

Male Speaker: Welcome, everyone. Ron, you wanna get it started?

Ron Ochrym: New York State Racing, Pari-Mutuel Wagering and Breeding Law section 102 provides that the New York State Gaming Commission shall consist of seven members appointed by the governor by and with the advice and consent of the Senate. Core members confirmed by the New York State Senate are necessary to afford the commission an ability to establish, inform and undertake action. This present meeting of the commission is now called to order. Ms. secretary, please call the roll.

Secretary: John Crotty?

Male Speaker: Is it on mute.

Ron Ochrym: Kristin, call the roll.

Secretary: John Crotty?

Male Speaker: No, she's—you may be muted on your side.

Male Speaker: No.

Secretary: We're not. John—can you hear us? Can you hear us?

Barry Sample: For lack of time, why don't you call the roll, Ron.

Ron Ochrym: Ms. Secretary—John Crotty?

John Crotty: Here.

Ron Ochrym: Peter Moschetti?

Peter Meschetti: Here.

Ron Ochrym: John Poklemba?

John Poklemba: Here.

Ron Ochrym: Barry Snyder.

Barry Sample: Here.

Ron Ochrym: Jerry Skurnik?

Jerry Skurnik: Here.

Ron Ochrym: Todd Snyder?

Todd Snyder:

Here.

Ron Ochrym:

Ms. Secretary, please have the record reflect the quorum of qualified members is present, thus enabling transaction of business. Chairman Sample?

Barry Sample:

I would like to go through the minutes of last meeting, minutes of the commission meeting conducted on May 21<sup>st</sup>, 2018 have been provided to the members in advance. At this time, I'd like to ask of members if there are any edits, corrections or amendments. I know they had been revised a few times, and I think we all have a current copy of the most up-to-date. Any changes at all? Ms. Secretary should let the record reflect that the minutes have no suggested changes or edits, and could I have a motion, please?

Male Speaker:

So moved.

Barry Sample:

Thank you.

Male Speaker:

Second.

Barry Sample:

And the motion and the minutes have been accepted. Next on our agenda is the report of the executive director, Ron, please.

Ron Ochrym:

This afternoon, I'd like to touch on a few thoroughbred and standard bred items and provide a brief update regarding sports betting. Our Saratoga race course opens for its annual summer meet bringing the best horses in the world to upstate New York. The 2018 will, again, be the centerpiece of two of the greatest days in North American racing. The 2018 summer meet in Saratoga is scheduled to be open from July 20<sup>th</sup> through September 3<sup>rd</sup>. After opening weekend, racing will be conducted six days a week, Wednesday through Monday. The 40-day meet includes 69 greatest stakes races worth \$18.8 million of purses highlighted by the 91<sup>st</sup> running of the Grade 1 Whitney Stakes and the 149<sup>th</sup> running of the Grade 1 Travers Stakes. \_\_\_\_\_ [00:02:42] plans on opening a new amenity called The Stretch. This section is the grandstand near the top of the stretch, will have multiple types of box seats, a raised circular bar and touchscreen tablets. The capital project is the first major improvement made to the grandstand since the mid-1960s. On the standard bred side, the 2018 New York Sire Stakes County Fair, fairs began on July second with racing at Goshen Historic Track. The two-month series includes 21 race days at fairs across the state culminating with the 10,000-dollar purse county fair finals, which is scheduled for September 6<sup>th</sup> at Monticello Raceway. The county fair series consists of 21 non-parimutuel harness races open to eligible two and three-year-old New York standard bred separated into eight divisions based on age, gender and gait. The New York \_\_\_\_\_ [00:03:30] is designed to promote the breeding, buying and racing of standard bred horses in New York State and is the nation's oldest harness racing program administered by the Agriculture and New York Horse Breeding Development Fund. As I mentioned at our last meeting, the United States Supreme Court rules in Murphy versus NCAA regarding sports betting finding that provisions of the Professional and Amateur Sports Protection Act

violated constitutional principles limiting the federal government from controlling state policy by unconstitutionally forcing states to prohibiting sports betting under their own laws. There's quite much attention during the recently concluded session. The legislature failed to pass any amendment to the commercial casino gambling law, which might have materially altered the existing New York law, which contains a sports wager provision that can become effective upon a ruling of a court of competent jurisdiction that such activity is lawful. Commission staff continues to work on regulations that would effectuate sports gambling under existing statutory language. There are, however, a number of thorny policy calls that staff have been considering \_\_\_\_\_ [00:04:32] whether the existing law can be read so as to authorize mobile wagering without new statutory enactments, and if so, whether to limit the number of skins available and whether commercial casinos should be required to subscribe or access official league data for resolution of proposition wagers. Staff is likely to engage stakeholders and seek pre-proposed industry comment. We want to make certain that the regulations, when proposed, make sense. Finally, Martin Panza from NYRA, the senior vice president of racing operations has requested that the commission consider Rule 4038.2 minimum pricing for claim. This rule was adopted following the spat of fatalities at Aqueduct Racetrack. At the fall and winter of 2011, 12 \_\_\_\_\_ [00:05:14] prohibiting a horse from running for purse that exceeds two times its claiming price. NYRA contends that while well-intentioned, the circumstances behind the \_\_\_\_\_ [00:05:23] limitation no longer exists leaving certain NYRA races uncompetitive on a regional basis. NYRA has provided some preliminary material for consideration along with correspondence from three of the four members of the New York Task Force on Race Horse Health and Safety indicating that a modest adjustment in the purse claiming price ratio would likely have an impact on the welfare and safety of—not likely to an impact on the welfare and safety of horses. As a preliminary point, I have suggested NYRA provide specific information relative to claiming races wherein they are uncompetitive, illustrate how many races of similar level are carded regionally, identify the horses that have approximately started at NYRA properties and then competed at these competing race tracks, and identify how many horses in these higher ratio claiming races have experienced DNF results, traumatic injuries, fail to run back at the expected return or failed to start again. I will circulate these quantitative materials when they are received. Additionally, if anyone can think of additional materials that would be useful to review when considering NYRA's \_\_\_\_\_ [00:06:26] please let me know. Thank you, Mr. Chairman.

Barry Sample:

Thank you. Any questions or comments on this report? We'll move to rule making, please. New York State Pari-Mutuel wager and breeder's law authorizes the commission to promulgate rules and regulations that it sees necessary to carry out its responsibilities. In that regard, the commission will, from time to time, promulgate rules and rule amendments pursuant to the New York State Administrative Procedure Act. We have three items for consideration today. Ron, will you outline the first item?

Ron Ochrym: For commission consideration is the adoption of proposed rules to prohibit, in thoroughbred horse racing, the substance that the World Anti-Doping Agency prohibits at all times unless an athlete has an appropriate restricted therapeutic use exemption to prohibit the experimental use of doping agent with no generally accepted medical use in a race horse, and to require that no drug may be administered to a horse engaged in horse racing activity, except as approved by a veterinarian in any valid veterinarian-client relationship. The Association of Racing Commissioners, the national – adopted a national rule that tracks this proposal. The ARCI model rule was drafted with the input and support of the American association of equine veterinarians, the National Horsemen’s Benevolent and Protective Association, the Racing Medication and Testing Consortium, The Jockey Club and the Thoroughbred Horsemen’s Association. I would also like to note that these proposed rules amendment would implement several proposals recommended by the commission staff and the staff report in regard to allocations advanced by the People for the Ethical Treatment of Animals in regard to the practice of Kde Equine, LLC et al. The proposed rulemaking was published in the May 9<sup>th</sup>, 2018 state registry. The public comment period for the proposed expired July 9<sup>th</sup>. No comments were received. \_\_\_\_\_ [00:08:16] recommends the commission adopt this proposed rulemaking.

Barry Sample: Any questions on the adoption of this rulemaking prohibiting certain practices and doping agents at a veterinary relationship for prescribing drugs in the thoroughbred horse—in thoroughbred horse racing? No questions? May I have a motion?

Male Speaker: So moved.

Barry Sample: Second?

Male Speaker: Second.

Barry Sample: Discuss the motion. All in favor.

Male Speaker: I.

Male Speaker: I.

Male Speaker: I.

Male Speaker: Opposed? Motion carries. Thank you. Ron?

Ron Ochrym: For commission consideration is adoption of a proposed amendment to an existing rule that would allow licensed charitable organizations to submit these through electronic transfer. In general, Commission Rule 4624.9 requires any disbursement from charitable gaming account to be only by check. The purpose of this historical requirement was to increase accountability of charitable expenditure, receipt of funds by electronic transfer \_\_\_\_\_ [00:09:13] agencies and regulated parties, efficiencies

substantially by reducing the paperwork involved in submission and showing immediate crediting of organizations account, and automatic—the agency depositing function, all without sacrificing safety, security or accountability. The proposed rulemaking was published in the May 16<sup>th</sup>, 2018 state register meeting. That public comment period expires today. To date, no comments have been received. In the event additional comments are received before the closing visit, staff will promptly inform each commissioner. Staff recommends the commission adopt this proposed rulemaking.

Barry Sample: Any questions regarding this rulemaking regarding special bell jar accounts? May I have a motion?

Male Speaker: So moved.

Barry Sample: Second?

Male Speaker: Second.

Barry Sample: Discussion of the motion?

Male Speaker: Mr. Chairman?

Barry Sample: Yes.

Male Speaker: If I may just make one point to—the public comment period is due to expire today and we should make sure that the – a motion to adopt would be contingent on no material comments being made before the end of business.

Male Speaker: Yeah, I can modify my motion to adopt that.

Barry Sample: Thank you. Do I have a second on a modified motion?

Male Speaker: Second.

Barry Sample: All in favor?

Male Speaker: I.

Male Speaker: I.

Male Speaker: I.

Barry Sample: Any opposed? Motion carries. Ron?

Ron Ochrym: For commission consideration is the addition of a black jack table side wager called Blazing 7s Progressive. At the request of a casino licensee pursuant to Commission Rule 5323.19, temporary rules for the side wager to the game of blackjack were approved for play through October 26<sup>th</sup>, 2018. The commission's Division of Gaming has evaluated the experience with this

game and is satisfied that this wager would be appropriate to add to the table game rules as a permanent rule. Staff recommends the commission authorize this proposed rulemaking.

Barry Sample: May I have a motion to this proposed rule?

Male Speaker: So moved.

Barry Sample: Second?

Male Speaker: Second.

Barry Sample: Any discussion? All in favor.

Male Speaker: I.

Male Speaker: I.

Male Speaker: I.

Barry Sample: Opposed? Motion carries. We have, I think, about a half dozen adjudications for today, and Ron, could you...

Ron Ochrym: In the matter of Gonzales grocery store, on January 24<sup>th</sup>, 2018 the Bureau of Licensing issued a notice of license suspension and ordered the immediate temporary suspension of the lottery sales agent license of a Gonzales grocery store, which is located at 2665 Valentine Avenue in the Bronx. The notice informed Gonzales grocery store that suspension was for fraud, to see misrepresentation or conduct prejudicial to public confidence in the state lottery. Specifically, the notice stated that the store personnel had sold instant game lottery tickets from the ticket books that had not been activated. The notice also stated that the suspension could become a revocation unless Gonzales grocery store requested a hearing. After a request by Gonzales grocery store, a hearing was conducted on May 23<sup>rd</sup>, 2018. The owner of the retailer submitted a letter for consideration, but did not attend the hearing. The hearing officer submitted a report to the commission secretary dated June 8<sup>th</sup>, 2018 recommending that the license be revoked and the period from the date of suspension to the commission's decision served as suspension of license. The commission considers this matter at a meeting conducted pursuant to the judiciary \_\_\_\_\_ [00:12:34] judicial proceedings exception of the New York Public Officers Law, Section 108.1.

Barry Sample: The commission considered this matter and determine upon a six to zero vote to sustain the hearing officer's report and recommendations. Next item, Ron?

Ron Ochrym: In the matter of Jenny Food Corporation, On November 7<sup>th</sup>, 2017, the Bureau of Licensing issued a notice of license suspension and ordered the immediate temporary suspension of the lottery sales agent license of Jenny Food Corporation, which is located at 2026 7<sup>th</sup> Avenue in Manhattan. The notice

informed Jenny Food that the suspension was for fraud, deceit, misrepresentation or conduct prejudicial to public confidence in the state lottery. Specifically, the notice stated that the store personnel has discounted prize winning lottery tickets. The notice stated that the suspension would become a revocation unless Jenny Food requested a hearing. On November 10<sup>th</sup>, 2017, the Bureau of Licensing issued an amended notice of license suspension notifying Jenny Food that, in addition to the aforementioned, an additional ground for suspension was failure to timely remit funds due to the division of the lottery. After request by Jenny Food, a hearing was conducted on May 8<sup>th</sup>, 2018. The hearing office submitted a report to the commission secretary dated June 8<sup>th</sup>, 2018 recommending that the license be revoked and that the period from the date of suspension to the commission's decision served as suspension of license. The commission considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of New York Public Officers Law Section 108.1.

Barry Sample: The commission considered this matter and determined upon a six to zero vote to sustain the hearing officer's report and recommendations. Next item.

Ron Ochrym: In the matter of Dennis Martin, on February 13th, 2018 the Bureau of Licensing denied the application of Dennis Martin for a non-gaming employee registration as a cook at Resorts World Catskill citing Racing, Pari-Mutuel Wager and Breeding Law Section 1318. Staff indicated that the applicant had misrepresented certain information and provided false information on his registration application. Among this Section 1318, disqualifying criteria are a failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this article, the failure of the applicant to provide information, documentation and assurances required by this article or requested by the commission, or failure of the applicant to reveal any fact material to qualification, or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria, C, the conviction of the applicant of any offense in any jurisdiction which is or would be a felony or other crime involving public integrity, embezzlement, fraud or perjury. Mr. Martin requested a hearing, which was conducted on May 11<sup>th</sup>, 2018. The hearing office submitted a report dated June 20<sup>th</sup>, 2018 recommending that the registration denial be upheld. The commission considers this matter at a meeting conducted pursuant to the judicial, quasi-judicial proceedings exception of New York Public Officers Law 108.1.

Barry Sample: The commission considered this matter and determined upon a six to zero vote to sustain the hearing officer's report and recommendations.

Ron Ochrym: In the matter of Ebony Walker, on January 29<sup>th</sup>, 2018, the Bureau of Licensing denied the application of Ebony Walker for a non-gaming employer registration as a kitchen steward at Resorts World Catskill citing Racing, Pari-Mutuel Wager and Breeding Law Section 1318. Staff indicated the applicant had open or pending criminal charges disclosed on her registration application. Among this Section 1318, disqualifying criteria are,

A, failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this article, the failure of the applicant to provide information, documentation, and assurances required by this article or requested by the commission, or failure of the applicant to reveal any fact material to the qualification, or the supplying of information which is untrue or misleading as to a material fact pertaining to the qualification criteria, C, the conviction of the applicant of any offense in any jurisdiction which is or would be a felony or other crime involving public integrity, embezzlement, theft, fraud, or perjury, G, current prosecution or pending charges in any jurisdiction of the applicant or of any person who is required to be qualified under this article as a condition of a license, for any of the offenses enumerated in paragraph (c) of subdivision one of this section; provided, however, that at the request of the applicant or the person charged, the commission may defer the decision upon applicant during the pendency of such charge. Walker requested a hearing which was conducted on May 11<sup>th</sup>, 2018. The hearing officer submitted a report dated June 15<sup>th</sup>, 2018 recommending that the registration denial be upheld. The commission considers this matter at a meeting conducted pursuant to the judicial, quasi-judicial proceedings exception of New York Public Officers Law 108.1.

Barry Sample: The commission considered this matter and determined upon a six to zero vote to sustain the hearing officer's report and recommendations.

Ron Ochrym: In the matter of Reginal Gibson, in February 2018 the bureau of licensing denied the application of Reginal Gibson for a non-gaming employee registration as a kitchen steward or cook at Resorts World Catskill citing Racing, Pari-mutuel Wager and Breeding Law Section 1318. Staff indicated that the applicant failed to provide information and documentation requested and provided misleading information on his registration application. Among this Section 1318.1, disqualifying criteria are, A, failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this article, B, failure of the applicant to provide information, documentation and assurances required by this article or requested by the commission, or failure of the applicant to reveal any fact material to qualification, or the supplying of information which is untrue or misleading as to material fact pertaining to the qualification criteria, C, the conviction of the applicant of any offense in any jurisdiction which is or would be a felony or other crime involving public integrity, embezzlement, theft, fraud or perjury. Gibson requested a hearing which was held on May 24<sup>th</sup>, 2018. The hearing officer submitted a report dated July 2<sup>nd</sup>, 2018 recommending that the registration denial be upheld. The commission considers this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exception of New York Public Offices Law 108.1.

Barry Sample: The commission considered this matter and determined upon a six to zero vote to sustain the hearing officer's report and recommendations. That's it for the adjudications, correct?



Ron Ochrym:

Yes, sir.

Barry Sample:

Okay. Is there any old business if anyone wants—members want to raise? Any new business? We have no items scheduled as new business and does anyone have any new business to consider? Well, with the permission of everyone here, I would like to bring forward an application to reopen the adjudicatory matter, specifically in the matter of Richard E. Dutrow Jr. As you all know, thoroughbred trainer Rick Dutrow, by his attorneys, previously filed an application to reopen an adjudicatory proceeding for consideration of a modified penalty pursuant to Commission Rule 4550.10 b and c. The racing and wagering board, a predecessor agency to this commission, determined that Mr. Dutrow was ineligible to reapply for any license issued by the commission for ten years from the revocation of his license on January 17<sup>th</sup>, 2013 and fined him \$50,000.00. The matter was discussed at our pre-adjudication meeting and the members have decided in a vote of four to two to not reopen the case at this time. Next item is the scheduling of our next meeting. If we went by our normal schedule, the schedule in the next meeting would be August 27<sup>th</sup> and that was – we’re planning on doing it in Saratoga. Kristen will work with all of us to try to sort out an appropriate date if that does not work for everyone, but we should try to do a meeting in Saratoga before the season—before that session ends. That concludes our published agenda for today. Do commissioners have any items they’d like to present for consideration at all? Anything? Hearing none, no other items for consideration, this meeting is adjourned. Thank you.

Male Speaker:

Thank you.

[End of Audio]