

**MINUTES OF THE  
NEW YORK STATE  
GAMING COMMISSION MEETING  
SEPTEMBER 9, 2013  
NEW YORK, NEW YORK**

A meeting of the New York State Gaming Commission was called to order on Monday September 9, 2013, at 1:44 p.m. at the Commission office located at 317 Lenox Avenue, New York, New York.

**1. Call to Order.**

The meeting was called to order by Acting Executive Director Robert Williams. Establishment of a quorum was noted by Acting Secretary Buckley. In physical attendance were Commissioners John Crotty, John Poklemba, Barry Sample and Todd Snyder.

**2. Designation of Presiding Officer**

Mr. Williams noted that by statute, the Governor is to designate a member of the Commission as Chair. Mr. Williams noted that no such designation has occurred, and requested that the Commission determine a Presiding Officer for this meeting. Commissioner Sample moved that Commissioner Poklemba preside over the meeting.

ON A MOTION BY: Commissioner Sample  
APPROVED: 4-0

**3. Approval of the Meeting Minutes for August 1, 2013**

Minutes of the Commission meetings conducted on August 1, 2013 were considered. Mr. Poklemba requested edits, corrections or amendments. One revision was offered and accepted.

ON A MOTION BY: Commissioner Snyder  
APPROVED: 4-0

#### 4. Report of Acting Executive Director

Mr. Williams reported on the following matters previously discussed:

- a. NYRA Wagers. NYRA and the Stewards satisfied conditions imposed by the Commission at its August 1, 2013 meeting. As such, NYRA initiated the Pick Five wager on September 7, 2013.
- b. Equine Medical Director. Interviews have been completed and a preferred identified. The Commission will be working with Cornell University and the State Division of Budget to obtain the required approval to hire the selected candidate.
- c. Equine Fatalities. The Saratoga meet ended with five equine fatalities, an increase of one from the 2012 Saratoga Meet. According to NYRA-provided statistics, the breakdown rate fell from 4.0 per 1,000 starts in 2012 to 1.6 per 1,000 starts in 2013.

Mr. Crotty commented on the overall statistics and expressed interest in what the data illustrated regarding injuries to unique starters in 2012 and 2013. Mr. Williams responded that data analysis would be undertaken by the new Equine Medical Director.

- d. Travers Stakes. Mr. Williams noted the trainer of the second-place finisher Moreno filed a complaint alleging that the jockey of the winning horse Will Take Charge used an electrical device on his horse during the race. The investigation is underway.

#### 5. Rulemaking

- a. Permanent adoption of Recognition of Establishment of the Gaming Commission Rules. General Counsel Edmund Burns asked the Commission to consider for permanent adoption rule amendments that had been in place since June 26, 2013 as emergency rules, describing the rulemaking as a comprehensive reorganization of the rules of the two prior State gaming agencies into a single set of rules for the Commission. Mr. Burns noted the permanent adoption contained

numerous technical amendments to the original proposal. He also noted that a comment was received from the Monticello track, which expressed concern about the elimination of a rule containing obsolete statutory language. Mr. Burns explained that the track was assured that no change in interpretation of statutory requirements would be effected by the amendment. Finally, Mr. Burns noted that the public comment period was to end the day of this meeting and he would inform the Commissioners if any substantial comment was received after the meeting.

ON A MOTION BY: Commissioner Sample  
APPROVED: 4-0

- b. Permanent Adoption of Lottery Rulemaking for Mega Millions and Raffle Games. Mr. Burns asked the Commission to consider for permanent adoption a rule first proposed by action of the Commission on June 26, 2013. The regulatory changes are necessary for the New York Lottery to continue to participate in a consortium of state and territorial lotteries throughout the United States that operate the Mega Millions game and to enable the New York Lottery to conduct a planned Halloween Millions Raffle game. The start of the multi-state raffle game is September 29, 2013. Mr. Burns noted that the rule would also give's New York Lottery the flexibility to operate future intrastate raffle games. Mr. Burns noted that the public comment period was to end the day of this meeting and he would inform the Commissioners if any substantial comment was received after the meeting. He also noted that sales for the Halloween Millions Raffle game had begun in other states.

ON A MOTION BY: Commissioner Snyder  
APPROVED: 4-0

- c. Proposed Rulemaking on Lottery Subscriptions. Mr. Burns asked the Commission to consider a proposed rulemaking on Lottery subscriptions. The proposed rule amendments intend to better serve customer needs and preferences by updating the subscription program, allowing the use of newer technologies and addressing limitations imposed by older, outdated processes. Mr. Crotty asked if the Lottery experienced any issues with subscription groups whose membership

changed upon renewal. Gardner Gurney, Acting Director of the Division of Lottery, explained that the Lottery's role is the renewal process is to ensure an accurate updating of group members names. In response to a follow-up question from Mr. Crotty, Mr. Burns stated disputes between a group and a person excluded from the group would be resolved privately and that the Lottery's obligation was to pay a valid prize claim to the group duly registered with the Commission.

ON A MOTION BY: Commissioner Snyder

APPROVED: 4-0

- d. Proposed Rulemaking on Notice of Corticosteroid Injections in Claimed Thoroughbred Horses. Mr. Burns asked the Commission to consider a proposed rulemaking of corticosteroid injections in claimed thoroughbred horses. The rule requires that the previous trainer of the claimed horse provide to the new owner within 48 hours after a claiming race is made official all records of corticosteroid joint injections administered to the horse within the 30 days prior to the claiming race. The rule was a recommendation by the New York Task Force on Racehorse Health and Safety and was in effect from December 12, 2012 to March 10, 2013 as an emergency rule. Commission staff requested informal, pre-proposal industry comment and, to date, have received no comments.

Mr. Snyder asked if the Commission assumes any responsibility to ensure that the data provided by the former horse owner is accurate. Mr. Burns responded that the Commission does not undertake any responsibility for the accuracy of such data provided by the regulated parties.

ON A MOTION BY: Commissioner Sample

APPROVED: 4-0

- e. Proposed Lottery Prize Payment Manner. Mr. Burns placed for consideration a proposed rulemaking on lottery prize payment manner, which would add flexibility to the way in which lottery prize payments are made. He noted that current regulations were inconsistent, differing among ticket formats. Specifically, the Lottery proposed to add flexibility to simplify prize payment and allow the Commission to

offer alternative means of payment. Mr. Burns stated that the proposal was intended to be more consumer-friendly and would relieve administrative burden. Mr. Gurney added that the proposed amendments would assist under-banked prize winners, who currently must seek someone to cash a prize check, and would allow an agent to reduce cash on hand. Mr. Snyder expressed a desire to give adequate notice to patrons of any changes. Mr. Gurney stated notice would be advance given.

ON A MOTION BY: Commissioner Crotty

APPROVED: 4-0

## **6. New Business/Old Business**

### **a. New Business**

1. Resolution of the Adoption of Plan of Organization. At its June 26, 2013 meeting, the Commission adopted a plan of organization to comply with N.Y.S. Racing, Pari-Mutuel Wagering and Breeding Law Section 103.1. The adopted plan required a minor revision to remove duties not undertaken by the Office of Internal Audit and to make a corresponding change to the Bureau of Administration and Finance, where those duties are actually undertaken. No objection to such amendment was offered and a resolution adopting the amended Plan of Organization will be executed.
2. Confirmation of DeCarlo Summary Suspension. In the interim since the August 1, 2013 meeting, the Commission ordered the summary suspension of Joseph D. DeCarlo, a standardbred trainer licensee. Prior to the summary suspension, each Commissioner was presented with written allegations that required immediate and effective action to assure the integrity of racing, its reputation, and the safety of the participants and each Commissioner independently approved the summary suspension of DeCarlo's occupational license. The summary suspension was confirmed on the record.

Mr. Poklemba thanked staff for the timely explanation of the situation when the summary suspension was presented.

b. Old Business

1. Clarification of Resolution 05-2013. At the August 1, 2013 meeting, Commissioners requested clarification of Resolution 05-2013, which concerned Delegation of Authority. As a revised draft was being prepared for Commissioner review, further discussion was deferred.

**7. Scheduling of Next Meeting**

Mr. Poklemba suggested deferral of scheduling the next meeting pending consideration of a permanent schedule. All Commissioners agreed.

**8. Adjourn**

Mr. Poklemba asked if any Commissioners had any additional items to discuss or present. Hearing none, the meeting was adjourned at 2:23 p.m.

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