule 11.544(i) is obsolete and, therefore, the Division would recommend its deletion. 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 Vail, seconded by Commissioner Day and unanimously carried to approve deletion of rule 11.544(i), as proposed and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the definition. A copy of the deletion is reflected in the attachment and made a part of these minutes.

- Consideration of Proposed Modified Rule 5.331: Mr. Hartman reviewed the text of proposed modified rule 5.331, noting that the purpose for the proposed modification is to incorporate more comprehensive screening levels for the collection of blood than are currently in effect. He recommended adoption of the proposed modified version of 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 Vail, seconded by Commissioner Inmann and unanimously carried to adopt modified rule 5.331 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 5.431: Mr. Hartman reviewed the text of proposed modified rule 5.431, noting that the purpose for recommending adoption of the second proposed modification of this rule is to bring the language into conformity with current technology and new drug testing methods. Mr. Hartman explained that the Division intends to incorporate the list of environmental contaminants into its document relating to proposed estimated therapeutic drug/medication withdrawal times, but is proposing its removal from this 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 Inmann, seconded by Commissioner Beirne and unanimously carried to adopt the second modified version of rule 5.431 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.

Mr. Bruce Seymore, Executive Director of Colorado Operations for Mile High Racing and Entertainment, commended Mr. Hartman and the Division's Legal Counsel for affording all interested representatives of the racing community, including he and Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, the opportunity voice their views and opinions regarding each of the rule proposals.

There being no further rules to consider, the Rule-Making Hearing was adjourned at 12:05 p.m.

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

#### Re-opening of Regular Commission Meeting

At 12.05 p.m., Chairwoman Wells reconvened the regular Commission meeting.

#### Presentation Regarding Distribution of Owners/Breeders Awards and Supplemental Purse Fund Monies for Calendar Year 2013 -- 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 2013. Mr. Dan Hartman, Director of the Division of Racing Events, apprised the Commission that, pursuant to the Racing Statute, no breed organization may receive more than eighty percent (80%) of the total accrual of fund monies. He advised that the Owners and Breeders Awards and Supplemental Purse Fund accruals are calculated in the following manner: 1) by using the current year's percentages from wagering on live races applied to the funds accumulated from all wagering on live and simulcast races during the year (specified in rule #9.316); 2) by using the prior year's percentages from wagering on all live and simulcast races during that year applied to the uncashed simulcast ticket proceeds from that same prior year (specified in rule #9.318) (for calendar year 2013, these uncashed tickets in the amount of \$216,351.34 are from the 2012 simulcast meet held at Arapahoe Park); and 3) by using the applicable live and simulcast wagering percentages for any association's uncashed ticket proceeds from the prior year's live

racing meet (specified in rule #9.318) (for calendar year 2013, these uncashed tickets in the amount of \$36,275.10 are from the 2012 live race meet held at Arapahoe Park. He noted that in the event that a three-year period elapses during which no distribution is made to a given breed, that breed's fund accrual may be applied to purses by the racing association.

The Commission observed that the accruals have remained essentially unchanged for the past two years (2012-2013), but noted that the fund sustained a loss of revenue due to significant reductions in the amount of revenue derived from 2011 simulcast and live uncashed tickets. Mr. Hartman noted that this fund is established as a low-risk, low-yield account that has recently failed to produce much, if any, interest.

Ms. Kilgore reported that: 1) the total earnings from wagering in 2013 amounted to \$1,061,467.49; 2) that the total earned from 2012 uncashed tickets on both live and simulcast races was \$252,626.44; 3) that no interest was earned in 2013 and, after subtracting the bank fee of \$3,500.00, the total Owners'/Breeders' Awards and Supplemental Purse Fund accrual for 2013 was \$1,310,593.93.

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 \$156,000 advance that was approved by the Commission in May 2013 for release to the Colorado Thoroughbred Breeder's Association in July 2013 and a distribution of \$15,491.17 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	\$892,475.14
Rocky Mountain Quarter Horse Association	196,505.38
Colorado Owners and Breeders of Racing Arabians	36,335.74
Rocky Mountain Paint Racing Club	1,569.05
Colorado Appaloosa Racing Association	687.13

The Commission took notice that a balance of \$27,021.49 remains from the escrowed harness purse monies. Notice was taken that in 2008, 2009 and 2010, but not in 2011, 2012 or 2013, Arapahoe Park accepted Mule races from California. In 2008, an escrow account was established for that breed until such time as a Mule Breed organization in Colorado is recognized by the Commission to receive those funds. Such recognition would also be subject to notification that such an organization has by-laws in effect for the purpose of distributing funds.

Ms. Kilgore recommended that the Commission accept the subject report and authorize the Division to distribute to each specified breed organization their reported fund accruals. 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 2013, a motion was made by Commissioner Vail, seconded by Commissioner Inmann and unanimously carried to adopt Ms. Kilgore's recommendations and to grant approval to the Division to release the fund monies specified in today's agenda packet and request issuance of State warrants for disbursement of the reported fund accruals pursuant to statute.

#### Approval of 2014 Commission Meeting Dates

Following review of the list of proposed 2014 Commission meeting dates and after being advised by Mr. Dan Hartman, Director of the Division of Racing Events that the Commission is statutorily required to meet on a quarterly basis, a motion was made by Commissioner Day, seconded by Commissioner Inmann and unanimously carried to continue to hold the Commission's meetings on the second Tuesday of any given month with the proviso that, if unexpected circumstances should necessitate a change of meeting date, the Commission would modify its regular schedule. It was agreed that meetings

would most likely continue to be conducted in February, March or April, May, July, September or October 2014.

#### Status Report – Pending Legislation – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, reported on House Bill 14-1146, an initiative to prohibit live greyhound racing in Colorado, but maintain the practice of allowing wagering on greyhound races that are held at racetracks in other states and are simultaneously broadcast at racetracks/simulcast venues in Colorado. He advised that this measure was sponsored by Representative Becker and was introduced on January 16, 2014, after which it was assigned to the Business, Labor, Economic and Workforce Development Committee. The Commission took notice of the following: 1) that, on January 30, 2014, the measure was referred with amendments to the House Committee of the Whole; 2) that, on February 5, 2014, the initiative passed second reading with amendments; and 3) that, on February 6, 2014, it passed third reading in the House. Mr. Hartman stated that the initiative was introduced in the Senate on February 10, 2014 with sponsorship from Senator Tochtrop.

Mr. Hartman noted that the official position of the Department of Revenue is neutral and, further, that the measure has no fiscal impact. He advised that he would continue to provide updates on the progress of this measure as they become available.

Mr. Melvin Johnson, President of the Colorado Greyhound Breeder's Association, voiced his opposition to this measure. He expressed his position that, historically, greyhound racing had been beneficial to the economy of Colorado; that many persons who had participated in breeding, raising, caring for and racing greyhounds would experience even greater financial hardship if this prohibition were enacted that they have already experienced; and, further, that, although improbable, it would be desirable for members of the greyhound breeding/racing community to have the ability to pursue a possible revival of live greyhound racing on a county-by-county basis. He stated that, in light of the fact that there has been no live greyhound racing in Colorado since 2008, a complete ban on live greyhound racing seemed to him to be unnecessary. He requested that the Commissioners provide their opinions.

Commission Chairwoman Wells explained that the Commission is obligated to adhere to the official position of the Department of Revenue and remain neutral with respect to this measure. She noted that, should Mr. Johnson wish to discuss this initiative with any individual Commission member, he could do so. However, certain Commissioners expressed their substantial agreement with Mr. Johnson's views. By way of explanation, Mr. Hartman advised that it would be necessary for enabling legislation to be enacted in order for live greyhound racing to be revived.

#### Observations Regarding the Association of Racing Commissioners Model Rules and Board of Directors' Meetings – Commissioner Sean Beirne

Commissioner Sean Beirne expressed her appreciation for the opportunity to attend the Association of Racing Commissioners International (ARCI) Model Rules Meeting and the Board of Directors' Meeting held in Tucson, Arizona on December 8-9, 2013. He noted that these sessions were conducted in conjunction with the annual University of Arizona Symposium on Racing. Commissioner Beirne commented that he had especially enjoyed meeting representatives from other racing jurisdictions and discussing with them issues and concerns facing the racing industry. He observed that Colorado is fortunate to have strong and competent leadership as well as cooperative working relationships between the racing industry representatives and the state regulators. Additionally, Commissioner Beirne commented that Colorado is highly respected for its strong regulatory positions and its proactive endorsement of the ARCI's Model Rules.

#### Adjournment

There being no further business to consider, the regular meeting of the Colorado Racing Commission was adjourned by Chairwoman Wells at 12:35 p.m.

Next Regularly Scheduled Meeting

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

The undersigned hereby approve the foregoing Minutes.

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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

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, March 11, 2014 in Conference Room 110 (Enforcement Conference Room) at 1881 Pierce Street, Lakewood, Colorado. Chairwoman Wells called the meeting to order at 9:32 a.m.

### Members Present

Mary Sharon Wells, Chairwoman  
Sean Beirne, Vice-Chairman  
Cindy Day, Member (present via teleconference call)  
Pam Inmann, Member

Commissioner Charles Vail, DVM, was excused from the meeting.

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Mark Brown, Enforcement Supervisor  
Pam Kilgore, Division Auditor  
Ashley Leary, Division Investigator  
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 11, 2014

A motion was made by Commissioner Beirne, seconded by Commissioner Inmann and unanimously carried to approve the minutes of February 11, 2014 as submitted.

### Scheduling of 2015 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 Inmann, seconded by Commissioner Beirne and unanimously carried to schedule the 2015 Race Dates Hearing on Tuesday, July 8, 2014 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 2014/15 Simulcast Schedule – Mark Brown/Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, reported on Arapahoe Park's proposed 2014/2015 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 2014/2015 proposed simulcast schedule for the period of April 21, 2014 through April 20, 2015 since Arapahoe Park had complied with the requirement that its renewal application to conduct a live race meet in 2014 be submitted to the Division of Racing Events sixty days prior to the planned opening of the meet. Mr. Hartman noted that, on January 28, 2014, the Division of Racing Events had received a signed and notarized renewal application from Racing Associates of Colorado d.b.a. Arapahoe Park reflecting its intention to commence live racing on Saturday, May 24, 2014 and conclude its live meet on Sunday, August 17, 2014 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 2014 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 2014/2015 proposed simulcast wagering schedule as presented, a motion was made by Commissioner Beirne, seconded by Commissioner Inmann and unanimously carried to approve Arapahoe Park's request to commence simulcast wagering on April 21, 2014 and to continue simulcast wagering through April 20, 2015 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 2014/2015 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.

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

Ms. Pam Kilgore, Division Auditor, informed the Commission that, in accordance with and as permitted by statute, the Colorado Thoroughbred Breeders' Association had submitted a formal written request for early release of \$156,000, a portion of their Owners/Breeders Awards and Supplemental Purse Fund accrual for the purpose of supplementing their Colorado Bred Stakes schedule at Arapahoe Park in 2014.

Mr. Dan Hartman, Director of the Division of Racing Events, advised the Commission that he had spoken to Mark McGregor, President of the Colorado Thoroughbred Breeders' Association and had informed him that it would not be necessary for him to appear at today's meeting. Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, was present to represent the request of the Colorado Thoroughbred Breeders Association.

Ms. Kilgore explained that, by Rule, no breed organization may request more than 80% (eighty percent) of its total accrual. She stated that she had itemized the amounts accrued by the Colorado Thoroughbred Breeders' Association during the period of January through February 2014 and that she was confident that sufficient funds would be available for the requested amount of \$156,000 to be distributed to the Colorado Thoroughbred Breeders' Association. Ms. Kilgore stated that she would perform an additional audit of the purse fund monies in order to confirm that the requested amount would be available for distribution as soon after July 1, 2014 as possible.

A motion was made by Commissioner Inmann, seconded by Commissioner Beirne and unanimously carried to authorize early distribution of \$156,000 to the Colorado Thoroughbred Breeder's Association after July 1, 2014 contingent upon the performance by Ms. Kilgore of a second audit to confirm the availability of funds.

Status Report – House Bill 14-1146 – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, reported that, on March 10, 2014, Governor Hickenlooper signed into law House Bill 14-1146, thus, prohibiting the conduct of live greyhound racing in Colorado. He observed that the measure will allow for the continuation of wagering on greyhound races that are held at racetracks in other states and are simultaneously broadcast at racetracks/simulcast venues in Colorado. Mr. Hartman noted that the bill had been sent to the Governor for his signature on February 28, 2014 after passing out of both the House of Representatives and the Senate.

Commissioner Inmann inquired whether the enactment of House Bill 14-1146 would necessitate the deletion of references to live greyhound racing in the Colorado Racing Commission Rules and, if so, what the time frame for making such revisions would be. Mr. Hartman advised that, at some point, it would be necessary to revise the rules in accordance with the provisions of Enacted House Bill 14-1146, but immediate action would not be required since the existing rules are no longer considered viable or relevant to racing in Colorado.

Adjournment

There being no further business to consider, a motion was made by Commissioner Inmann, seconded by Commissioner Beirne and unanimously carried to adjourn the regular meeting of the Colorado Racing Commission at 9:43 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Tuesday, May 13, 2014** 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

(PRESENT VIA TELECONFERENCE CALL)  
\_\_\_\_\_  
CINDY DAY, MEMBER

\_\_\_\_\_  
PAM INMANN, MEMBER

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, May 13, 2014 at 1881 Pierce Street in Conference Room 110, Lakewood, Colorado. Chairwoman Mary Sharon Wells called the meeting to order at 9:36 a.m.

### Members Present

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

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Mark Brown, Enforcement Supervisor/Racing Coordinator  
Pam Kilgore, Division Auditor  
Robert "Duke" Mann, Division Investigator  
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 11, 2014

A motion was thereupon made by Commissioner Vail, seconded by Commissioner Inmann and unanimously carried to approve the minutes of March 11, 2014 as submitted.

### Observations Regarding 2014 Racing Commissioners International Spring Convention

Commission Chairwoman 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 Lexington, Kentucky from April 7, 2014 through April 9, 2014. She commented that the Convention had consisted of very informative meetings and presentations, including a very interesting seminar on the composition and maintenance of different types of racing surfaces. She observed that she had learned about the differences between turf and synthetic surfaces and, also, had been apprised that Keeneland intends to remove its synthetic surface and replace it with turf. Commissioners Wells and Inmann concurred that two of their favorite excursions while attending the Conference and visiting Lexington were taking tours of Keeneland Park, its grounds and facilities and the Kentucky Horse Park. Both of them mentioned the "old world" charm of Keeneland and the grace and beauty of the horses which they encountered. Commissioner Wells noted that Mr. John Ward had been elected President of the Association of Racing Commissioners International's Board of Directors and Division Director Dan Hartman had been re-appointed to serve on the Board of Directors.

Additionally, other attendees, Commissioners Pam Inmann and Charles Vail, Division Director Dan Hartman, Division Enforcement Supervisor Mark Brown, Mr. Bruce Seymore, Executive Director of Colorado Operations for Mile High Racing and Entertainment, and Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, shared their views and opinions regarding the Convention. Mr. Brown commented that he had learned that his Grandfather had been employed as a groom at Churchill Downs. Mr. Rushton mentioned that he believed that Colorado's image as a strict proponent of drug and medication prohibitions and a strong supporter of the Association of Racing Commissioners International Model Rules has brought renewed respect to the state. Mr. Hartman agreed with this assessment. Mr. Seymore stated that this was the first time that he had attended an Association of Racing

Commissioners International Conference and he had thoroughly enjoyed the entire experience, noting that this was, to him, “the trip of a lifetime”.

#### Review of Contents of 2014 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 and pass 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. Mr. Hartman noted that the 2014 edition of the Horsemen’s Information Packet includes the newly adopted rules that will become effective on May 15, 2014 and some modifications to the guidelines and groundrules. He stated that, this season, for security purposes, Arapahoe Park would not be allowing anyone to reside on the backside. Notice was taken by the Commission that Arapahoe Park has made arrangements for two security guards to patrol the backside and the barn area throughout each night during the race meet.

After completing its review and discussion of the contents of the packet and accepting Mr. Hartman’s recommendation that it be approved as presented, a motion was made by Commissioner Day, seconded by Commissioner Inmann and unanimously carried to accept all of the documents, rules and pertinent supplementary material contained in the “2014 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.

Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, requested that, during any future stable inspections, the Division representative conducting the inspection provide a copy of the Horsemen’s Information Packet to the affected trainer. The Commission endorsed this recommendation.

#### Consideration of Emergency Adoption of Proposed Changes to Colorado Racing Commission Rule 5.312

Commission Chairwoman Mary Sharon Wells announced that the Division is recommending immediate emergency adoption of proposed modifications to current Commission Rule 5.312. Thereupon, Director of the Division of Racing Events Dan Hartman presented the proposed modified version of Commission Rule 5.312 for review and discussion.

Notice was taken that, pursuant to 24-4-103(6) of the Colorado Revised Statutes, the Commission is authorized to adopt a temporary or emergency rule if the Commission finds that the immediate adoption of the rule is imperatively necessary to comply with a state law or for the preservation of public health, safety, or welfare and compliance with the requirements of section 24-4-103, C.R.S., would be contrary to the public interest.

Mr. Hartman stated that the rule as modified removes the penalty scales for first and second offenses for excess levels of Phenylbutazone, Fluxnixin (Banamine) and Ketoprofen and brings the rule into conformity with previous modifications to Commission Rule 5.441. Additionally, Mr. Hartman observed that there would be further discussion of the medication levels and penalty scales during the next rule review/rule-making cycle. He intends to propose that these emergency changes to Commission Rule 5.312 be made permanent.

The Commission took notice that there were no objections raised to the immediate emergency adoption of proposed modified Commission Rule 5.312 and that Assistant Attorney General Charmaine Rose concurred with the Division's recommendation. It was thus determined that emergency adoption of proposed modified Commission Rule 5.312 is imperatively necessary to address potential ambiguity regarding applicable penalties for use of Non-Steroidal Anti-Inflammatory Drugs (NSAIDs) during the upcoming live racing season at Arapahoe Park which begins on May 21, 2014.

Thereupon, a motion was duly made by Commissioner Inmann, seconded by Commissioner Vail and unanimously carried to adopt the proposed modifications to Rule 5.312 of the Colorado Racing Commission Rules on an immediate emergency basis and to incorporate the following Statement of Emergency Justification and Adoption into the rule:

### **STATEMENT OF EMERGENCY JUSTIFICATION AND ADOPTION**

#### **EMERGENCY RULE CHANGE**

#### **STATEMENT OF EMERGENCY JUSTIFICATION, BASIS AND PURPOSE – CRCR 5.312**

The statutory authority is found in CRS 12-60-201(1); CRS 12-60-202(3)(c); CRS 12-60-501(2)(a). The purpose for the immediate emergency adoption of the proposed amendment to Commission Rule 5.312 is to remove duplication and potential ambiguity regarding applicable penalties for use of NSAIDs.

**ADOPTION:** For the reasons set forth above, emergency rule 5.312 shall be effective on the date of its adoption and shall apply retroactively and/or prospectively in accordance with the terms of this extension issued by the executive director pursuant to this emergency rule. This emergency rule shall be in force and effect for a period of one hundred and twenty days from the date of this notice, unless sooner terminated or replaced by permanent rules adopted in accordance with 24-4-104, CRS.

**5.312** – 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.
- b) When approved, the test level for Flunixin (Banamine) shall not exceed 20 nanograms per milliliter of blood serum or plasma.
- c) When approved, the test level for Ketoprofen shall not exceed 10 nanograms per milliliter of blood serum or plasma.
- d) The penalties for having excess levels of these approved NSAIDs are listed in CRCR 5.441.
- e) Horses entered to race on Phenylbutazone, Flunixin (Banamine) or Ketoprofen must show a detectable level of the drug in any pre or post-race blood and/or urine sample.
- f) Under no circumstances shall a horse be allowed to have more than one non-steroidal anti-inflammatory drug (NSAID) in its blood and/or urine, unless otherwise approved by the Commission veterinarian, in special circumstances only, in which Phenylbutazone must be less than 1 mcg. The penalty for violating this rule is a \$500.00 fine.

#### **Announcement Regarding Recognition of Industrial Laboratories – Dan Hartman**

Division Director Dan Hartman apprised the Commission that its contract to perform sample testing had again been awarded to Industrial Laboratories. Mr. Hartman commended the quality of the testing performed by the subject laboratory, noting that it is considered one of the premiere testing laboratories in the nation. Additionally, Mr. Hartman advised the Commission that Industrial Laboratories is one of only five testing laboratories in the United States that has been granted accreditation by the Racing

Medication and Testing Consortium. The Commission requested that the Division send a congratulatory letter to Industrial Laboratories on its behalf.

#### Consideration of 2014 Renewal Application – Arapahoe Park’s Live Race Meet – Mark Brown

Mr. Mark Brown, Acting Racing Coordinator, presented his report regarding Arapahoe Park’s 2014 renewal application. Mr. Bruce Seymore, Executive Director of Colorado Operations for Mile High Racing and Entertainment, and Mr. William Powers, Arapahoe Park’s Property Facility Manager/Director of Racing, appeared on behalf of the Racing Association.

Mr. Brown stated that, on January 28, 2014, the Division of Racing Events had received a Class B Horse Racing renewal license application for its 2014 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 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. Further, he stated that any inspections required by regulation or statute have already been conducted or are in the process of being scheduled.

Mr. Brown explained that Arapahoe Park intends to conduct a thirty-nine (39) day live race meet beginning on Saturday, May 24, 2014 and concluding on Sunday, August 17, 2014, with live performances to be offered on Friday, Saturday and Sunday throughout the meet, including a special program to be conducted on Monday, May 26, 2014 (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. Brown 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 ten (10) 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. 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, for making significant upgrades and improvements to the Division offices. He noted that they had provided the Division with a new diagram of Arapahoe Park’s facilities.

Mr. Brown informed 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 2013: 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.

It was noted in Mr. Brown’s report was that “Mile High USA, Inc.” had been 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 would be returning from last year and that all of these officials are in good standing and hold current Colorado Racing licenses. However, the Commission inquired about the background and prior experience of the newly appointed Horsemen's Bookkeeper, Ms. Sallie Wittmann. Mr. Brown reported that an initial background check had failed to disclose any derogatory information regarding Ms. Wittmann and he advised that he would acquire her resume. Mr. Powers advised that Ms. Wittmann had been serving as Arapahoe Park's Human Resources Director and had handled her duties in an outstanding manner. He noted that Ms. Kim Wahl, Arapahoe Park's former Horsemen's Bookkeeper, would be handling promotions and special events during the upcoming live racing season. Mr. Brown commented that the Division would recommend approval of all racing officials designated to serve during the 2014 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 and Simulcasting. Additionally, Mr. Powers advised that Mr. Keith Munson, who had previously served as Arapahoe Park's Security Director, 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.

Discussion took place regarding the composition of the racing surface during which Mr. Seymore advised that gypsum had been added to the soil and, also, that the racetrack had responded well to the recent episodes of moist weather. Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, advised that the grader will be used to maintain the good condition of the racetrack surface.

Mr. Powers stated that, at the present time, approximately 700 horses are stabled on the grounds and he anticipates that approximately 1,200 horses will eventually be housed at Arapahoe Park this season.

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 2014 renewal license application and that Division Auditor Pam Kilgore and Commissioner Pam Inmann 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 Inmann and Ms. Kilgore observed that it appears that the Association's financial status has substantially improved as a result of the 2012 and 2013 increases in handles, the continued popularity of both in-state and out-of-state simulcasting and the opening of additional simulcast venues. Commissioner Inmann 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 Inmann asserted that she is confident that the Association would be able to continue to meet its financial obligations. Division Director Hartman expressed his opinion that increased advertising of the race meet would be helpful and would bring new patrons to the racetrack. He commended Mr. Bruce Seymore and his staff for their ongoing efforts at making Arapahoe Park a successful and prosperous venture. Mr. Hartman recommended that the financial statements dated December 31, 2013 and 2012 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, 2014, 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 2014 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 2013 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 2013 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 2014 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 2014 renewal application.

Following review and discussion, a motion was made by Commissioner Vail, seconded by Commissioner Beirne and unanimously carried to approve Arapahoe Park's 2014 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, 2014 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

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NOTICE OF ISSUANCE OF MEET LICENSE WITH CONDITIONS

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

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

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

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

with the following conditions:

1. This approval is granted from the opening day of the live race meet, which is Saturday, May 24, 2014 through the closing day of the meet, which is Sunday, August 17, 2014 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 26, 2014 (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, 2014. 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 2014 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 funds 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 Adoption 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 2014/2015 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 2014 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 23, 2014.
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 2014 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 22nd day of May, 2014.

BY ORDER OF THE COLORADO RACING COMMISSION

s/ Dan Hartman, Director, Division of Racing Events

Consideration of Proposed “Colorado Division of Racing Events Estimated Therapeutic Medication Withdrawal Times” and Association of Racing Commissioners International Environmental Substances Schedule – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, presented the proposed estimated therapeutic medication withdrawal times for Arapahoe Park’s 2014 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. Additionally, the Commission reviewed the Association of Racing Commissioners International (ARCI) Environmental Substances Schedule, which was adopted during the Model Rules Meeting at the 2014 ARCI Spring Convention.

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.

Mr. Hartman observed that the Division of Racing Events has the ability to perform out-of-competition sample testing, noting that it may be possible for the Division to undertake testing earlier in the week than it has in the past. He stated that the Division would continue to be monitoring its drug detection program in order to ensure that it is keeping pace with the drug/medication administration program. Mr. Hartman estimated that between forty and fifty samples have typically been taken as part of the pre-race testing program. He commented that samples taken on Wednesday would be analyzed and reported upon by Friday, noting that a greater amount of lead time would be needed if full panel screening was requested. Mr. Hartman explained that this program was designed to assist trainers proactively by enabling them to decide whether to withdraw a horse from a race if it appeared that the horse might have a detectable level of drugs/medication in its system on race day. The Commission and Division concurred that one of its primary goals remains the prevention of the occurrence of positive drug/medication test results and the maintenance of Colorado’s positive reputation as a “zero tolerance” state. Further, Mr. Hartman noted that New Mexico’s increased vigilance and oversight relating to the administration of drugs/medications to horses has been advantageous for Colorado as well since many horses race in both states.

A motion was made by Commissioner Day, seconded by Commissioner Inmann and unanimously carried to approve the proposed estimated therapeutic medication withdrawal times for 2014 and the ARCI Environmental Substances Schedule and to direct that it be distributed to all racing participants at Arapahoe Park.

Consideration of Applications for Release of Monies from the Greyhound Welfare and Adoption Fund – Pam Kilgore

Mr. Pam Kilgore, Auditor for the Division of Racing Events reported that the Division received five applications for the release of money from the Greyhound Welfare and Adoption Fund. She observed that the requesting organizations are: 1) Colorado Greyhound Adoption; 2) Friends of Retired Greyhounds; 3) Greyhound Connection; 4) Rocky Mountain Greyhound Adoption, Inc.; and 5) Front Range Greyhound Adoption. Mr. Kilgore advised that she and Division Director Dan Hartman had reviewed each of the subject applications. She apprised the Commission that, currently, there is approximately \$47,000 in the Fund.

Ms. Kilgore explained that, based upon the distribution methodology discussed and adopted by the Commission in May 2013, each organization is reimbursed based upon the number of greyhounds that it has placed during the six-month application period divided into the available amount of fund money. She stated that, during the subject six-month period, there were 320 greyhounds placed by the applicants. This would mean that the organizations would receive \$142.61 per placed greyhound

(\$45,000/320=\$142.61). Further, Ms. Kilgore reflected that the Commission had previously discussed the possibility of funding “special needs” greyhounds. She advised that eight “special needs” greyhounds had been adopted during the subject six-month period. Mr. Hartman recommended that, in approving future distribution requests, the Commission give extra consideration to the amount of time and expense that certain organizations must absorb while caring and arranging adoptions for “special needs” greyhounds.

Mr. Hartman explained that, based upon a statutory change, all references to “promotions” have been eliminated from the Racing Statute and, therefore, no organization that seeks to promote greyhound racing would be eligible for receipt of money from the subject Fund.

Ms. Kilgore advised that, 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.

Commissioner Beirne requested that the Division provide additional data regarding the specific numeric placement of greyhounds by Friends of Retired Greyhounds and Greyhound Connection. Ms. Kilgore stated that she would comply with this request.

Mr. Hartman and Ms. Kilgore confirmed that all of the subject 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 \$5,000 and Front Range Greyhound Adoption requested \$1,969.26, but Friends of Retired Greyhounds and the Greyhound Connection did not request specific amounts. Notice was taken that, of the requesting organizations, only Front Range Greyhound Adoption has not previously received Fund money. Further, Ms. Kilgore observed that each of the organizations is currently licensed by the Division of Racing Events.

Ms. Kilgore and Mr. Hartman stated that the Division of Racing Events would recommend that the Commission approve the following disbursements totaling \$45,000 from the Greyhound Welfare and Adoption Fund and, also, would recommend that the eight “special needs” greyhounds be recognized:

• To Colorado Greyhound Adoption:	\$13,219.00
• To Friends of Retired Greyhounds:	\$ 8,016.00
• To Greyhound Connection:	\$18,422.00
• To Rocky Mountain Greyhound Adoption, Inc.:	\$ 4,359.00
• Front Range Greyhound Adoption:	\$ 984.00
	<hr/>
TOTAL	\$45,000.00

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 \$13,219.00 to Colorado Greyhound Adoption; \$8,016.00 to Friends of Retired Greyhounds; \$18,422.00 to Greyhound Connection; \$4,359.00 to Rocky Mountain Greyhound Adoption, Inc. and \$984.00 to Front Range Greyhound Adoption, which totals \$45,000.00, 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, 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 Welfare and Adoption Fund.

Mr. Hartman commended the greyhound welfare and adoption organizations and acknowledged that they deserve to receive compensation for their outstanding work and service. No further action was taken at this time.

#### Welcome to Returning Staff Member Robert “Duke” Mann

The Commission welcomed back Mr. Robert “Duke” Mann, Investigator for the Division of Racing Events, who recently returned to work after a lengthy illness. Mr. Mann thanked the Commission for its acknowledgment and expressed his appreciation for the good wishes that he had received during his convalescence.

Division Director Dan Hartman advised that, during the upcoming live racing season, Mr. Mann would be working at the Division’s home office. Mr. Hartman observed that Mr. Mann would be handling numerous and diverse assignments, including, but not limited to, the compilation of daily and weekly Stewards’ reports for public consideration, aiding the Division’s Legal Assistant in reviewing and making recommendations concerning Commission rules for future discussion and, upon occasion, serving as an additional and/or substitute Steward at Arapahoe Park. Mr. Hartman stated that he is pleased to have Mr. Mann’s assistance and expertise in performing these and other duties.

Further, in the interest of transparency and responsiveness to the public and the industry, Mr. Hartman requested that each Commissioner feel free to apprise him of any ideas for improvements or requests for additional information concerning the operations of the Division.

#### Announcement Regarding Horsemen’s Meeting at Arapahoe Park – Dan Hartman

Division Director Dan Hartman announced that the Division’s pre-meet meeting with the horsemen racing at Arapahoe Park would be held on Wednesday, May 21, 2014.

The Commission encouraged those in attendance to support and promote the Arapahoe Park race meet.

#### Adjournment

After determining that there was no further business to consider, a motion was made by Commissioner Vail, seconded by Commissioner Day and unanimously carried to adjourn the meeting at 10:40 a.m.

#### Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Tuesday, July 8, 2014** at Arapahoe Park, 26000 East Quincy Avenue, Aurora, Colorado.

The undersigned hereby approve the foregoing Minutes.

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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

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, July 8, 2014 in the Directors' Room at Arapahoe Park, 26000 East Quincy Avenue, Aurora, Colorado. Chairwoman Mary Sharon Wells called the meeting to order at 9:50 a.m.

### Members Present

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

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Mark Brown, Enforcement Supervisor/Racing Coordinator  
Robert "Duke" Mann, Division Investigator  
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.

### Observation Regarding Division of Racing Events' New Sound System

The Commission took notice of the Division of Racing Events' newly acquired sound system.

### Election of Officers

A motion was made by Commissioner Inmann to appoint Commissioner Wells to serve as Chair of the Commission. A motion was made by Commissioner Vail to appoint Commissioner Beirne to serve as Chair of the Commission. A motion was thereupon made by Commissioner Inmann, seconded by Commissioner Vail and unanimously carried to close the nominations. Chairwoman Wells called for a ballot vote. Division Director Dan Hartman tallied the votes and announced that Chairwoman Wells had been re-appointed by a majority to serve as Commission Chair.

A motion was made by Commissioner Vail, seconded by Commissioner Inmann and carried by acclamation to re-appoint Commissioner Beirne to serve as Vice-Chair of the Commission. Both appointments will remain in effect through June 2015.

Approval of Minutes of May 13, 2014

A motion was made by Commissioner Beirne, seconded by Commissioner Vail and unanimously carried to approve the minutes of May 13, 2014 as submitted.

Status Report – Arapahoe Park’s 2014 Live Race Meet – Mark Brown

Mr. Mark Brown, Racing Coordinator for the Division of Racing Events addressed the Commission regarding the current live race meet. Mr. Bill Powers, Facilities Manager/Director of Racing at Arapahoe Park, and Mr. Bruce Seymore, Executive Director of Colorado Racing Operations for Mile High Racing and Entertainment, appeared on behalf of Racing Association.

Mr. Brown commented that Arapahoe Park is having a very challenging, but successful, race meet. He commended the performance of the Division’s licensing staff and reported the following licensing statistics through June 30, 2014:

- That a total of 1,024 applications and validations have been processed;
- That 90% of all applicants received their badges within seven days and that 10% were withheld issuance of a badge due to some unresolved issue;
- That 100% of all validations were processed and badges issued within two days; and
- That licensing files have been completed through June 27, 2014.

Additionally, Mr. Brown advised that 101 stable inspections were conducted within 45 days of the opening of the meet. He explained that, although 111 trainers are listed as active at the meet, not all of them are in residence at Arapahoe Park. He reported that 31 human drug tests have been performed from which three positive test results were obtained, two for marijuana and one for alcohol.

Mr. Brown provided the following comparative statistical data between the 2013 and 2014 live race meets through June 30, 2014:

	2013	2014	
Attendance	34,190	40,602	up by 6,412 patrons
On-Track Handle	\$1,109,572	\$1,172,394	up by \$62,822
In-State Handle	\$1,357,015	\$1,400,551	up by \$43,536
Out-of-State Handle	\$1,739,488	\$1,591,124	down by \$148,364
Total Handle	\$3,096,503	\$2,981,224	down by \$115,279

Mr. Brown noted that Arapahoe Park was compelled by inclement weather to cancel the June 22, 2014 performance. Thus, the 2013 figures reflect 21 days of live racing while the 2014 statistics reflect 20 days of live racing. Both Mr. Brown and Mr. Powers observed that they believed that the loss of the single race day would account for the decrease in the out-of-state and total handles.

Mr. Seymore addressed the Commission regarding Arapahoe Park's implementation of some new plans, policies and procedures during this season's meet. First, he advised that, on June 24, 2014, an announcement had been made that Arapahoe Park would commence a Race-Day Medication-Free Incentive whereby horsepersons who refrained from administering race-day medication to their horses would be rewarded. Mr. Seymore explained that the incentive program, which is applicable to all races, was introduced on Friday, June 27th and is to remain in effect throughout the 2014 live racing season. Further, he stated that it affords trainers who win a race with a horse void of any race-day medication to receive a \$1,000 bonus per victory to be paid from a special fund created by Arapahoe Park. Mr. Seymore apprised the Commission that trainers must be stabled at Arapahoe Park for the entire race meet to be eligible for the bonuses, which are to be paid out at the end of the season that concludes on August 17, 2014. He commented that the Race-Day Medication-Free Incentive has been launched in order to encourage trainers to go beyond the letter of the law that permits only Lasix, phenylbutazone ("bute"), flunixin, and ketoprofen on race day in Colorado, noting that the future of racing is going to be race-day medication-free.

Additionally, Mr. Seymore observed that it is Arapahoe Park's intention to demonstrate that it is pro-active in promoting and supporting Colorado's stringent zero tolerance position regarding medication usage. Mr. Seymore commented that, years ago, when he had initially discussed creation of such an incentive plan with members of the Colorado Horse-Racing Association, his suggestion had been met with strong opposition. However, since its implementation this season, the incentive plan has become increasingly popular and has been gaining support both locally and nationally. Additionally, he commented that Arapahoe Park has been credited with being the first racetrack in the country to launch a program of this nature. Mr. Seymore advised that Colorado already has one of the strictest testing procedures in the country and this new Race-Day Medication-Free Incentive allows Arapahoe Park to continue to improve its standards. The Commission commended Mr. Seymore and his staff for the successful implementation of the incentive plan, expressed its appreciation for Arapahoe Park's advocacy of Colorado's zero tolerance position and confirmed that Arapahoe Park has developed and is funding this plan entirely on its own. Commissioner Vail observed that this initiative is a step toward reducing the exceedingly large number of horses that are administered allowable race-day medication, such as "bleeder" medication.

Second, Mr. Seymore reported that, due to the large volume of horses that have been removed from and returned to Arapahoe Park on the same day, the Association has instituted new protocols for both departing and returning horses to address this situation. He advised that the Association is now requiring that, prior to being considered eligible for entry, a returning horse must have been on the racetrack premises for at least forty-eight hours, must have had its identity verified by the horse identifier, and, also, have its trainer provide verification that the horse has, in fact, been returned to Arapahoe Park. Furthermore, once a horse has returned to Arapahoe Park, it is not allowed to race for a period of ten days thereafter.

The Commission congratulated Mr. Seymore and his staff on these new plans, policies and procedures and expressed its belief that such initiatives could provide beneficial marketing opportunities for Arapahoe Park. Mr. Seymore stated that he intends to continue to implement increasingly stringent policies at Arapahoe Park and ensure that this racetrack remains in the forefront of the industry. He acknowledged the Commission's endorsement of the aforementioned plans and policies and expressed his gratitude for the encouragement and sense of security that his rapport with the Commission and the Division has provided. Mr. Dan Hartman, Director of the Division of Racing Events, observed that cooperation among all sectors of the horse-racing community is essential in order to achieve a strong and positive regulatory environment in the Colorado racing industry.

The Commission accepted Mr. Brown's report and thanked both he and Mr. Seymore for their informative presentations.

#### Acknowledgment of Investigator Brian Valenzuela's Mother – Mark Brown

Mr. Mark Brown, Racing Coordinator for the Division of Racing Events, informed the Commission of the recent death of the Mother of Mr. Brian Valenzuela, a Division Investigator at Arapahoe Park. The Commission requested that Mr. Brown convey its condolences to Mr. Valenzuela.

#### Convening of 2015 Race Dates Hearing

Chairwoman Wells convened the 2015 Race Dates Hearing at 10:10 a.m.

Mr. Dan Hartman, Director of the Division of Racing Events, advised the Commission that only Arapahoe Park had submitted a request for dates. Mr. Hartman stated that Arapahoe Park tendered its request for a 2015 race date envelope consisting of 39 days of live horse racing to be conducted on unspecified dates over a 13-week period from May through August 2015. He noted that, by allowing Arapahoe Park's scheduling to be left open-ended until submission of its renewal application, the Commission would be affording Arapahoe Park's management the opportunity to compare the dates of other racetracks and determine what the best available dates would be upon which to conduct the 2015 meet.

In order for the Division to be able to plan for calendar year 2015, Fiscal Year 2015 and Fiscal Year 2016, to develop an appropriate staffing plan for the proposed meet and to have a clear idea about what its budgetary needs would be, Mr. Hartman recommended that the Commission approve Arapahoe Park's race date request as submitted. He declared that it is very important for the Division and the Commission to be able to prepare for the continuation and perpetuation of live racing in Colorado. Additionally, he recommended that approval of the proposed envelope be conditioned upon available resources, sufficient staff and budget.

Based upon Mr. Hartman's recommendation, the Commission proceeded to consider the proposed race date request for Arapahoe Park for 2015. A motion was thereupon made by Commissioner Day, seconded by Commissioner Vail and unanimously carried to accept Arapahoe Park's 2015 requested race dates envelope on a contingency basis subject to submission of actual race dates as well as availability of Division funding and staffing. (Notice was taken that Arapahoe Park may request the ability to conduct live racing on any days that it desires between May 1, 2015 and August 31, 2015, with the proviso that the conditions set forth above apply to any specific dates of racing.):

ARAPAHOE PARK  
(Unincorporated Arapahoe County)

MAY – AUGUST, 2015\*  
(39 UNSPECIFIED DATES)

\* - Actual race days to be determined

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

There being no further race date requests to consider, the 2015 Race Dates Hearing was adjourned at approximately 10:15 a.m.

#### Update on Status of Off-Track Wagering Facilities – Bruce Seymore

Mr. Bruce Seymore, Executive Director of Colorado Racing Operations for Mile High Racing and Entertainment, reported to the Commission on the current status of off-track wagering facilities in Colorado, noting that these facilities are the "life force" behind Colorado's racing industry. He advised as follows:

- That, at the present time, three licenses are being held in abeyance with further action anticipated late in 2014;
- That operation of the off-track wagering facility in Trinidad has been discontinued and the facility in Garden City may also close; and
- That the three establishments in or near metropolitan Denver (Red and Jerry's, Softball Country and the Celtic Tavern) have been very successful with most activity in the LoDo (lower downtown Denver) area taking place during baseball season

The Commission thanked Mr. Seymore for his update.

#### Thanks to Mr. Seymore for Hosting the Meeting

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

Expression of Appreciation – Chairwoman Mary Sharon Wells

Commission Chairwoman Mary Sharon Wells expressed her appreciation to her colleagues for their endorsement and for being given the opportunity to learn about the racing industry and serve the citizens of Colorado.

Adjournment of Regular Business Meeting

There being no further business to consider, the meeting was adjourned by acclamation at 10:20 a.m.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Tuesday, October 14, 2014** in Conference Room 110 (Enforcement Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

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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

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, October 14, 2014 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  
Sean Beirne, Vice-Chairman  
Cindy Day, Member  
Pam Inmann, Member

Commissioner Charles Vail, DVM, was excused from the meeting.

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Mark Brown, Enforcement Supervisor/Racing Coordinator  
Robert "Duke" Mann, Division Investigator  
Bryan Valenzuela, Division Investigator  
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 8, 2014

A motion was made by Commissioner Day, seconded by Commissioner Inmann and unanimously carried to approve the minutes of July 8, 2014 as submitted.

Commissioner Day inquired how much money had been paid out by Arapahoe Park in bonuses to trainers who had participated in the Race-Day Medication-Free Incentive Program. Mr. Bruce Seymore, Executive Director of Colorado Racing Operations for Mile High Racing and Entertainment, advised that four trainers had been awarded \$1,000 bonuses (\$4,000 total) during a presentation held on the final day of the race meet. He noted that he wished that there had been a greater number of successful trainers participating in the program than there were. Additionally, Mr. Seymore observed that the incentive plan had received national attention from several racecourses that intend to initiate a similar program and, also, in magazine coverage. The Commission commended Arapahoe Park for launching this program.

### Scheduled Referral/Penalty Only Hearing – In the Matter of Owner-Trainer NEIL ALAN KOCH

The scheduled hearing was called to order by Chairwoman Wells at 9:35 a.m. Mr. Koch was not present and was not represented by legal counsel. Ms. Charmaine Rose, Assistant Attorney General, entered her appearance as legal counsel on behalf of the Division of Racing Events. Mr. Skip Spear, Conflicts Counsel from the Office of the Colorado Attorney General, was also present to advise the Commission independently.

At Assistant Attorney General Rose's request, the Commission confirmed the presence of a quorum. Commission Chairwoman Wells acknowledged that Commissioner Charles Vail, DVM, was not present, but that Commissioners Mary Sharon Wells, Sean Beirne, Cindy Day and Pam Inmann were present. Further, Assistant Attorney General Rose requested that the Commission take notice that Mr. Koch had been duly and properly notified by the Division of Racing Events of today's hearing.

Assistant Attorney General Rose stated that the Division of Racing Events had found no evidence of malice or intent to deceive on Mr. Koch's part and believed that the failure to identify properly the horse in question, "NEVER SAY KNOW", was due to Mr. Koch's carelessness and mishandling of his duties and obligations in this matter.

In its deliberation, the Commission reviewed the Findings of Fact from the Board of Stewards, which are part of the record in this case, prior to rendering their Decision and Order regarding this Penalty Phase of the Hearing. The Commission took notice that the horse presumed to be "NEVER SAY KNOW", owned and trained by Mr. Neil Alan Koch, duly licensed as an Owner-Trainer by the Division, ran in the second race, a claiming race, on May 25, 2014 at Arapahoe Park. The horse in question was then sold to Mr. Reuben Leyba. Subsequent to the running of the race and the sale of the horse, it was ascertained from an examination of the Jockey Club papers by Ms. Holly Dennis, Brand Inspector for the Colorado State Board of Stock Inspectors, that the description of and tattoo number on the horse in question did not match those recorded on the papers. The horse in question fit the description of the horse "WHISKEY TRIP". Based upon this discovery, it was determined that Mr. Neil Alan Koch, licensed by the Colorado Division of Racing Events as an Owner and Trainer, had improperly identified the racehorse and had entered it in a claiming race.

Further, the Commission took notice that a hearing in this case had been conducted by the Arapahoe Park Board of Stewards on July 17, 2014 at which time the Board of Stewards found that Mr. Neil Alan Koch had violated Colorado Racing Commission Rules 5.504, 5.508 and 7.130. Thereupon, the Board of Stewards recommended that a thirty-day suspension and a \$500 fine be imposed, the fine assessment being the maximum amount that the Board could impose. However, upon further deliberation on the record, it was the decision of the Board of Stewards to refer this case to the Colorado Racing Commission with a recommendation for further penalty.

Assistant Attorney General Rose offered the Division's recommendation to the Commission. The Commission reviewed the recommendation taking notice that the Division is asking for an enhanced penalty of a \$2,500 fine with \$1,500 of the fine to be held in abeyance for 365 days if no further incidents of this nature occur and no suspension of licensure.

Discussion ensued during which the Commission acknowledged that this referral hearing was being conducted for the sole purpose of determining an appropriate penalty. Commissioner Beirne voiced his disagreement with the Division's recommendation that no suspension of Mr. Koch's license be imposed, stating that he believed that a sixty (60)-day suspension was warranted based upon the severity of the offense. He endorsed the recommendation that the fine be increased to \$2,500. Commissioner Wells commented that the Commission appreciated Mr. Beirne's remarks and recognized that it is very important for the Commission to be conscious of the seriousness of any perception of deceit in racing, whether intentional or not, and, thus, the imposition of the fine of \$2,500 was justifiable.

Following deliberation and consideration of the nature of the offense and the Division's recommendation regarding penalty, a motion was made by Commissioners Inmann, seconded by Commissioner Day and carried by a majority vote to approve the imposition of a fine in the amount of \$2,500, due and payable within twenty (20) calendar days of notification of the imposition of said fine, pursuant to Colorado Racing Commission Rule #6.700, with the proviso that \$1,500 is to be held in abeyance for a period of 365 days contingent upon no further violation of this kind occurring during this period; and, further, that no suspension of licensure will be assessed. Commissioner Beirne voted against the motion.

The hearing concluded at 9:50 a.m.

This proceeding was stenographically recorded by Ms. Jana Mackelprang, Certified Shorthand Reporter. A tape recording of the proceeding is on file in the Division's Pierce Street office.

The following Commissioner Ruling and Order was disseminated:

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

**Case Number: 14-0492**

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**RULING & ORDER**

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**IN THE MATTER OF:**

**KOCH, NEIL ALAN, Licensee**  
License Type: Trainer  
License Number: 201410513

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**PENALTY ASSESSMENT DECISION & ORDER**

On Tuesday October 14, 2014 the Colorado Racing Commission convened to determine the penalty assessment of the Neil Alan Koch Case # 14-0492. This penalty phase hearing is being held pursuant to CRCR 6.120:

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 except as described in Rule 3.437, and as it relates to the recommended minimum fine as set forth in rule 5.441 the RCI *uniform classification guide lines for foreign substances* or shown in the RMTC *penalty guideline listing* for class a, b, and c penalties for 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> violations where no aggravating factors are cited or except as restricted in the enforcement of citations by Rule 6.124. Licensees so suspended shall be denied all licenses and shall not be in good standing until the terms of the Board's order have been satisfied. In addition, if the Board or a Hearing Officer believes a more severe penalty should be imposed, it may refer the case to the Commission for further action. A fine or suspension may not be rescinded by the Board or a Hearing Officer except with approval of the Commission.

Commissioner Charles Vail, DVM was not present for the Commission meeting. Commissioner Chairwoman Mary Sharon Wells, Commissioner Cindy Day, Commissioner Vice-Chair Sean Beirne, and Commissioner Pam Inmann were all present at the meeting. Mr. Neil Alan Koch was sent notice of this hearing on August 20, 2014 and failed to appear at the hearing. Conflicts Counsel from the Office of the Colorado Attorney General, Skip Spear was also present to advise the Commission independently.

Assistant Attorney General Charmaine Rose offered the Division recommendation to the Commission. Rather than a 30 day suspension and \$500 fine, which was the limit of the ability of the Board of Stewards, the Division is asking for an enhanced penalty of a \$2,500 fine with \$1,500 of that fine to be held in abeyance for 365 days if no further incidents of this nature occur. The Division is not asking for a suspension of licensure in this case.

The Colorado Racing Commission reviewed the Findings of Fact from the Board of Stewards prior to rendering their Decision and Order on this Penalty Phase portion of the hearing. The **Board of Stewards Findings of Fact** are on the record and stand as follows:

1. At all times relevant to this Case, **Neil Alan Koch** was licensed by the Division of Racing Events (hereafter, the "Division") as a Trainer and an Owner.
2. The Horse, presumed to be "**NEVER SAY KNOW**," ran in the **2nd** race, a claims race, on **May 25, 2014**, at Arapahoe Park (hereafter, the "Race").

3. The Horse, presumed to be “**NEVER SAY KNOW**” ran in this claims race and was then later sold to Ruben Leyba.

4. According to the Arapahoe Park Horse Identification and The Jockey Club paperwork for “**NEVER SAY KNOW**,” the horse was described as having Tattoo # NO5126 and the identifying description of a median cowlick at the top of eye level Left fore: coronet irregularly white, lower on outside, higher in back; mixed white hairs on the pastern and ankle. Left hind: coronet white except on outside, higher on inside in back. Right hind: pastern white, higher in back; dark spot on coronet in front. Right fore: mixed white hairs on pastern and ankle. Cowlick high at crest of neck on both sides. Scattered white hairs throughout coat.

5. According to the Arapahoe Park Horse Identification and The Jockey Club paperwork for “**WHISKEY TRIP**” described the horse to have Tattoo # M10805 and the identifying description of a rounded star on his head, median cowlick at eye level, cowlick behind poll on both sides; cowlick at crest of neck on right side; cowlick at throat latch.

6. The Colorado State Board of Stock Inspection, Brand Inspector Holly Dennis pulled the Jockey Club papers on Wednesday, June 11, 2014. She noticed the horse did not match the description. She also noticed the tattoo did not match. At that time, Holly Dennis asked the parties involved (Neil Koch and Reuben Leyba) to take a look at the papers and pointed out this horse did not fit the description of “**NEVER SAY KNOW**.”

7. Instead, the horse in question fit the description of “**WHISKEY TRIP**.”

8. As such, the trainer Neil Alan Koch improperly identified the race horse and entered it in a claiming race.

#### **Board of Stewards Legal Analysis**

The Board of Stewards found the testimony of both the investigator in this case and the licensee to be credible and forthright. The facts of this case indicate that Neil A. Koch was responsible in his capacity as a trainer.

The Board of Stewards finds that Licensee has engaged in a violation of the Colorado Racing Commission Rules as follows:

a) Licensee has engaged in a violation of CRCR 7.130, which states:

Every licensee exercising a horse shall correctly identify the horse being exercised, if requested, and if working, the licensee shall state the distance and the point on the racing strip where it is intended to start the workout.

b) Licensee has engaged in a violation of CRCR 5.508, which states:

Additionally, with respect to horses in his/her care or custody, the trainer is responsible for:

(1) The proper identity, custody, care, health, condition and safety of horses;

#### **Board of Stewards Conclusions of Law**

The Board of Stewards hereby finds that Neil A. Koch, trainer improperly identified the horse being exercised on the track, in violation of CRCR 7.130. Furthermore Mr. Koch improperly identified the horse under his care and custody in violation of CRCR 5.508 and 5.504.

**Colorado Racing Commission Penalty Phase Assessment Decision and Order**

After further deliberation on the record, where enhanced penalty was discussed, as Commissioner Sean Beirne felt a greater penalty and suspension of 60 days was warranted since the trainer ran a horse that was the wrong horse. However, he was the sole member of the Commission to disagree with the Division recommendation, as he thought a suspension was warranted.

The Colorado Racing Commission made a Motion on a 3-1 vote to approve the \$2,500 penalty fine with \$1,500 to be held in abeyance for 365 days if no further occurrence takes place, consistent with the Division recommendation. The Colorado Racing Commission is not assessing a suspension in this case.

The total fine is **Two thousand five hundred (\$2500.00)**:

- a. **Two thousand five hundred (\$2500.00) fine** under CRCR 5.441 CLASS B violation 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.
  - i. If the **Two thousand five hundred (\$2500.00) fine** is not paid in a timely manner:
  - ii. Pursuant to **Colorado Racing Commission Rule #6.700**, a penalty fine, equal to the amount of this **Two thousand five hundred (\$2500.00) fine** shall be imposed automatically, which total fine and penalty shall be immediately due and payable; and,
  - iii. The license of the Licensee shall be automatically suspended for one hundred twenty (120) days, or until the fine and penalty amount are paid, whichever is less, any such suspension to run consecutively to and not concurrently with any other suspension; and,
  - iv. 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.

BY ORDER OF THE COLORADO RACING COMMISSION.  
Dated October 14, 2014

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

**Scheduled Referral/Penalty Only Hearing – In the Matter of Identifier GARY A. RIGGS**

The scheduled hearing was called to order by Chairwoman Wells at 9:50 a.m. Mr. Riggs was present, but was not represented by legal counsel. Ms. Charmaine Rose, Assistant Attorney General, entered her appearance as legal counsel on behalf of the Division of Racing Events. Mr. Skip Spear, Conflicts Counsel from the Office of the Colorado Attorney General, was also present to advise the Commission independently. Mr. Bruce Seymore, Executive Director of Colorado Racing Operations for Mile High Racing and Entertainment, appeared on behalf of Mr. Riggs.

Assistant Attorney General Rose requested that the Commission take notice that Mr. Koch had been duly and properly notified by the Division of Racing Events of today's hearing. She apprised the Commission that the Division of Racing Events had found no evidence of malice or intent to deceive on Mr. Riggs' part and believed that the

failure to identify properly the horse in question, "NEVER SAY KNOW", was due to Mr. Riggs' carelessness and mishandling of his duties and obligations in this matter.

In its deliberation, the Commission reviewed the Findings of Fact from the Board of Stewards, which are part of the record in this case, prior to rendering their Decision and Order regarding this Penalty Phase of the Hearing. The Commission took notice that the horse presumed to be "NEVER SAY KNOW", owned and trained by Mr. Neil Alan Koch, duly licensed as an Owner-Trainer by the Division, ran in the second race, a claiming race, on May 25, 2014 at Arapahoe Park. The horse in question was then sold to Mr. Reuben Leyba. Subsequent to the running of the race and the sale of the horse, it was ascertained from an examination of the Jockey Club papers by Ms. Holly Dennis, Brand Inspector for the Colorado State Board of Stock Inspectors, that the description of and tattoo number on the horse in question did not match those recorded on the papers. The horse in question fit the description of the horse "WHISKEY TRIP". Based upon this discovery, it was determined that Mr. Gary Riggs, licensed by the Colorado Division of Racing Events as an identifier and serving as a racing official and paddock judge during the Arapahoe Park race meet, had allowed the horse presumed to be "NEVER SAY KNOW" to leave the paddock and enter the racetrack.

Further, the Commission took notice that a hearing in this case had been conducted by the Arapahoe Park Board of Stewards on July 17, 2014 at which time the Board of Stewards found that Mr. Gary A. Riggs had violated Colorado Racing Commission Rules 4.104 and 4.664. Thereupon, the Board of Stewards recommended that Mr. Gary A. Riggs' license be suspended for a period of fifteen (15) days and, further, that he be fined the sum of \$500, the fine amount being the monetary limit of the Board's ability to sanction. However, upon further deliberation on the record, it was the decision of the Board of Stewards to refer this case to the Colorado Racing Commission with a recommendation for further penalty.

Assistant Attorney General Rose offered the Division's recommendation to the Commission. The Commission reviewed the recommendation taking notice that the Division is asking for an enhanced penalty of a \$2,500 fine with \$1,500 of the fine to be held in abeyance for 365 days if no further incidents of this nature occur and no suspension of licensure.

Discussion ensued during which the Commission acknowledged that this referral hearing was being conducted for the sole purpose of determining an appropriate penalty. Mr. Bruce Seymore, Executive Director of Colorado Racing Operations for Mile High Racing and Entertainment, addressed the Commission concerning Mr. Riggs' lengthy and outstanding performance as a paddock judge/identifier at Arapahoe Park. Mr. Seymore stated that, in his nine years as a paddock judge, Mr. Riggs had never performed his duties in a negligent or inept manner and had always been a superior employee. He assured the Commission that he would continue to employ Mr. Riggs as a paddock judge/identifier in the future. Commissioner Beirne voiced his disagreement with the Division's recommendation that no suspension of Mr. Riggs' license be imposed, stating that he believed that a suspension was warranted based upon the severity of the offense. He endorsed the recommendation that the fine be increased to \$2,500. Additionally, Commissioner Beirne inquired of Mr. Riggs what form of examination he had performed on the horse in question, "NEVER SAY KNOW", to which Mr. Riggs replied that he had performed the routine checks of the tattoo number and the lip marking on the subject horse. Commissioner Beirne observed that the failure of each person responsible for properly identifying the horse in question was very troubling to him and he found it difficult to comprehend how the misidentification had occurred. Commissioner Wells acknowledged her own concerns regarding the violations committed by Mr. Koch and Mr. Riggs and reflected that the Commission is very concerned about the public's perception that those engaged in any phase of the racing industry are law-abiding and competent in the performance of their duties. Further, Commissioner Beirne stated that it would be difficult for him to approve Mr. Riggs to serve in the position of identifier at any future race meet at Arapahoe Park and he would not support his returning in this capacity.

Following deliberation and consideration of the nature of the offense and the Division's recommendation regarding penalty, a motion was made by Commissioners Inmann, seconded by Commissioner Day and unanimously carried to approve the imposition of a fine in the amount of \$2,500, due and payable within twenty (20) calendar days of notification of the imposition of said fine, pursuant to Colorado Racing Commission Rule #6.700, with the proviso that \$1,500 is to be held in abeyance for a period of 365 days contingent upon no further violation of this kind occurring during this period; and, further, that no suspension of licensure will be assessed.

The hearing concluded at 10:00 a.m.

This proceeding was stenographically recorded by Ms. Jana Mackelprang, Certified Shorthand Reporter. A tape recording of the proceeding is on file in the Division's Pierce Street office.

The following Commissioner Ruling and Order was disseminated:

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

**Case Number: 14-0537**

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**RULING & ORDER**

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**IN THE MATTER OF:**

**RIGGS, GARY A.**

License Type: Support / Identifier

License Number: 201410041

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**PENALTY ASSESSMENT DECISION & ORDER**

On Tuesday October 14, 2014 the Colorado Racing Commission convened to determine the penalty assessment of the Gary A. Riggs Case # 14-0537. This penalty phase hearing is being held pursuant to CRCR 6.120:

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 except as described in Rule 3.437, and as it relates to the recommended minimum fine as set forth in rule 5.441 the RCI *uniform classification guide lines for foreign substances* or shown in the RMTTC *penalty guideline listing* for class a, b, and c penalties for 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> violations where no aggravating factors are cited or except as restricted in the enforcement of citations by Rule 6.124. Licensees so suspended shall be denied all licenses and shall not be in good standing until the terms of the Board's order have been satisfied. In addition, if the Board or a Hearing Officer believes a more severe penalty should be imposed, it may refer the case to the Commission for further action. A fine or suspension may not be rescinded by the Board or a Hearing Officer except with approval of the Commission.

Commissioner Charles Vail, DVM was not present for the Commission meeting. Commissioner Chairwoman Mary Sharon Wells, Commissioner Cindy Day, Commissioner Vice-Chair Sean Beirne, and Commissioner Pam Inmann were all present at the meeting. Mr. Gary A. Riggs was sent notice of this hearing on August 20, 2014 and appeared at the hearing. Conflicts Counsel from the Office of the Colorado Attorney General, Skip Spear was also present to advise the Commission independently.

Assistant Attorney General Charmaine Rose offered the Division recommendation to the Commission. Rather than a 15 day suspension and \$500 fine, which was the limit of the ability of the Board of Stewards, the Division is asking for an enhanced penalty of a

\$2,500 fine with \$1,500 of that fine to be held in abeyance for 365 days if no further incidents of this nature occur. The Division is not asking for a suspension of licensure in this case.

Mr. Bruce Seymore, Director of Racing at Arapahoe Park appeared on behalf of Mr. Riggs and made a statement that Mr. Riggs has worked at the track for 9 years and is a valuable employee. Mr. Riggs declined to speak on his own behalf.

The Colorado Racing Commission reviewed the Findings of Fact from the Board of Stewards prior to rendering their Decision and Order on this Penalty Phase portion of the hearing. The **Board of Stewards Findings of Fact** are on the record and stand as follows:

9. At all times relevant to this Case, **Gary A. Riggs** was licensed by the Division of Racing Events (hereafter, the "Division") as a support licensee, Identifier. His job title in the Arapahoe Park Program is listed as is Paddock Judge/ Identifier/ Staff Superintendent.

10. Prior to the 2<sup>nd</sup> race on May 25, 2014, Gary A. Riggs in his capacity as a racing official and paddock judge, allowed the horse presumed to be "NEVER SAY KNOW" to leave the paddock and enter the race track.

11. The Horse, presumed to be "NEVER SAY KNOW," ran in the **2nd** race, a claims race, on **May 25, 2014**, at Arapahoe Park (hereafter, the "Race").

12. The Horse, presumed to be "NEVER SAY KNOW" ran in this claims race and was then later sold to Ruben Leyba.

13. According to the Arapahoe Park Horse Identification and The Jockey Club paperwork for "NEVER SAY KNOW" described the horse to have Tattoo # NO5126 and the identifying description of a median cowlick at the top of eye level Left fore: coronet irregularly white, lower on outside, higher in back; mixed white hairs on the pastern and ankle. Left hind: coronet white except on outside, higher on inside in back. Right hind: pastern white, higher in back; dark spot on coronet in front. Right fore: mixed white hairs on pastern and ankle. Cowlick high at crest of neck on both sides. Scattered white hairs throughout coat.

14. According to the Arapahoe Park Horse Identification and The Jockey Club paperwork for "WHISKEY TRIP" described the horse to have Tattoo # M10805 and the identifying description of a rounded star on his head, median cowlick at eye level, cowlick behind poll on both sides; cowlick at crest of neck on right side; cowlick at throat latch.

15. The Colorado State Board of Stock Inspection, Brand Inspector Holly Dennis pulled the Jockey Club papers on Wednesday, June 11, 2014. She noticed the horse did not match the description. She also noticed the tattoo did not match. At that time, Holly Dennis asked the parties involved (Neil Koch and Reuben Leyba) to take a look at the papers and pointed out this horse did not fit the description of "NEVER SAY KNOW."

16. Instead, the horse in question fit the description of "WHISKEY TRIP."

The facts of this case indicate that Mr. Gary A Riggs was responsible in his capacity as an identifier to properly identify racing horses as part of his job duties.

CRCR 4.664 states:

The paddock judge with the cooperation of the veterinarian, a plater and an identifier is responsible for assuring that *every horse that races is the proper horse* and is fit to race.

Pursuant to CRCR 4.104:

The Commission reserves the right to demand a change of any of the officials or employees for any reason which the Commission deems good and sufficient and any successor to any official or employee replaced shall be approved by the Commission. A racing official may be fined, suspended or removed at any time for incompetence and/or failure to follow or enforce these Rules or the law.

### **Board of Stewards Conclusions of Law**

The Board of Stewards found that Mr. Gary A. Riggs, licensee and identifier improperly identified the race horse in question, and cleared it to run on the track.

The Board of Stewards found that Mr. Riggs violated the provision of law found in CRCR 4.664 which states:

The paddock judge with the cooperation of the veterinarian, a plater and an identifier is responsible for assuring that *every horse that races is the proper horse* and is fit to race.

Mr. Riggs failed to assure that the horse in question was the proper horse in that particular race.

The Board of Stewards finds that in accordance with CRCR 4.104:

A racing official may be fined, suspended or removed at any time for incompetence and/or failure to follow or enforce these Rules or the law.

### **Colorado Racing Commission Penalty Phase Assessment Decision and Order**

**After further deliberation on the record, The Colorado Racing Commission approved a Motion on a 4-0 vote to approve the \$2,500 penalty fine with \$1,500 to be held in abeyance for 365 days if no further occurrence takes place, consistent with the Division recommendation. The Colorado Racing Commission is not assessing a suspension in this case.**

The total fine is **Two thousand five hundred (\$2500.00):**

- b. **Two thousand five hundred (\$2500.00) fine** under CRCR 5.441 CLASS B violation 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.
  - i. If the **Two thousand five hundred (\$2500.00) fine** is not paid in a timely manner:
  - ii. Pursuant to **Colorado Racing Commission Rule #6.700**, a penalty fine, equal to the amount of this **Two thousand five hundred (\$2500.00) fine** shall be imposed automatically, which total fine and penalty shall be immediately due and payable; and,
  - iii. The license of the Licensee shall be automatically suspended for one hundred twenty (120) days, or until the fine and penalty amount are paid, whichever is less, any such suspension to run consecutively to and not concurrently with any other suspension; and,
  - iv. 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.

BY ORDER OF THE COLORADO RACING  
COMMISSION.

Dated October 14, 2014

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

Daniel J. Hartman

Director Colorado Division of Racing Events

(Note: Mr. Gary A. Riggs paid his fine directly after the Colorado Racing Commission meeting in full for the \$2, 500.00.)

Consideration of Proposed Settlement Stipulation – In the Matter of Trainer JOSE GANDARA-MARQUEZ

Ms. Charmaine Rose, Assistant Attorney General, entered her appearance on behalf of the Colorado Racing Commission and the Division of Racing Events. She advised the Commission that a Settlement Stipulation had been reached between the Licensee, Trainer Jose Gandara-Marquez, and the Division of Racing Events in the matter of Case Numbers 14-0670 and 14-0675. Assistant Attorney General Rose requested that the Commission take notice that Mr. Jose Gandara-Marquez and his attorney, Mr. Joaquin Padilla, had been duly and properly notified by the Division of Racing Events of today's review of the proposed Settlement Stipulation, but elected not to appear in person before the Commission. Mr. Skip Spear, Conflicts Counsel from the Office of the Colorado Attorney General, was also present to advise the Commission independently. Further, the Commission took notice that Mr. Jenaro Gandara, the owner of the affected horse, PERRY CARTEL, had been duly and properly notified of today's consideration of the Settlement Stipulation, but, also, did not appear.

As part of its deliberation, the Commission took notice of the following facts in this matter:

- That the Horse, PERRY CARTEL, ran in the 4<sup>th</sup> race on July 4, 2014 at Arapahoe Park and finished in 1st place in the race. At the time of the race, Licensee Gandara-Marquez was the trainer of record for PERRY CARTEL.
- Following the Race, Division employees properly took and labeled blood and urine samples from PERRY CARTEL, which were then properly and securely transferred to the Commission's official chemist, Industrial Laboratories Company, Inc. The samples taken from PERRY CARTEL were properly analyzed utilizing sample-analysis procedures consistent with the recommendations of the Association of Official Racing Chemists.
- The sample-analysis determined that the blood sample taken from PERRY CARTEL contained Dimethylsulfoxide (DMSO), an unauthorized medication ranked as a Class 4, Penalty Class C drug according to the Colorado Racing Commission Rule #5.300 and the *Uniform Classification Guidelines for Foreign Substances* as published by the Association of Racing Commissioners International. This positive test result was certified in an Affidavit signed by Petra G. Hartmann, Director of Veterinary Drug Testing for Industrial Laboratories, dated July 18, 2014. Following notification of the results of the sample-analysis, the Arapahoe Park Board of Stewards disqualified and declared unplaced the horse PERRY CARTEL for every purpose except pari-mutuel wagering, established a new official order of finish and ordered redistribution of the purse in accordance with the new official order of finish.
- Licensee Gandara-Marquez also works at a second job as a veterinarian technician, at the time outside the racetrack grounds. As a licensed trainer, he voluntarily consented to and cooperated with Division employees in the conduct of a search of Licensee's backpack, barn, tack room and other areas, including Licensee's locked vehicle parked on Association grounds in the restricted area. During this search, syringes and labeled prescription medications were confiscated by Division employees. Licensee explained to Division employees who were conducting the search his reason(s) for possessing syringes and labeled prescription medications as a veterinarian technician.
- Licensee Gandara-Marquez explained to Division employees that he had followed the Division's recommendation relating to the administration of the DMSO and

had administered it to horses at least thirty-six hours prior to a scheduled race by having a licensed veterinarian administer the DMSO to PERRY CARTEL over forty-eight hours prior to the July 4, 2014 race. (Licensee provided a letter to the Division of Racing Events dated July 30, 2014 written by the licensed veterinarian who had administered the DMSO medication to PERRY CARTEL explaining that the veterinarian had given the DMSO to PERRY CARTEL on July 2, 2014 to treat the horse's lumbar apaxial muscles. The Division acknowledged receipt of the subject letter.)

- Further, Licensee Gandara-Marquez admitted that he had violated 12-60-507(1)(a) of the Colorado Revised Statutes and Colorado Racing Commission Rules 5.301, 5.304, 5.502, 5.350 and 5.359.
- Mr. Gandara-Marquez was served with a Notice of Hearing dated July 24, 2014 by the Arapahoe Park Board of Stewards. A summary suspension was entered on July 24, 2014 and Licensee Gandara-Marquez was escorted from the grounds of Arapahoe Park.

Assistant Attorney General Rose posed a question to Conflicts Counsel Spear concerning the text of a letter from Commissioner Charles Vail, DVM, sent to Division Director Dan Hartman and referred by him to each Commissioner. She inquired whether Mr. Spear believed that the letter's content contained any statements that would require Dr. Vail to recuse himself from participating in rendering a decision regarding the subject Settlement Stipulation. Mr. Spear advised that, in his opinion, there was nothing in Dr. Vail's letter that would necessitate his recusal.

The Commission was assured by Assistant Attorney General Rose that all mitigating and aggravating factors present in this case had been considered. Additionally, the Commission took notice that the penalties reflected in the Settlement Stipulation were comparable to those that had previously been levied against other parties for similar violations. The terms and conditions of the stipulation reached between the parties in question were thereupon placed on the record by Division Director Daniel J. Hartman, with clarification given by Ms. Rose, Assistant Attorney General, on behalf of the Division of Racing Events, and the written Settlement Stipulation provided to the Commission.

A motion was made by Commissioner Inmann, seconded by Commissioner Day 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 is hereby ORDERED as follows:

- 1) Licensee has voluntarily relinquished his Trainer License and understands that this may affect all racing licenses held by the Licensee in Colorado and other racing jurisdictions.
- 2) Licensee may apply for a new license with the State of Colorado after January 1, 2016 with the understanding that, prior to submitting a racing license application with the State of Colorado, he must appear before the Colorado Racing Commission to request reinstatement to good standing. Mr. Gandara-Marquez shall not be permitted to apply for racing licensure in Colorado until such reinstatement to good standing has been granted by the Colorado Racing Commission.
- 3) One point shall be reported to the Association of Racing Commissioners International (ARCI) for the DMSO medication violation.
- 4) The Division of Racing Events shall report to the ARCI that Mr. Gandara-Marquez' license has been relinquished and he shall be considered "not in good standing" in Colorado until such time as he appears before the Colorado Racing Commission to request restoration to good standing and the ability to submit a Colorado racing license application.
- 5) Licensee shall pay a total fine in the amount of One Thousand Dollars (\$1,000.00), due and payable to the Division of Racing Events within twenty calendar days of notice of acceptance of this Stipulation by the Commission

pursuant to Colorado Racing Commission Rule 6.700. Failure to pay the fine in a timely manner will be considered an aggravating factor upon Mr. Gandara-Marquez' re-application for licensure before the Colorado Racing Commission. The Commission may thereupon impose further sanctions, including fine or denial of license as appropriate.

- 6) Additionally, the horse, PERRY CARTEL, was required to pass a Commission-approved examination prior to being removed from the Stewards' List and before being considered eligible to race. This examination occurred upon execution of this Settlement Stipulation and Agreement by the Board of Stewards, which took place on August 14, 2014. All horses trained by Mr. Gandara-Marquez that were placed on the Stewards' List were removed from the said List upon approval of this Settlement Stipulation by the Arapahoe Park Board of Stewards.

The above proceeding concluded at 10:25 a.m.

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

The following Settlement Stipulation was disseminated:

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

Case Numbers: 14-0670 and 14-0675

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**SETTLEMENT STIPULATION COMMISSION REVIEW**

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**IN THE MATTER OF:**

**JOSE GANDARA-MARQUEZ, Licensee**

License Type: Trainer

License Number: 201510190

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On Tuesday October 14, 2014 the Colorado Racing Commission convened to review and consider the Settlement Stipulation for Jose Gandara-Marquez Case # 14-0670 and 14-0675.

Commissioner Charles Vail, DVM was not present for the Commission meeting. Commissioner Chairwoman Mary Sharon Wells, Commissioner Cindy Day, Commissioner Vice-Chair Sean Beirne, and Commissioner Pam Inmann were all present at the meeting. Mr. Marquez was sent notice of this hearing on August 20, 2014 and failed to appear at the hearing. Conflicts Counsel from the Office of the Colorado Attorney General, Skip Spear was also present to advise the Commission independently.

Assistant Attorney General Charmaine Rose offered the Division recommendation to the Commission. Ms. Rose specified that the Settlement Stipulation was agreed to by both parties, and the zealous advocacy of the attorney to Mr. Marquez. The terms of the Settlement are as follows : Mr. Marquez relinquishes his license and will remain NOT IN GOOD STANDING until January 1, 2016. On that date, Mr. Marquez can come before the Colorado Racing Commission and request approval to reapply for licensure from the Commission. Furthermore, Mr. Marquez will be assessed \$1,000.00 fine for the DMSO unauthorized medication violation, and reporting on ARCI database of 1 point violation.

The Colorado Racing Commission reviewed the Settlement Stipulation in full, prior to making a Motion to approve the terms.

### **Colorado Racing Commission Approval of Settlement Stipulation Terms**

**After further deliberation on the record, The Colorado Racing Commission approved a Motion on a 4-0 vote to approve the terms of the Settlement Stipulation as follows:**

1. **ONE POINT** shall be reported to ARCI for the **DMSO** medication violation;
2. The Division shall report to ARCI that Licensee's license was relinquished and shall be considered "**NOT IN GOOD STANDING**" in Colorado, until such time as he appears in front of the Colorado Racing Commission and they deem he is fit for licensure;
3. A total fine of **One Thousand Dollars** (\$1,000.00) for the medication violations described above. This fine shall be due and payable **within twenty (20) calendar days of notice of acceptance of this Stipulation by the Commission pursuant to CRCR 6.700**. Failure to timely pay the fine will be considered as an aggravating factor upon Licensee's reapplication for licensure before the Colorado Racing Commission and the Commission may impose further sanctions, including fine or denial of license as appropriate; and

The total fine is **One Thousand Dollars (\$1,000.00)**:

- c. **One Thousand Dollars (\$1,000.00) fine** under CRCR 5.441 CLASS B violation 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.
  - i. If the **One Thousand Dollars (\$1,000.00) fine** is not paid in a timely manner:
  - ii. Pursuant to **Colorado Racing Commission Rule #6.700**, a penalty fine, equal to the amount of this **One Thousand Dollars (\$1,000.00) fine** shall be imposed automatically, which total fine and penalty shall be immediately due and payable; and,
  - iii. The license of the Licensee shall be automatically suspended for one hundred twenty (120) days, or until the fine and penalty amount are paid, whichever is less, any such suspension to run consecutively to and not concurrently with any other suspension; and,
  - iv. 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.

BY ORDER OF THE COLORADO RACING  
COMMISSION.

Dated October 14, 2014

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

Daniel J. Hartman

Director Colorado Division of Racing Events

### **Review and Approval of New "Class B" Race Meet License Application Form – Dan Hartman**

Mr. Dan Hartman, Director of the Division of Racing Events, presented a proposed new "Class B" race meet license application form for the Commission's review. He advised that, since many years have passed since the last "Class B" license application review was performed, the subject application has been substantially revised and updated to include additional information not previously requested. Additionally, Mr. Hartman advised that, in anticipation of the results of the upcoming election, the

Division has been proactive in preparing the subject application for Commission consideration.

Discussion ensued regarding the requirements that applicants would be mandated to fulfill as well as the differences between a “Class B”, or major racetrack and a “Class A”, or Fair Circuit race meet. Mr. Hartman responded to various questions relating to the comprehensiveness of the Division’s requirements for licensing a new “Class B” racetrack, including but not limited to, deposit of a minimum fee of \$10,000, inclusion of the corporate structure and the Articles of Incorporation, listings of all parties involved in the ownership of the business, a complete business plan, disclosure of the names and backgrounds of all key personnel, a list of shareholders, investors and/or stockholders, construction and site plans, title to the property upon which the racetrack would be located, full disclosure of audited financial records, investigations of various types (backgrounds) and notification to and meetings with residents of the community in which the facility would be erected/operated. Mr. Hartman advised the Commission that, should the ballot initiative relating to gambling at the racetrack be approved, any new “Class B” racetrack would be required to operate solely as a horse racetrack for five consecutive years before being allowed to open a “racino” at the same location.

Following review and discussion of the proposed “Class B” race meet license application form and after ascertaining that the form could be modified in the future and delegating the ability to Director Hartman and his staff to make any necessary changes as any licensing process evolves with the proviso that the Commission be informed of any such changes, a motion was made by Commissioner Beirne, seconded by Commissioner Day and unanimously carried to accept the newly updated “Class B” race meet license application form as presented.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Wednesday, November 12, 2014** in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

Adjournment

There being no further business to consider, the regular meeting of the Colorado Racing Commission was adjourned by Chairwoman Wells at 10:40 a.m.

The undersigned hereby approve the foregoing Minutes.

\_\_\_\_\_  
MARY SHARON WELLS, CHAIRWOMAN

\_\_\_\_\_  
SEAN BEIRNE, VICE-CHAIR

(EXCUSED)  
\_\_\_\_\_  
CHARLES VAIL, DVM, MEMBER

\_\_\_\_\_  
CINDY DAY, MEMBER

\_\_\_\_\_  
PAM INMANN, MEMBER

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Wednesday, November 12, 2014 in Conference Room 110 (Enforcement Conference Room) at 1881 Pierce Street, Lakewood, Colorado. Chairwoman Mary Sharon Wells called the meeting to order at 9:40 a.m.

### Members Present

Mary Sharon Wells, Chairwoman  
Sean Beirne, Vice-Chair  
Charles Vail, DVM, Member

Commissioners Cindy Day and Pam Inmann participated in the meeting via teleconference call.

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Mark Brown, Enforcement Supervisor/Racing Coordinator  
Robert "Duke" Mann, Senior State Steward  
Ashley Leary, Division Investigator  
Pam Kilgore, Division Auditor  
Alma Godines, Licensing 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 October 14, 2014

A motion was thereupon made by Commissioner Inmann, seconded by Commissioner Beirne and unanimously carried to approve the minutes of October 14, 2014 as submitted.

### End of Meet Report – Arapahoe Park's 2014 Live Race Meet – Mark Brown

Mr. Mark Brown, Division Coordinator, presented his end of meet report for Arapahoe Park's 2014 live race meet. Mr. Bruce Seymore, Executive Director of Colorado Racing Operations for Mile High Racing and Entertainment, and Mr. Bill Powers, Facility Manager at Arapahoe Park, participated on behalf of the Association via teleconference call. Additionally, Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, participated on behalf of the Arapahoe Park horse racing community via teleconference call.

In his report, Mr. Brown advised that the thirty-nine (39) day live meet at Arapahoe Park commenced on May 24, 2014 and concluded on August 17, 2014. 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, 2014 until the end of the meet. Eighty-six (86) days of out-of-state simulcasting of pari-mutuel horse and greyhound racing were offered during the live meet. The Sunday, June 8, 2014 performance was canceled due to inclement weather conditions.

Mr. Brown provided the various audited statistics for the 2014 live meet including out-of-state horse racing simulcasting with comparisons to the 2013 live and simulcast race meet as well as certain recommendations for improvements to be made during the off-season: Mr. Brown observed that this year's total mutuel handle, including simulcasting, was \$20,851,014, a slight decrease from the 2013 total mutuel handle of \$21,037,027. In his report, Mr. Brown indicated that the total number of live races in 2014 was 349 and that there were a total of 13,902

simulcast races offered during the live season. Additionally, he commented that the total horse/greyhound simulcast handle was \$7,163,794. The average number of live races per day in 2014 was 9.2. Additionally, Mr. Brown observed that the 2014 live handle at Arapahoe Park was \$5,752,129; that the 2014 in-state live handle was \$2,578,107; that the out-of-state live portion was \$3,174,022; and that the on-track live handle was \$2,182,962. He offered the following average daily handle figures for 2014: 1) the average daily handle on-track was \$57,446; 2) the average daily handle in-state was \$67,845; 3) the average daily out-of-state handle was \$83,527; and 4) that this season's average daily total handle was \$208,818.

**TOTAL NUMBER OF HORSE RACES OFFERED**  
(Includes out of state simulcast races)

	<u>2013</u>	<u>2014</u>
Live race days	39	<b>38</b>
Live races	366	<b>349</b>
Avg. live races/day	9.4	<b>9.2</b>
Simulcast horse races	12,662	<b>13,902</b>

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**TOTAL HANDLE**

	<u>2013 (39 Days)</u>	<u>2014 (38 Days)</u>
On AP live	\$ 5,974,067	<b>\$ 5,752,129</b>
In-State Live	\$ 2,543,538	<b>\$ 2,578,107</b>
Out of State Live	\$ 3,430,529	<b>\$ 3,174,022</b>
On Track Live	\$ 2,108,149	<b>\$ 2,182,962</b>
<u>Horse/Greyhound Simulcast</u>	<u>\$ 6,980,744</u>	<u><b>\$ 7,163,794</b></u>
<b>TOTAL HANDLE</b>	<b>\$21,037,027</b>	<b>\$20,851,014</b>

**A. AVERAGE LIVE HANDLE BY DAY**

	<u>2013 (39 Days)</u>	<u>2014 (38 Days)</u>
Total <b><u>ON TRACK</u></b> Handle:	\$ 54,055	<b>\$ 57,446</b>
In <b>STATE</b> Handle:	\$ 65,219	<b>\$ 67,845</b>
<u>Out of STATE</u> Handle:	<u>\$ 87,962</u>	<u><b>\$ 83,527</b></u>
Total <b>STATE</b> Handle:	\$ 153,181	<b>\$ 208,818</b>

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

**TOTAL DISBURSEMENT OF PURSES BY BREED**

	<u>Races</u>	<u>Purses Paid with Fees Added</u>
Thoroughbred	233 (67%)	\$ 4,096,796
Quarter Horse	93 (27%)	\$ 1,384,119
<u>Arabian</u>	<u>23 (7%)</u>	<u>\$ 253,149</u>
<b>Totals</b>	<b>349</b>	<b>\$ 5,734,064</b>

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## ANIMAL WELFARE & TEST BARN STATISTICS

### Division Staff

Division Veterinarian	Joni Smith, D.V.M.
Vet Assistant	Sarah Hallmark
Vet Assistant	Lauren Russell
Vet Assistant	Nicole Malacarne
Vet Assistant	Thomas McCaa

### A. TOTAL INJURIES TO HORSES (Racing & Training Related)

	<i>2013</i>	<i>2014</i>
<i>Total starts</i>	<i>3100</i>	<i>2705</i>
<b>Total injuries</b>	26	33
<b>Career ending injuries*</b>	3	0
<b>Catastrophic*</b>	5	8
<b>Died or was euthanized due to sickness or accident (Non-Racing Related)</b>	4	4

(\*Catastrophic means the horse died as a result of an injury from racing and training. Career ending means a severe injury so the horse can no longer race, but was not euthanized)

### B. TESTING

For the 2014 race meet, the veterinary staff took **659** total samples from all 1<sup>st</sup> place winning horses and randomly selected horses from the racetrack.

### C. MEDICATION VIOLATIONS

Industrial Laboratories, the Division's contract testing lab, reported a total of (Twenty) 20 positive tests resulting in 6 (six) overages of Non-steroidal anti-inflammatory drugs (NSAIDs) and 14 (fourteen) unauthorized medication violations during the 2014 Meet to the Division which violated CRCR Rule #5.301 – Unauthorized Medication.

- Clenbuterol
- Methyl Prednisolone
- Lidocaine
- Dexomethazone
- Mepivacaine

### D. TEST BARN POLICIES

#### 1. LASIX ADMINISTRATION WITNESSING

Pursuant to CRC Rule #5.320, Division veterinary assistants would witness the furosemide treatments given by the practicing veterinarians. The trainer or his authorized representative, were required to be present to present the correct horse for identification and sign the appropriate form. The form (Sample tag) would have the date, horse's name, tattoo

number, amount of furosemide given, and the witnesses' signatures, "In Today" sign number which was attached to the stall and the veterinary assistant's initials or signature. This form was entered into a database. Once the races were over, the syringes from the horses that were tested were kept until testing results were received from Industrial Labs. This is the second year of this witnessing program and it seems to be doing well.

## **2. PRE-DRUG SCREEN TESTING BEFORE ENTRY**

An updated therapeutic drug withdrawal time's list was generated and provided to the Practicing Veterinarians and Trainers. A licensed Trainer and/or Owner were allowed, at their own expense, to have their horse tested for unauthorized medications before Wednesday, the week of the race. A Division staff member transported and provided a sample card and chain of custody to the Division's primary testing lab for testing purposes. Payment for this testing was provided to the testing lab by the Owner or Trainer at the time of testing and the results were forwarded to the Division. The Division's Veterinarian provided the results to the Trainer's or Owner's Practicing Veterinarian. A total of **26 pre-tests** were performed and provided to Industrial Laboratories for testing.

As of 8/13/14 we had submitted **15** pre-tests for one drug checks, **2** full screens, and **9** test to get off the vets list. Total number of "pre-tests" sent out was **26**.

Compared to the 2013 Race Meet with:

- **8** submitted pre-tests for one drug checks,
- **9** full screens
- **19** research samples submitted by practicing vets. (discontinued)
- Total number of "pre-tests" sent out was **36**.

## **3. VETERINARIAN'S LIST**

Pursuant to CRC Rule #5.608, #5.610, #5.611 and #5.612, the Division prepared a new form that insures the following:

- #5.608 - The designation of a horse to the Division of Racing Events Veterinarian's List,
- #5.611 The delegation of authority pursuant to CRC Rule #5.611 by the Division's Veterinarian, and
- #5.612 The policy/procedure of the Colorado Racing Commission regarding the Commission approved examinations for eligibility for entry into a race.

## **4. TEST BARN**

The Division and the Association continued to work together on all maintenance issues that occurred during the 2013 meet. 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 Division Test Barn Personnel in the performance of their duties.

**RECOMMENDATIONS:** 1) The faucet in the main office needs to be repaired due to dripping and/or leaking; 2) A new air conditioning unit is needed in the lab room; 3) Misters need to be added to the back stalls; 4) More dirt needed to be added to the stalls; 5) Brighter lights need to be installed in the stalls to enhance vision when blood is being drawn; and 6) The janitorial service was not consistent and required daily requests for service.

# DIVISION OF RACING EVENTS

## A. BOARD OF STEWARDS

Presiding Steward	Randy Blaseg
State Steward	Violet "Pinkie" Smith
Association Steward	Hank Demoney

### 1. ADMINISTRATIVE VIOLATIONS

- The Board issued Twenty-Seven (27) administrative rulings.
- There were Seventeen (17) Administrative Citations issued.

Total amount of fines assessed to date from these rulings and Citations was **\$10,400.00**

### 2. DIVISION RANDOM DRAW – HUMAN DRUG AND ALCOHOL TESTING

The Division of Racing Events performed random drug testing pursuant to CRC Rule #3.437 during Arapahoe Park's 2014 race meet. The policy was the same as last year where a representative from the Colorado Horse-Racing Association or Arapahoe Park was witness to the drawing of the names. Five (5) lists were generated from the license validation files. From these five lists, one is drawn for each of the five days, Wednesday through Sunday, for the Five (5) different job categories and the total number eligible for testing.

- Trainers, Assist Trainers, Owner/Trainer (148)
- Jockeys (45)
- Exercise Rider, Pony Person, and Misc. (41)
- Grooms (109)
- Racing Officials (80)

There were a total of 60 random drug tests conducted resulting in three (3) positive for Benzodiazepine and one (1) tested positive for Diazepam / Hydrocortizone (medical papers presented), four (4) tested positive for alcohol and two (2) tested positive for Marijuana. There were a total of eleven (11) days that random drug tests were not conducted due to the licensees drawn not being available.

### 3. LICENSING

Licenses validated during the meet and fees collected:

• 11	Minor Business Application	\$ 1,485.00
• 433	Support (3 year) Application	\$32,475.00
• 178	Registration (1 year) Application	\$ 2,670.00
• <u>63</u>	<u>Duplicate Badge</u>	<u>\$ 630.00</u>
Total 685		\$37,260.00

### 4. STABLE INSPECTIONS

Pursuant to CRS 12-60-501 (a) & (b) the Division conducted **100 Barn/Trainer** inspections which included the pre-meet inspection. All physical problems found during these inspections were reported to the maintenance manager by memo. Work orders were also made available to Trainers that had specific issues with their stable area that need to be addressed.

**RECOMMENDATIONS:** 1) Electrical outlets in every barn need to be checked and/or replaced; notice was given that many horsemen had complained that the outlets were broken, failing to work, or tripping the breaker. 2) The overhead light fixtures in every barn need to be checked and/or replaced; Division staff observed several fixtures that were broken or not working properly during stable safety inspections. 3) Gutters in every barn need to be checked and/or replaced due to drainage problems, specifically barns 7, 11, 12, 24, and 30; and 4) the electrical breaker box on the south end of barns 25 and 30 needs to be repaired and/or replaced.

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## **ARAPAHOE PARK INCENTIVE PROGRAM**

### **A. THE \$1000.00 DRUG FREE BONUS**

"Race-Day Medication-Free Incentive" was launched by the Arapahoe Park Management in June to encourage trainers to go beyond the letter of the law that permits only Lasix, phenylbutazone ("Bute"), flunixin, and ketoprofen on race day. The "Incentive" plan afforded trainers who won a race with a horse void of any race-day medication to receive a \$1,000 bonus per victory paid from a special fund created by Arapahoe Park.

- 24 horses participated in the program, which paid out on four medication-free wins. Temple Rushton was the lone Thoroughbred trainer at the multiple-breed meet to collect the incentive. He sent out four-year-old filly Sudies Storm to win a maiden special weight on July 11 and an allowance race on July 19. Arabian trainer Kenny Massey also collected the incentive for wins with first-time starters Bella Lorena and Paddys Day.

Mr. Seymore advised the Commission that Arapahoe Park would continue to offer the "Race-Day Medication-Free Incentive Bonus". He noted that, on the final day of the meet, an additional trainer would have qualified to receive the bonus. However, the incentive plan was discontinued on the preceding race day.

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## **ARAPAHOE PARK ASSOCIATION**

### **A. RACETRACK**

The Track Superintendent and his staff continued to do a good job of maintaining a safe racetrack. No water well issues were reported. No major complaints about the surface were reported to Arapahoe Park Management, the Track Superintendent or the Division.

### **B. RACING OFFICIALS**

The Clerk of Scales randomly tagged selected horses coming off the racetrack to be tested. No significant problems were reported. The Clerk of Scales, David Vobach, continued to ensure that all randomly selected horses by the Board of Stewards and/or Division Veterinarian are tagged properly to report to the Divisions test barn for testing.

### **C. DIVISION OF RACING EVENTS OFFICES**

The Association did a good job maintaining the racing office during the meet. However, the office could use new windows and window coverings. The HVAC system did not regulate the heat and cold temperature variations well. The office has experience a large insect problem and could use an exterminator.

#### **D. RACING OFFICE**

Arapahoe Park continued to use the Incompass Software for the accepting of entries and preparing the program, and Dakota Muniz did a good job providing the Division with timely initial proofs of the entries and jockeys, via email, to ensure compliance with the Board of Stewards review and our licensing polices.

**RECOMMENDATIONS:** 1) The Division recommends that cooperation and communication between the racing office staff and Division licensing personnel be continued; and 2) that a final draft of the racing program be provided to Division licensing staff in a timely manner.

#### **E. ARAPAHOE PARK SECURITY**

Keith Munson was the Security Director for Arapahoe Park's 2014 Race meet. Mr. Munson appointed two supervisors to handle the Grandstand and Stable Gate//Backside incidents and staffing needs. An off-duty Arapahoe County Sheriff was hired to assist in crowd control, and routine patrol of the parking lot and backside. The Division's Enforcement Section and the Association provided training. No major issues were reported

Division Investigators performed random checks of the barn area for unlicensed individuals and violations of the above-mention policies. Several individuals were escorted out of the barn area during the meet for not being licensed or having visitor's passes and/or violating Arapahoe Park and Division rules and policies. Overall no major incidents were reported to the Division Enforcement Staff or 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 2014 live race meet. Mr. Brown stated that Arapahoe Park's 2014 season had been challenging, but extremely successful thanks to all concerned. The Commission commended everyone associated with and involved in conducting and regulating the 2014 Arapahoe Park meet.

Additionally, Mr. Seymore thanked Mr. Brown, Division Director Dan Hartman, Division staff members assigned to Arapahoe Park and the Commission for their assistance and support throughout this and each live racing season.

After taking notice that Mr. Seymore had been apprised by Mr. Brown of all of the recommendations for improvements contained in his End of Meet Report and had agreed to address all of them during the off-season, a motion was made by Commissioner Vail, 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 2014 live racing season as presented. The Commission thanked Mr. Brown for his comprehensive report.

#### **Consideration of Applications for Release of Monies from the Greyhound Welfare and Adoption Fund – Pam Kilgore**

Ms. Pam Kilgore, Auditor for the Division of Racing Events, reported that the Division is in receipt of five applications for release of money from the Greyhound Welfare and Adoption Fund. She observed that the requesting organizations are: 1) Colorado Greyhound Adoption; 2) Friends of Retired Greyhounds; 3) Front Range Greyhound Adoption; 4) Greyhound Connection; and 5) Rocky Mountain Greyhound

Adoption, Inc. She apprised the Commission that, currently, there was approximately \$40,000 in the Fund.

Ms. Kilgore explained that the Division is using the 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. As part of her report packet, Ms. Kilgore included additional data regarding the specific numeric placement of greyhounds for each requesting organization.

She stated that, during the subject six-month period, there were 280 greyhounds placed by the applicants. This would mean that the organizations would receive \$142.86 per placed greyhound ( $\$40,000/280=\$142.86$ ). 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.

Ms. Kilgore informed the Commission that all of the 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; Front Range Greyhound Adoption has requested \$2,636; and Rocky Mountain Greyhound Adoption, Inc. has requested \$6,750. 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.

Ms. Kilgore advised that, 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. Additionally, prior to release of funds, Division investigators will be conducting on-site inspections and verifications of each organization's adoption reports and records.

The Commission 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.

In accordance with the recommendation of the Division of Racing Events to the Commission for disbursement of \$40,000 from the Greyhound Welfare and Adoption Fund, a motion was made by Commissioner Day, seconded by Commissioner Vail and unanimously carried to accept Mr. Kilgore's report as presented and to approve the release of the following amounts from the subject Fund:

• To Colorado Greyhound Adoption:	\$ 12,429.00
• To Friends of Retired Greyhounds:	\$ 8,143.00
• Front Range Greyhound Adoption:	\$ 1,000/00
• To Greyhound Connection:	\$ 14,000.00
• To Rocky Mountain Greyhound Adoption, Inc.	\$ 4,428.00
	<hr/>
	\$40,000.00

#### Introduction of Ms. Vivienne Belmont, Representative of the Sunset Review Committee

Ms. Vivienne Belmont, Policy Analyst with the Department of Regulatory Agencies' Office of Policy, Research and Regulatory Reform, introduced herself and informed the Commission that she would be conducting the statutorily mandated Sunset evaluation of the functions and performance of the Division of Racing Events. Ms. Belmont distributed a document entitled "Sunset Statutory Evaluation Criteria" to the Commission and provided an overview of the Sunset review process and specific details relating to its purpose and goals. Ms. Belmont advised that the process is a routine operation that every regulatory-enforcement program is statutorily mandated to undergo at different intervals. She commented that the primary determination to be made by the review committee is whether the regulation by the agency is necessary to protect the

public health, safety and welfare and, secondarily, whether the conditions which led to the initial regulation have changed and whether other conditions have arisen that would warrant more, less or the same degree of regulation. Ms. Belmont observed that the process would entail the initial research phase (November 2014-May 2015), the writing/report preparation phase (approximately June 1-October 15, 2015) and the submission and presentation of the final report to the General Assembly in January 2016. During the research phase, the review committee will conduct interviews and hold meetings to obtain input from a broad cross-section of sources, including Commissioners and industry representatives. Ms. Belmont commented that she would also be interacting with Division staff members, attending Commission meetings and reviewing Division files, documents, policies and procedures. She advised that the written report will contain both statutory and administrative recommendations with the ultimate recommendation being whether to retain or “sunset” (abolish) the program. She explained that if it is determined that the agency should be abolished, a “wind-up” period would begin with a time frame to be designated for complete cessation of operations.

Ms. Belmont explained that, during the legislative phase, the Sunset Review Committee would be working closely with Legislative Legal Services’ staff to compose the preliminary Sunset bill. Hearings would then be conducted on the draft measure before it is introduced; questions and public responses could also be considered and amendments might or might not be entertained. Ms. Belmont noted that it is probable that the bill would be considered during the first three to four weeks of the 2016 legislative session.

The Commission thanked Ms. Belmont for her informative presentation and assured her of their desire and willingness to be of assistance during the Sunset review process.

#### Approval of 2015 Commission Meeting Dates

Following review of the list of proposed 2015 Commission meeting dates and after taking notice that the Commission is only statutorily mandated to conduct meetings on a quarterly basis, a motion was made by Commissioner Beirne, seconded by Commissioner Inmann and unanimously carried to continue to hold the Commission’s meetings on the second Tuesday of any given month with the proviso that, if unexpected circumstances should necessitate a change of meeting date, the Commission would modify its regular schedule. (Commissioner Vail advised that he would not be available to attend meetings on some of the proposed 2015 Commission meeting dates.)

It was agreed that meetings would continue to be conducted in February, April, May, July and October 2015. (It was subsequently decided that a meeting would be held in March instead of April, 2015.)

#### Discussion of Medication Violation Timelines and Penalty Assessments

In response to a query from Division Director Dan Hartman, Commissioner Vail voiced his views and concerns concerning medication violation timelines and penalty assessments referenced in a packet of material compiled by the Division for Commission review. Commissioner Vail expressed great concern regarding the detection of the unauthorized substances, Lidocaine and Mepivacaine, in the systems of two horses that had had to be euthanized during the 2014 Arapahoe Park live race meet and, also, the lack of notification to the Commission of these discoveries until well after the meet had concluded. Commissioner Vail, a practicing large animal veterinarian, stated that these substances were “blocking” agents used as local anesthetics, which could prevent a horse from being conscious of suffering serious/catastrophic or fatal injuries and that it was a primary part of the Commission’s mission to protect the health, safety and welfare of all animals racing in Colorado. Further, Commissioner Vail stated that, in order for the Commission to be aware of such serious infractions, he would request the ability to attend any hearing conducted by the Board of Stewards involving a medication violation.

Discussion ensued during which Mr. Hartman and Assistant Attorney General Charmaine Rose presented positions concerning the aforementioned violations and Commissioner Vail's request. Mr. Hartman emphasized that appeals had been filed and pursued in both of the aforementioned cases and this had necessitated delays in notification to accommodate due process requirements. He apprised the Commission that the Division of Racing Events, in its Settlement Stipulations, had imposed penalties significantly more severe than those recommended in the Association of Racing Commissioner International Uniform Classification Guidelines for Foreign Substances.

Ms. Rose observed that, although there would be no prohibition relating to one or multiple Commissioners attending a hearing before the Board of Stewards, there might be cause for concern should a case in question be referred to the Commission for further deliberation and penalty. She commented that she would recommend that there be some degree of separation between the Board and the Commission with regard to deliberations and determinations of penalties.

Mr. Hartman requested that Commissioner Vail provide clear guidance to the Division regarding the serious consequences and effects that certain medications could have on and produce in racing animals and offer some recommendations for rules to be included for consideration at the February 2015 Rule-Making Hearing. He recommended that a list of medications and their potentially unhealthy effects be compiled and brought forward for Commission review. Following lengthy consideration of the subjects raised, the Commission, Mr. Hartman and Ms. Rose determined that an open public rule review forum/discussion session should be held in the near future at which time Commissioners, Mr. Hartman, representatives of the horse racing community/industry and any other interested party could present rules relating to medications, their effects and the consequences of usage.

Further, notice was taken that a significant contributor to problems relating to the use of unauthorized medications in horse populations is the prevalence of match racing in Colorado. The Commission and Mr. Hartman expressed their abhorrence for the abuses that such unregulated racing operations encourage and commented that the Colorado Legislature would need to take action to prohibit match racing in Colorado.

#### Comments Regarding Election Results – Bruce Seymore

Mr. Bruce Seymore, Executive Director of Colorado Racing Operations for Mile High Racing and Entertainment, observed that, despite the substantial effort made by supporters and sponsors to further the adoption of proposed Constitutional Amendment 68, the measure was defeated. However, he reassured the Commission that the parent company of Arapahoe Park intends to continue to conduct live horse racing at Arapahoe Park and to perpetuate its existing simulcast operations in Colorado. The Commission thanked Mr. Seymore for his encouraging comments.

#### Adjournment

There being no further business to consider, the regular meeting of the Colorado Racing Commission was adjourned by Chairwoman Wells at 10:42 a.m.

#### Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Tuesday, February 10, 2015** in Conference Room 110 (Gaming Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

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MARY SHARON WELLS, CHAIRWOMAN

\_\_\_\_\_  
SEAN BEIRNE, VICE-CHAIR

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

\_\_\_\_\_  
(PRESENT VIA TELECONFERENCE)  
CINDY DAY, MEMBER

\_\_\_\_\_  
(PRSEENT VIA TELECONFERENCE)  
PAM INMANN, MEMBER

## Colorado Racing Commission Meeting Training Minutes

Thursday December 18, 2014

In attendance were: Chair, Mary Sharon Wells  
Vice Chair, Sean Beirne  
Dr. Charles D. Vail DVM  
Pam Inman  
Division Director, Daniel Hartman  
Asst. Attorney General Charmaine Rose  
Lab Director, Petra Hartmann +1 lab employee  
Enforcement Supervisor, Mark Brown  
Racing Legal Assistant, Melissa Anderson

Introduction – Dan Hartman, Division of Racing Events Director passed out Rulemaking Information and ARCI packet. Discussion focused on strengthening Division policies in CRCR 5.441 and holding the horse out on the Veterinarians List for extended period of time with respect to medication violations. This new rule will be proposed in the next Rulemaking session. Discussion continued with Commissioners regarding the ARCI conference at the beginning of December.

### Lidocaine and Procaine

Dr. Charles Vail asked Petra Hartmann to speak regarding the drugs Lidocaine and Mepivacaine showing up in Colorado this past racing season. Petra commented that both these drugs are now showing up on national racetracks and she saw both from various tracks this past season, indicating that Colorado was not the only state adversely effected by the presence of these drugs on the racing scene. She indicated that she sees these quite frequently with the stock show and show horse circuit.

Dr. Vail expressed his concern over the “caine” drugs and indicated that he would like to be make aware of such egregious drugs. Asst. AG Charmaine Rose responded that Commissioners serve an appellate function, and their expertise is reserved and warranted in this administrative judicial function. She indicated that providing the Notice of Charges to the Commission, after it is made public record would be allowed. However, if such Notice is provided to the Commissioners, they cannot act in an investigative role nor talk amongst themselves about such cases, as this could compromise their ability to act impartial resulting in recusal.

### Split Sample Labs

Petra and Doctor Vail discussed split sample laboratories hesitating to take split requests. Petra says UC Davis has proved most reliable but quite costly. She indicated that the Colorado lab received a record number of split sample requests, and tried for a 2 week turn around. However, some other state labs are hesitant to take splits in case they get a negative result, and then would be considered a bad laboratory. The danger of this practice, is where very low sample results detected by a Colorado lab on a first run, cannot find another lab to take a split request.

Daniel Hartman indicated that the Division will look into sending out a letter with split sample requests, to query labs before they agree to conduct the split, to insure that their methods and standards can match the caliber of the Colorado lab. If not, such labs should indicate that this sample does not meet our criteria for testing and be willing to send it on to another lab that can meet such standards.

Dan Hartman then provided an RMTC and TCI update regarding the scientific advisory committee and modifications to their process for approval.

Shock wave therapy

Dr. Vail and Dan Hartman discuss the prohibited practice of shock wave therapy. Dan Hartman indicated the Division passed a rule prohibiting such practice last session and created a 48 hour hold on “haul in horses” so that horses cannot have a competitive advantage if such practice is going on outside the track grounds. Dan Hartman stated that match racing is a big problem and will be addressed on Sunset Review.

Cobra Venom

Dr. Charles Vail indicated that cobra venom is on the national stage – and came up in a recent meeting he attended with Race Track Veterinarians throughout the nation.

Commission Training – Appellate Function

Asst. AG Charmaine Rose passed out information for the Commissioner indicating their regulatory function and the specifics of their standard of review in appellate actions. She summarized for the Commission: the Stewards/Hearing Officer will make findings of fact and should render a credibility determination regarding testimony made at that level, and then render a decision and order. Then, if that decision is appealed it goes before the Commission, whereby they can look at the transcript and such decision and order to make a determination if the conclusions of law were applied properly. The commission has wide deference when assessing the conclusions of law – as they are experts in the racing rules.

Charmaine indicated that they might need new evidence, and as the rule currently reads, they are allowed to bring in additional evidence. She also indicated that Skip Spear is the Commissions Conflicts Counsel and will help them draft and cobble together an appellate decision and order.

In summary, it is agreed with the advice of the Asst. Attorney General to allow for Commissioners to receive access to the Notice of Hearings on medication violations after they become public record. This will begin next racing season on a weekly basis, or as Notices are published.

The undersigned hereby approve the foregoing Minutes.

\_\_\_\_\_  
MARY SHARON WELLS, CHAIRWOMAN

\_\_\_\_\_  
SEAN BEIRNE, VICE-CHAIR

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

(EXCUSED)  
\_\_\_\_\_  
CINDY DAY, MEMBER

\_\_\_\_\_  
PAM INMANN, MEMBER