

## **RECORD OF PROCEEDINGS**

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, July 9, 2019 in the Director's Room at Arapahoe Park Race Track 26000 E. Quincy Ave Aurora, CO 80016. Chairwoman Inmann called the meeting to order at 10:03AM.

### Members Present

Pam Inmann, Chairwoman  
Tina Estes, Vice-Chairwoman  
Sandra Bowen, Member  
David Lynn Hoffman, Member  
Lori Scott DVM, Member

### Staff Present

Cory Amend, Senior Director of Enforcement Division  
Dan Hartman, Director of the Division of Racing Events  
Ed Kulp, Agent in Charge  
Zach Ceriani, Legal Assistant  
Bradford Jones, Assistant Attorney General representing the Division of Racing Events  
Gregory Lamb, Racing Division Auditor  
Suzanne Karrer, Communications Manager for Enforcement Division  
Deborah Allen, Racing Division Business Analyst  
Breanne Rodlin, Assistant to Division Director

### Also Present

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

### Approval of Minutes of May 14, 2019

After establishing that a quorum of Commission members was present, discussion began regarding edits that needed to be made to the minutes from the May 14<sup>th</sup> Commission meeting. Commissioner Hoffman explained that on page sixteen, paragraph one "2cc should be changed to 2.5cc." He also mentioned that on page sixteen in paragraph two, the word 'crops' should be changed to 'injuries' in the sentence: "Commissioner Hoffman commented that three areas of concern posed by the Wall Street Journal about horse racing—crops, drugs, and track conditions—were all addressed."

Assistant to the Attorney General, Mr. Bradford Jones, also had revisions to be made to the May 14<sup>th</sup> minutes. He began by referring to page one, paragraph five where he explained the word "direc5tor" should have the 5 omitted and the word should read "director." He also referred to page 2, within the first sentence, where the word "stature" should be replaced with "statute." He stated that on page 3, third bullet point within the last sentence, the word "fir" should be replaced with "fire."

Following the suggested edits, a motion was thereupon made by Commissioner Hoffman, seconded by Commissioner Scott, and passed unanimously to approve the minutes of May 14, 2019 with edits mentioned by Commissioner Hoffman and Mr. Bradford Jones.

#### Election of Officers—Bradford Jones

Chairwoman Inmann turned the floor over to Assistant Attorney General, Mr. Bradford Jones. He stated that in an attempt to provide transparency and information to the State of Colorado about boards and commissions, there would be a script that he would follow to elect officers of the Commission. He stated that by the order of statute 44-32-302, subsection 1 of the CRS, members of the Commission were to vote on officers of the board at the beginning of a new fiscal year—which began on July 1, 2019. Mr. Jones explained that each Commissioner may nominate any number of individuals from the Commission to be vice-chairperson and/or chairperson. He stated that nominations do not require a second, more than one nomination per commissioner may be made, and that each Commissioner had the ability to nominate oneself.

Mr. Jones began taking nominations for Chairperson of the Colorado Racing Commission (CRC) for fiscal year 2020. Commissioner Hoffman nominated current Chairwoman, Pamela Inmann, to serve as the Chairwoman again in Fiscal Year 2020. There were no further nominations made and no discussion was had. Seeing as there was no further discussion Mr. Jones asked if there was a motion to close nominations for Chairperson of the Colorado Racing Commission. A motion was thereupon made by Commissioner Hoffman, seconded by Commissioner Scott, and unanimously carried to close nominations for the 2020 Fiscal Year Chairperson of the Commission. A motion was then made by Commissioner Hoffman, Seconded by Commissioner Scott, and unanimously carried to elect Commissioner Pam Inmann as the Chairwoman of the CRC for the 2020 Fiscal year. Mr. Jones then thanked Chairwoman Inmann and asked if she would like to speak.

Chairwoman Inmann thanked her fellow Commission members and stated that it was wonderful to work with people who cared deeply about horses and the racing industry as a whole. She also spoke to Mr. Shannon Rushton, representative of the Colorado Horseracing Association (CHA), and Mr. Bruce Seymore, Executive Director of Mile Hi Racing, and said she was looking forward to the next year.

Mr. Bradford Jones then opened the floor for nominations for vice chairperson of the Colorado Racing Commission. Commissioner Hoffman nominated Commissioner Tina Estes for vice chair. Seeing as no further nominations were made and no discussion was had, Mr. Jones asked if there was a motion to close the floor for nominations. A motion was thereupon made by Commissioner Hoffman, seconded by Commissioner Scott, and unanimously carried to close the floor for nominations for Vice Chair. No further discussion was had following the close of nominations. A motion was thereupon made by Commissioner Hoffman, seconded by Commissioner Scott, and unanimously carried to

elect Commissioner Tina Estes vice chair of the Colorado Racing Commission during the 2020 fiscal year. Mr. Jones asked if Commissioner Estes had any comments and she declined.

Following the nominations for chair and vice chair, Chairwoman Inmann asked for a motion to temporarily close the business meeting of the CRC and open the hearing for race dates for the 2020 live meet season. A motion was thereupon made by Commissioner Estes, seconded by Commissioner Hoffman, and unanimously carried to temporarily adjourn the business meeting of the Colorado Racing Commission and convene the 2020 Race Dates Hearing.

#### 2020 Live Race Dates Hearing—Dan Hartman

Chairwoman Inmann turned the floor over to Dan Hartman to discuss the race dates hearing process. Mr. Hartman, Director of the Division of Racing Events, explained that the race dates hearing is a fiscal process that ensures there are live racing dates in place before the beginning of the next year's race meet, at the beginning of the fiscal year—July 1 of every year. He stated that Arapahoe Park sent a letter to the Division on July 2, 2019 requesting an envelope of 39 race days of racing, over a 13 week period, from May through August 2020.

There being no discussion, a motion was thereupon made by Commissioner Estes, seconded by Commissioner Hoffman, and unanimously carried to approve 39 unspecified race dates within the months of May through August for the 2020 live race meet.

Following the approval of the 2020 race dates, Chairwoman Inmann asked for a motion to close the race dates hearing and re-convene the regular business meeting. Commissioner Hoffman made a motion, seconded by Commissioner Scott, and unanimously carried to close the 2020 race dates hearing and re-open the regular business meeting of the Colorado Racing Commission.

#### Live Race Meet Report—Ed Kulp

Agent-in-Charge, Ed Kulp, began the report for the live race meet by discussing the test barn. He stated that one thousand fourteen (1014) equine pre-race exams had been performed out of one thousand one-hundred fifteen (1115) starts. Mr. Kulp explained that the number of pre-race exams performed during the current race meet were significantly higher than the number of pre-race exams completed during the 2018 live race meet. He insisted that the large increase of these exams aided in removing horses that were unfit, sore, or otherwise ineligible to race from competition, resulting in only one breakdown during the 2019 race meet. Commissioner Hoffman inquired whether this breakdown was catastrophic to which Mr. Kulp responded that the breakdown resulted in euthanasia.

Mr. Kulp then described that three hundred thirty blood (330) samples and two hundred thirty-seven (237) urine samples were collected in the test barn. He also stated that the time period in which the horses spent in the test barn during collection was reasonable. Commissioner Hoffman asked what the average amount of time a horse would spend in the test barn was and Mr. Kulp replied that horses typically spent one (1) hour in the test barn. He explained that the time interval was dependent on the horse, how quickly they cool down, if they urinate immediately, etc. He also stated that the “turnaround” time for horses spent in the test barn was quicker than that during the 2018 race meet.

Mr. Ed Kulp then began to expand upon the licensing numbers and statistics for the race meet. He detailed that the total number of key, minor business, and support licenses was three hundred eighty-three (383) and that among these different license types, there were also one hundred ninety (190) validations completed. He stated that due to the quick nature of the racing season, April through August, training temporary staff was difficult. However, Mr. Kulp explained that the temporary licensing staff had done well processing and validating licenses within a reasonable timeframe. Chairwoman Inmann asked what the average amount of time it takes for a licensee to receive a completed license was. Mr. Kulp replied stating that the licensees were able to immediately start work with a temporary license, given they completed and passed background check. He stated that, on average, licensees receive their official credentials within two weeks of beginning the application process.

Commissioner Hoffman asked whether there were more or less injuries when comparing the 2019 race meet to the previous year’s meet. Mr. Kulp answered stating that there were less equine injuries during the 2019 race meet when compared to the 2018 meet. He reiterated that there was only one catastrophic injury and fifteen (15) total scratches due to horses being placed on the vet’s list during pre-race exams. Ultimately, Mr. Kulp explained that the pre-race exams proved to be beneficial by taking horses at risk of injury, out of competition. Mr. Dan Hartman, Director of the Division of Racing Events, described that during the 2018 race meet, only thirty percent (30%) of horses that raced underwent pre-race exams; whereas, during the 2019 race meet, ninety point nine percent (90.9%) of horses that raced completed a pre-race exam, resulting in fewer breakdowns as of July 2019. Mr. Kulp turned the floor over to Bruce Seymour, Executive Director of Mile High Entertainment, to discuss statistics such as wagering and attendance at Arapahoe Park.

Mr. Bruce Seymore stated that the numbers he would be describing were current through July 8, 2019. He presented that public attendance for the 2019 race meet at Arapahoe Park was up by nine thousand (9000) spectators. He also described that there had been one thousand two hundred starts (1200) with an average of six point nine (6.9) horses per race. Mr. Seymore also detailed that the handle for the meet was increased from 2018 by \$123,888.33. Bill Powers, Director of Racing at Arapahoe Park, stated that there was a \$215,000 improvement to the purses when compared to the 2018 race meet. Mr. Seymore explained that due to a water well malfunction on July 1 and a major lightning storm in June, twelve (12) races had been cancelled and would be rescheduled and made-up. These races were to be scheduled following a recommendation from the horsemen

during the Colorado Horseracing Association meeting to be held after the Colorado Racing Commission meeting on July 9, 2019.

Mr. Bruce Seymore directed the meeting's attention to the television operated by Billy Beyers, Operations and Facilities Manager of Arapahoe Park. Mr. Seymore stated that Arapahoe Park had put in effort to be more transparent with the public in order to improve public perception of horse racing. He stated that one of the strategies employed by Arapahoe Park was to institute barn tours on Saturday mornings that were free to the public before racing began. He explained that in the beginning of the season, few people attended the tours but by the past weekend, on July 6, the tour had fifteen (15) people and was split into two groups. Mr. Seymore detailed that these tours helped the public experience one-on-one time with trainers and their horses, asking questions and learning about the care and racing of equine athletes. He believed that these barn tours were helpful to battle misconceptions and welcome outsiders to an industry that they may not have previously understood. Another outlet of transparency that was considered by Arapahoe Park was the use of social media to post stories and statistics for the public to see. Mr. Seymore stated that videos of trainers and horses were posted on the Colorado Horseracing Association's Facebook page along with statistics like track depths, number of equine and human drug tests performed, and an equine injury list posted on the Arapahoe Park Facebook page.

Chairwoman Inmann asked Mr. Seymore how many trainers participated in the barn tours during the race meet. He replied that at least two trainers per barn were visited and he tried to have at least four to five trainers answer public questions during each tour. Chairwoman Inmann then thanked Mr. Seymore for all of his efforts and also thanked all of the trainers for their diligence and participation during the tours and other activities at Arapahoe Park. She then thanked Mr. Kulp for giving the mid-meet report and asked if the Commissioners had any other questions. As there were no questions from Commissioners, she then asked if the public had any questions. Since no public questions were asked, Chairwoman Inmann thanked all members of the public, including horsemen, and turned the floor over to Mr. Dan Hartman for public comments regarding the live race meet.

Mr. O.A. Martinez, horse trainer, was the first to offer public comment. He stated that as a trainer at Arapahoe Park since 2010, any horses who received a positive drug test were placed on an automatic forty-five (45) day suspension. He then explained that he had a horse test positive for an allergy medication (albuterol) as a result of his usage of an inhaler, causing contamination in the horse. He declared that although the levels were mere picograms (0.00000000001 grams), the horse was placed on the vet's list and was given a 45 day suspension. He then explained that four weeks prior to the Commission meeting, a horse tested positive for methamphetamine and did not receive a 45 day suspension. He inquired as to why the horse, who tested positive for such a serious drug, did not receive the same suspension as horses which test positive for other various medications.

Mr. Dan Hartman, Director of the Division of Racing Events, replied stating that the horse in question did not test positive for methamphetamine, rather it was a suspect. He explained that the trace amounts of amphetamines found in the horse's system were so microscopic, that Industrial Laboratories could not confirm a positive test; therefore

making the horse suspect to environmental contamination and permitting the Division to perform “for cause” drug testing on individuals who had contact with the horse, including the entire barn crew as well as the entire gate crew. Mr. Hartman confirmed that seventeen (17) total people were expected to take a drug test. Two (2) of the 17 individuals refused to take a drug test, resulting in automatic positives, and three (3) individuals tested had positive results for Methamphetamine. He reaffirmed that the testing was warranted and the individuals who tested positive underwent an automatic fourteen (14) day suspension. The individuals who tested positive would not be allowed to return to work until they could produce a negative drug test, after their 14 day suspension. He then reaffirmed that the horse’s test came back as “suspect” and that the lab could not confirm calculable, numeric levels to label the test a “positive,” even after further testing.

Chairwoman Inmann asked if Mr. O.A. Martinez would like to provide a response. Mr. Martinez stated that the trainers on the backside had heard that the test on the horse was a confirmed positive and that regardless of the result; any suspect is a trainer’s responsibility. He explained that if the horse tested positive, then the trainer needed to take responsibility for the test and take the required actions and consequences.

Mr. Hartman then replied that again, the horse did not receive a positive test, the test was suspect with extremely trace amounts of methamphetamine which levels could not even be determined because they were so low.

Veronica Chavez, support license holder and exercise rider, asked whether or not the horse should have been prohibited from racing even if the test was only “suspect.” Ms. Chavez also mentioned that she had brought a complaint regarding agents with too many jockeys to the stewards and she stated that the complaint was never followed through. She wanted to know how the process could be expedited and/or who she needed to go to in order to file a formal complaint.

Mr. Dan Hartman stated horse suspensions from racing only applied to those animals that had a positive drug test. He also answered Ms. Chavez’s question about complaints by explaining that if a written complaint was made, the investigators at Arapahoe Park would be the ones to see the complaint through. Chairwoman Inmann inquired whether or not the complaint had to be written and Mr. Hartman responded yes. Chairwoman Inmann also asked where an individual should go in order to file a formal complaint. Mr. Hartman explained that an individual should find agent-in-charge Ed Kulp in the Racing Commission Office and make a written complaint to him to be seen out by the Division.

Chairwoman Inmann asked if there were further public comments or if Mr. Dan Hartman would like to make any further comments. Mr. Hartman responded by saying that he thought the meet was going well and that the ARCI model rules adopted by the Commission were aiding in the success of the meet. He also stated that the race track had been extremely safe, with careful attention paid to the footing as well as inclement weather safety precautions taken throughout the season. He mentioned that the Colorado Horseracing Association (CHA) had a Facebook page that included videos of interviews with owners and trainers that he would like Mr. Shannon Rushton to discuss. He stated the

increased pre-race examinations by the Division veterinarians had eliminated many issues such as lameness and breakdowns by scratching those horses who had lameness, fitness, or other inherent issues. Mr. Hartman then invited Mr. Shannon Rushton, representative of the CHA, forward to discuss efforts by the CHA.

Mr. Rushton explained that after the ARCI Conference held in April, members of the Association and CHA knew they needed to increase transparency of the track and horsemen to the public. He described that the barn tours at Arapahoe Park helped answer many public questions and increased understanding of training and operations on the backside. He then elucidated on this transparency process by addressing the issue regarding the horse with a suspect methamphetamine test. Mr. Rushton stated that on the Monday morning after the suspect test result was found by the lab and translated to the Division, Mr. Bruce Seymore informed him there would be a conference call. On the aforementioned conference call, Mr. Rushton confirmed that Mr. Dan Hartman declared that the horse in question had a suspect environmental methamphetamine contamination and he explained that all members of the trainer's barn would be drug tested. Mr. Rushton stated that agent-in-charge, Ed Kulp, informed him of the process to test the entire gate crew and then disclosed that the barn crew to be tested was his son, Stetson Rushton's barn crew. Mr. Rushton explained that he wanted no issues; therefore, he let the investigators conduct all the testing without any of his oversight. He confirmed that two members of the barn crew left and refused testing. Mr. Rushton explained that he was giving his account and experience of the events to the Commission, as he did not want any of the trainers to assume special treatment or privileges were given to Mr. Stetson Rushton and his barn crew. After this statement from Mr. Shannon Rushton, Mr. Dan Hartman again reaffirmed that the lab (Industrial Labs) could not confirm high enough levels of methamphetamine in the horse's system to justify a positive drug test. He also mentioned that he would be happy to answer any further questions.

Chairwoman Inmann asked a question directed towards Commissioner Lori Scott, DVM. Chairwoman Inmann asked how environmental contamination would occur in a horse and how the drug would be transferred from human to animal. Commissioner Scott responded by saying if the drugs were present on a human's skin or clothing, they could be transferred to the horse through oral administration, or skin-to-skin contact. She stated that this issue had happened at a greyhound track in Colorado many years ago with a different substance. Mr. Rushton interjected stating that Mr. Dan Hartman mentioned if there would have been a positive drug test on a horse for a substance such as methamphetamine; the trainer would have absolutely been prosecuted to the fullest extent of the law. Commissioner Scott informed the Commission and members of the public, that when levels are found at such trace amounts in an animal's system, the laboratory and veterinarians attempt to find environmental contaminations as the source. Mr. Dan Hartman explained that the Division was not trying to "write-off" the test as environmental; it just wanted to alleviate the problem and get rid of the issues caused by unsafe activities like illicit drug usage on the backside. He asserted that this elimination of drug users prompted the 'for cause' testing done on the barn and gate crews who were in contact with the suspect horse. Chairwoman Inmann thanked all members for their contributions to the discussion.

Mr. Rushton asked Mr. Hartman if the lab was under suspicion that a substance was present, how would it determine if the level was high or low enough to be considered a positive test versus environmental contamination. Mr. Hartman stated that the Division moved forward with for cause testing even though no positive was found. Mr. Rushton repeated his question asking at what level or amount of a drug the lab determines a positive test. Mr. Hartman responded that if the level or amount of the drug found was even identifiable, or able to be given a numeric value, the Division would have prosecuted.

Chairwoman Inmann asked the public if any other individuals wanted to come forward with questions or comments and Mr. Juan Chavez Ortega was asked to present his comments to the Commission. Mr. Chavez asked whether or not a trainer and horse would be immediately removed from the meet and Arapahoe Park if the horse received a bad test for a banned substance. Mr. Hartman stated that if a horse was presented with a positive test, all trainers—no matter who they were—would get the right to due process and would not immediately be removed from Arapahoe Park. Mr. Chavez then asked why some trainers received barn searches for small drug violations, while others do not, even for more serious violations. Mr. Hartman replied stating that due to issues in past years, barn searches were no longer automatically performed on trainers who received low-level drug violations. Mr. Chavez stated that no matter the violation, the trainer should still be held accountable for all violations they receive and appropriate measures should be taken to ensure that horses and trainers with positive tests should endure the designated consequences. Assistant Attorney General, Mr. Bradford Jones, explained the due process system that all trainers receive. He described that all trainers get the opportunity to have their case heard by the Board of Stewards and/or the Racing Commission. He confirmed that trainers have the ability to send split samples to any lab they would like and that they have the right to present their case before any action would be taken against them.

Chairwoman Inmann asked if there were any other questions. Commissioner Hoffman then asked Mr. Jones to describe the difference between the role of the Commission versus the role of the Board of Stewards. Mr. Jones explained that the Commission is classified as a type II board by Colorado Legislature, meaning the Commission has the ability to take action on and promulgate rules. He then described that the Board of Stewards falls under the Division of Racing. They have the ability to conduct hearings based on rules enacted by the Division. He continued saying that most hearings are held during the racing season in front of the Board of Stewards. The Commission conducts de novo hearings, meaning that although the stewards may have already heard the case, the hearing in question may have both sides presented, witnesses called, and closing arguments conducted. Mr. Jones stated that if the Board of Stewards has been disbanded before a hearing takes place, the hearing customarily goes to the Commission. He confirmed that all hearings held in front of the Stewards may be appealed and heard by the Commission. He continued by saying that the Commission may accept or deny the findings of the Board of Stewards.

Adjournment—Chairwoman Inmann

Chairwoman Inmann thanked all meeting attendees for participating in the discussions held. She informed the attendees to ensure that any and all issues they face during the season are brought to light and resolved by either the Division or Arapahoe Park. Seeing as there was no further discussion, a motion was thereupon made by Commissioner Estes, seconded by Commissioner Hoffman, and unanimously carried to adjourn the meeting of the Colorado Racing Commission at 11:15 AM.

The next regularly meeting of the Colorado Racing Commission will be held on **Tuesday, September 10, 2019**, at 9:30 AM in the Red Rocks Conference Room, Suite 300 located at 1707 Cole Blvd, Lakewood, CO 80401.

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PAM INMANN, CHAIRWOMAN

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TINA ESTES, VICE-CHAIRWOMAN

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D. LYNN HOFFMAN, MEMBER

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LORI SCOTT, DVM, MEMBER

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SANDRA BOWEN, MEMBER