

New York State Gaming Commission 06-26-2017

Director Williams: New York State Race and Pari-mutual Wagering and Breeding law Section 102 provides that the New York State Gaming Commission shall consist of seven numbers appointed by the Governor with the advice and consent of the senate. Seven members having been confirmed by the New York State Senate affords the commission an ability to establish a form and undertake action. This present meeting of the commission is now called to order. Ms. Secretary, will you please call the role.

Ms. Secretary: John Crotty.

John Crotty: Here.

Ms. Secretary: Robert Megna.

Robert Megna: Here.

Ms. Secretary: Peter Moschetti.

Peter Moschetti: Here.

Ms. Secretary: John Poklemba.

John Poklemba: Here.

Ms. Secretary: Barry Sample.

Barry Sample: Here.

Ms. Secretary: Gerald Skurnik.

Gerald Skurnik: Here.

Ms. Secretary: Todd Snyder:

Director Williams: Ms. Secretary, please have the record reflect that a quorum of qualified members are present, thus enabling the transaction of business. Please also have the record reflect that Commissioner Snyder noticed a long-standing conflict with today's meeting, thus is absent.

As you may have noticed since our last meeting, the commission roster has expanded following the confirmation of Bob Megna to the seat formerly held by Mark Buren, and the confirmation of Jerry Skurnik to the Speaker of the Assembly statutory seat. Bob is best known as a former Director of the New York State Division of

the Budget, but he held a variety of high level positions during his long career in public service, including Deputy Director of Fiscal Studies, the Assembly Ways and Means Committee, Executive Director of the New York Thruway Authority and Canal Corporation, and Senior Vice President for Finance and Administration at Stonybrook University. Most recently, Bob has been President of both the Four Road Management Corporation and Fort Skyler Management Corporation. Each not for profit corporations which develops, owns, operates, and leases facilities relative to SUNY Polytechnic Institute.

More significantly to the responsibilities of the Commission, Bob served as the Chairman of the Franchise Oversight Board, was a governmental appointee to the New York Racing Association Reorganization Board, and in the context of his former position as Budget Director, had developed a keen interest in the operation of the New York Lottery and the development of Commercial Casino Gambling.

Jerry Skurnik has lived in New York City for his entire life. He is currently a partner in Crime New York, a political consulting firm that he established in 1988 that supplies data for campaigns on local, state and national levels. He first became active in politics in 1966 when he worked as a volunteer for Ted Weiss's Congressional Campaign, and has worked in numerous political campaigns since. He served eight years as Mayoral Advisor, mainly as liaison to elected officials and community groups for the New York City Mayor Ed Koch. More significantly to the responsibilities of the Commission, Jerry served as a member of the Task Force and the Future of Off Track Betting in New York State.

Given the absent of a designated Chair, would the members like to select someone for the purpose of presiding over today's meeting?

Unidentified Male: I nominate Peter Moschetti.

Unidentified Male: Second.

Director Williams: Any opposition, anybody else want it? That's it by acclamation.

Peter Moschetti: Item three on the agenda is the consideration of minutes for the meeting of April 24, 2017. The minutes of the commission meeting conducted on April 24, 2017 have been provided to the members in advance. At this time, I'd like to ask the members if there are any edits, corrections or amendments. Hearing none, Madam Secretary,

please let the record reflect the minutes were accepted as circulated.

Next, item number is rule making. The New York State Racing Pari-mutual Wagering and Breeding Law section 104.19 authorizes the Commission to promulgate rules and regulations that it deems necessary to carry out its responsibility. Therefore, the Commission will, from time to time, promulgate rules and rule amendments pursuant to the State Administrative Procedure Act. I believe we have six items for consideration today. Mr. Williams, will you please outline the first item.

Director Williams: As for Commission considerations, the adoption of the set of rules regulating telephone and internet wagering that would conform to and implement statutory requirements found in New York Racing Pari-mutual Wagering and Breeding law sections 1012 and 1012(a). A notice of the proposed rule was published in the state register on April 26, 2017, meaning that the public comment period closed on June 12. Two public comments were received, one from Xpressbet and one from the New York Racing Association.

Xpressbet noted that they have agreements with other entities and operate additional wagering portals under a white label. That is Xpressbet is responsible for the acceptance and processing of all aspects of wagering activity, while the other entities undertake marketing activities and management front end content. Stated differently, Xpressbet operates a wagering platform as multiple entrance stores. Xpressbet stated that they manage all settlement functions, acquire all racetrack content, own the material intellectual property and has agreements with all relevant racetracks. They also pay all source fees to New York with respect to wagers placed by New York residents through any of their portals. As such, Xpressbet suggested language change that would require only one language, irrespective of the number of white label portal operating. The staff believes that ventures with different ownership require particularize license and review and should be treated as different applicant entities.

NYRA wrote that they believe that the proposed rules lacked clarity and would put in state advance deposit wagering businesses at a competitive disadvantage. NYRA wrote that they were unable to ascertain whether the license or process procedure set forth in 4500.2 applied to both New York and multi-jurisdictional account wagering providers who wish to accept wagers from New York residents. Additionally, they raise concern that 4500.2(d) was unclear, questioning whether an advance deposit and wagering

provider is required to obtain a separate license for each account wagering platform that the operator provided in conjunction with another entity. They noted that Oregon permitted an account wagering provider add affiliates by amendment to the previously approved plan of operation, and not obtain new licenses for platforms marketed to bettors as a distinct betting platform.

NYRA also noted that they were required by existing regulations to request and receive approval for all customer rebates and promotions, and questioned whether under 4500.3, multi-jurisdictional account wagering providers were required to abide by similar requirements, and they requested the commission give considerations, including such a requirement in the proposed rule.

Staff disagrees that the proposed rules lack clarity. Staff also notes that rule 4500.2 clearly applies to both NYRA and multi-jurisdictional account wagering providers. As to NYRA's suggestion that we include a requirement that multi-jurisdictional account wager providers be required to submit approvals for all customer rebates and promotions. Staff notes that the approval of the rebates and promotions is not a topic covered by part 4500, which regulates such topics as the establishment of accounts, withdrawals, credits, accounting and auditing. NYRA submits that under different regulatory authority. Staff recommends that the Commission adopt this rule maker.

Peter Moschetti: Does the Commissioners have any questions on the adoption of the rule pertaining to Licensing and Regulation of Multi-jurisdictional Account Wagering providers? Hearing none, may I have a motion to adopt this rule?

Unidentified Male: So moved.

Unidentified Male: Second.

Peter Moschetti: Any discussion on the motion? Hearing none, all in favor?

Unidentified Males: Ayes.

Peter Moschetti: Any opposed? The motion carries.

Director Williams: For Commission consideration is adoption of a rule to permit a more efficient and timely response by the agency, when extraordinary events interfere with normal opportunities for harness horses race. Under current rules, a harness horse that does not race for thirty days is not eligible to enter races unless a horse

demonstrates its continuing proficiency to race by participating in a timed workout or qualifying race. This requirement does not apply to stakes races. On occasion, a large number of harness horses are prevented from racing within a thirty day period because of an extraordinary event, such as quarantine to prevent the spread of infectious disease, track closings for prolonged bad weather. The proposed rule would allow Staff to extend horses an additional period of time between races, before having to requalify in order to maintain a sufficient supply of horses for racetracks, and to avoid such unwarranted expense and delays for horse trainers and owners.

In the past, such extension of time has required the Commission to promulgate a rule change before hardship release would be granted. This will make our regulatory scheme more responsive by eliminating the bureaucratic delay. The proposed rules also delete an obsolete reference to racing dates before the advent of year-round harness racing. A notice of the proposed rule was published in the State Register on April 26, meaning public commentary closed on June 12. One public comment was received.

The commentator suggested that the State adopt the US Trotting Associations rule, which is to allow sixty days before requalifying is necessary under all circumstances. Mission staff does not agree with the USDA recommendation and believes that the thirty day qualifying period to assure a horse is reasonably able to compete is in the best interest to the wagering public. Staff recommends that the Commission adopt this rule maker.

Peter Moschetti: Is there any questions on the adoption of this rule? Hearing none, may I have a motion to adopt this rule.

Unidentified Male: So moved.

Unidentified Male: Second.

Peter Moschetti: Any discussion on the motion? Hearing none, all in favor?

Unidentified Males: Ayes.

Peter Moschetti: Any opposed. The motion carries. Next item.

Director Williams: For Commission consideration a proposed rules authorizing and regulating a new category of lottery licensees to take request through a computer or mobile network to purchase lottery draw game tickets as the customer's agent and deliver purchased tickets

to the customer, or under certain circumstances credit the customer with winnings cashed by the courier service's agent to the customer. Standards for licensing, safeguarding of patron deposits, ticket sales, methods of delivery and payment have been addressed. We polled at various businesses that developed models wherein they've been undertaking this activity unregulated. These proposed regulations would fill the void, providing standards for the activity and ensuring that a reasonable patron safeguards are in place. A draft of this proposal was shared with no interested parties and their input where appropriate, was incorporated into the current proposal.

Peter Moschetti: Is there any questions on the proposal of this rule?

Unidentified Male: Yeah, just one, actually just one. Do we have any idea Rob, how many people are actually participating in this market?

Director Williams: I'm going to defer to Glynn, are you there?

Unidentified Male: No she's not in the room.

Director Williams: I was going to defer to Glynn but apparently she's occupied. We do not know the number of individuals, but this activity had been previously engaged in New York State and had received wide spread publicity. And we had some sort of evidence of where they had been purchasing the tickets before. And it indicated that they had hundreds, if not more, customers on each occasion. This was one individual retail applicant.

Peter Moschetti: Any further discussion?

Unidentified Male: And is there any consideration of specifying the fees that would be charged for this service? Putting a cap on the fees that would be charged for this service

Peter Moschetti: The way it's drafted in the rules proposal is a reasonable fee is determined by the Commission but nothing specific in the actual language of the text.

Unidentified Male: So it would be up to the Commission to determine what is reasonable?

Peter Moschetti: Correct.

Unidentified Male: Would that be on a case by case basis?

- Unidentified Male: Thank you.
- Unidentified Male: That would seem to put quite a burden on the Commission to determine –
- Peter Moschetti: Well the Commission as an agency would be under an obligation to treat like licensees in the same manner. So whatever the cap the Commission Staff in Licensing might think is a reasonable cap would then be applicable to everybody.
- Unidentified Male: So you would have a fee cap that would be statewide is what you're saying?
- Peter Moschetti: It would be statewide.
- Unidentified Male: Now you're going to get back to us with that at some point?
- Peter Moschetti: The text to the rule leaves it as a reasonable fee as determined by the Commission, so we could see what people propose or what licensees propose in –
- Director Williams: In the application process.
- Peter Moschetti: --in the application process, licensing process and not commit ourselves to anything before we know what the market looks like.
- Unidentified Male: So we are not precluding ourselves from acting to get to the very first question I guess. We're not precluding ourselves from acting as a Commission to set a standard fee if we decide that's the best thing to do.
- Peter Moschetti: That's correct.
- Unidentified Male: We have to approve each courier when they approve the licensing.
- Director Williams: The Commission does.
- Peter Moschetti: Correct. Barry, you had something?
- Barry Sample: No.
- Peter Moschetti: Any further discussion, any other questions? May I have a motion to close this rule?
- Unidentified Male: So moved.

Unidentified Male: Second.

Peter Moschetti: Any further discussion on the motion? Hearing none, all in favor?

Unidentified Males: Ayes.

Peter Moschetti: Any opposed? Motion carries. Next item please.

Director Williams: For Commission consideration a proposed rules for formalized practice that race day Furosemide or Lasix administration to the horses is provided by independent, third party veterinarians for not caring for the horses of the trainer or owner who participates at the race meeting. The proposal addresses concern about interested party veterinarian's race day access to horses. Formalization is recommended by the Racing Medication and Testing Consortium, and is consistent with model rules of the Association of Racing Commissioners International. Such practice is already in place in New York on a track by track basis. While formalizing third party administration, the proposal also provides an exception for race day Lasix administration by a veterinarian who otherwise provides only urgent veterinary care, such as a veterinarian indirectly employed by the Race Track Operator. Track veterinarians do not have a conflict of interest from an ongoing veterinarian and trainer relationship, as their function is only to provide immediate urgent veterinary care for an owner or a trainer on an ad hoc basis with no ongoing veterinary-client relationship created. Staff recommends the Commission authorize the proposal of this rule maker.

Peter Moschetti: Any questions?

Unidentified Male: Not specifically about this, but we had that form appeared some period of time ago to address the Lasix issue. And while I thought it was informative, the one thing we learned was that the Hong Kong did more money than all of North America had a far different standard for Lasix. So the concept that you know, others were making that the drug was essential to the sport here, was sort of hollow in my mind that day, I mean it gets used a lot. This is a little bit of a different question –

Peter Moschetti: Yeah that –

Unidentified Male: We're not taking this seriously.

Director Williams: The Lasix –

Unidentified Male: It's a process, I understand what's been written, we're not taking

the Lasix issue particularly seriously. We just lay silent on it. I thought some of the proposals that were floating around were useful to follow-up on. I mean Peter had his own opinions of these topics as well, but I thought there was some good intel out of it, and the one that certainly made a lot of sense was the grade one, even the graded stakes. Just looking at banning them, still the biggest purses in North America or one of places with the biggest purses. You look at them run here.

Unidentified Male: And that was obviously one of the discussion elements that we had there. There are a couple of states that had proposed and done some evaluations relative to that on an ad hoc basis, nothing formalized. Our Lasix rule right is consistent on a nationwide basis with all other jurisdictions in North America. But I do remember taking a look and doing some research relative to Lasix prohibited races for you in the past. And I would be happy to update that if you'd like.

Unidentified Male: That'd be nice, get some action out of this.

Peter Moschetti: See to me, the issue with the vets is more which horses require Lasix right, because we have the standard that the vet is to determine if the horse is a bleeder. And then once, if that's determined, then they can sign the slip allowing the horse to get the drug, or if they're getting Lasix in another jurisdiction, they come in, as I recall the rules. Then they can run on Lasix. But I understand you want maybe an independent vet for the administration of the drug. I understand that, I think it's a good idea. But why not an independent vet for the determination whether a horse actually needs Lasix?

Unidentified Male: What series of standards around getting it?

Peter Moschetti: Because I think it's quite clear, they said almost every horse runs on Lasix, and that's why, because they're all bleeders?

Unidentified Male: In Hong Kong they had just the same bloodlines, when they bled, they gave them time off. So if the concept was care for the horse, it seemed to be a much more reasonable standard, then oh no, it needs more drugs to run with it's, you know, having this issue.

Peter Moschetti: Well we're also under the argument that we're breeding bleeders.

Unidentified Male: You are breeding bleeders.

Unidentified Male: And that was one of the concerns.

Unidentified Male: And one of the ways to address it was, in your graded stakes races, if they didn't run on Lasix, you would have a different blood stock over time, significant period of time, than you would today. I think it's a problem, I don't think we can just glance over it. Yeah, I mean for the rule, fine, we should be for it. But we really shouldn't let that issue go as a board, or as a group. I think it's still relevant, and it's still, the fact that other people tried and you weren't successful, doesn't, by itself, mean they tried what we were contemplating nor did they have the ability to move the market the way New York does.

Peter Moschetti: I think that we got a little overwhelmed when the casinos came in and we lost direction there.

Unidentified Male: It was a priority for sure.

Peter Moschetti: Yes, yes.

Unidentified Male: I agree, maybe it's something we need to resurrect and we're going to Saratoga right, in August, so that might be a place to start resurrecting.

Unidentified Male: How best to do that.

Unidentified Male: Tell them to try some no Lasix races.

Unidentified Male: I don't think we're in a position to tell them.

Unidentified Male: Yes, the next we're on how best to do it, at least –

Unidentified Male: We have to resurrect this –

Unidentified Male: We had the issue, we had it on the table and other things came up and it went below the radar. My question is, how do we get it at least back on the table again where it gets some attention. Because it did get significant attention when you were in Saratoga.

Unidentified Male: Well we have _____[00:21:04] to go, it was getting –

Unidentified Male: It seemed like there was a lot of rhetoric back and forth, but I still didn't understand what the harm was in trying some different approaches. And then on a small scale –

Unidentified Male: I'm going to ask in Schenectady Rick and Ron, when we last considered this, prior to casinos, there was some question relative

to application of existing Lasix rules? And if you had horses going in and off of Lasix, is that still an issue?

Rick Goodell: This is Rick Goodell. That's an issue that actually is addressed by the proposed rulemaking. The Commission voted to propose earlier this year with regard to some EIPH rule changes. With a resulting existing rule imposes various time periods when a horse cannot race after it has a repeated episode of epistaxis. The rule actually was written at the time when it was foreseen in horses would rarely be on Lasix, and might commonly go on and off the Lasix list. And the proposal voted on earlier this year by the Commission would establish set periods of time that a horse would have to be out of racing whenever it experienced epistaxis, whether or not it was related to getting back on the Lasix list.

Unidentified Male: That was based on the levels, right, level one, level two, level three, level four.

Rick Goodell: Yes, and epistaxis actually is when there's visible, without the aid of instrumentation.

Unidentified Male: Which is 2% or 1%, or whatever it was?

Rick Goodell: Right, right.

Unidentified Male: So that's beyond the level four?

Rick Goodell: Yes, level four can only be determined by microscopic examination.

Director Williams: Ron, is there anything that prevents a racetrack from carding Lasix non-using races?

Unidentified Male: I don't believe so.

Unidentified Male: I'd like to chime in just that Kentucky faced that issue and they did have to make a rule change, because it can create an issue for a horse to race off of the Lasix list, and does it have to requalify. Well according to our rule, you can only requalify if you demonstrate a bleeding incident.

Unidentified Male: That's what I thought.

Unidentified Male: We'd have to change that to allow a horse to race off the Lasix list on a voluntary basis without jeopardizing its ability to race in future races, with race day Lasix, without automatically doing that.

Peter Moschetti: Maybe in Saratoga when we meet. Rick, if you could be there physically, and maybe we could have Dr. Palmer there. And maybe we could have this discussion during the meeting, just to get it started, you know, with a little bit more detail.

Unidentified Male: I was –

Peter Moschetti: Do you guys think that's the way to go?

Director Williams: I think that's a good suggestion, I'd like to hear what the doctor has to say on some of this stuff.

Peter Moschetti: Yes, we agree, we agree. So all right, so maybe if you can arrange that, you guys could arrange that, it would be greatly appreciated. All right, any other discussion? Nope, may I have a motion to propose this rule?

Unidentified Male: So moved.

Unidentified Male: Second.

Unidentified Male: Second.

Peter Moschetti: Any further discussion on the motion. Hearing none, all in favor.

Unidentified Males: Ayes.

Peter Moschetti: Any opposed? The motion carries. Next item please.

Director Williams: For Commission consideration proposed rules updating the requirement for helmets and safety vests worn by persons on horseback on the grounds of thoroughbred race tracks. As you may recall, the New York Jockey Injury Compensation Fund commissioned a report from March risk consulting to assess operational risk exposures and hazards associated with current thoroughbred training and racing activities by exercise riders and jockeys at JIC up covered tracks. Among other things, the report recommended the Commission include safety rules for protective equipment at the request of Commission Staff, the stewards and the New York Thoroughbred Horseman's Association and the Jockey's Guild identified applicable product standards and recommended expanding the requirement of wearing safety helmets and vests to whenever a person is mounted on a horse on the grounds of the thoroughbred racetrack, not just when present on a racing or training racetrack. Additionally, the proposal

increases the maximum weight of the safety vest from two pounds to four pounds, remit the newer vest models which provide enhanced safety. The proposal also expands on the requirement to wear a safety helmet to the gate crew that starts races. This proposal would update Commission rules that require protective helmets and safety vests for persons who may be injured while loading horses into the starting gate or mounted on any horse on the grounds of a racetrack. Staff recommends that Commission authorize the proposal of this rule maker.

Peter Moschetti: Any questions on the proposal of this rule?

Unidentified Male: Just one of interest out of my ignorance, what do they do now, do people do not do this, or they do, do it, or was this regulated now or, I'm just wondering how common, what's the common practice?

Director Williams: I'll – feel free to chime in on that, but there is a requirement right now. What we're doing is we're expanding the number of people that are required to wear this protective equipment, and also updating the rules so it will be like newer changes in the equipment and be incorporated into our old rule.

Unidentified Male: That's my question, the people that we're capturing now, do or don't –

Director Williams: They do.

Unidentified Male: --on a voluntary basis?

Director Williams: No, no, on a rule making basis. The exercise riders and jockeys are required to wear safety vests and helmets.

Unidentified Male: Understood, and then we're expanding it to other individuals, the gate –

Director Williams: on a rule making basis. The exercise riders and jockeys are required to wear safety vests and helmets.

Unidentified Male: Understood, and then we're expanding it to other individuals, the gate –

Director Williams: Correct, yes.

Unidentified Male: What do the gate people currently do in a similar situation people currently do? Just as a safety precaution for themselves. How do – what's their common practice?

- Unidentified Male: I'm sorry, I didn't hear the question.
- Unidentified Male: Yeah, they wear helmets and vests, they're required by the track.
- Unidentified Male: There's a certain category that's currently regulated. We're expanding the universe of people being regulated. What do those individuals that we're including now, that hadn't been formerly included, currently do on a voluntary basis? They wear the safety equipment, or not, or we don't know. I just want to get a sense. I knew this would be too or not?
- Unidentified Male: Well everybody on a horse right now has to wear a helmet and a vest at the track. And this is a result of the Jockey Injury Compensation Fund had issued a report, and this is following up on that report basically of expanding to the different types of helmets and vests that individuals can ride at the track right now. It's only a few items that are listed as being protective for the riders of horses. This is expanding it to a number of other products for both vests and helmets.
- Unidentified Male: Well to Barry's point, everyone's already wearing something?
- Unidentified Male: They're wearing something.
- Director Williams: On the racetrack, in the gate I believe, my recollection is most individuals wear safety vests and helmets, but it's not a requirement.
- Unidentified Male: Would this also apply to trainers? Sometimes you see them on their – on horse.
- Peter Moschetti: If they're on a horse, yep.
- Unidentified Male: Thank you.
- Peter Moschetti: Anything else? May I have a motion to propose this rule?
- Unidentified Male: So moved.
- Unidentified Male: Second.
- Peter Moschetti: Any discussion on the motion? Hearing none, all in favor.
- Unidentified Males: Ayes.

- Peter Moschetti: Any opposed? The motion carries, next item please.
- Director Williams: For Commission consideration, a proposed rule to govern interactive fantasy sports. In 2016 the State Legislature authorized certain types of IFS contests, declaring the activity is not a game of chance or not wagers on future contingent events, not under contestants control or influence, and do not constitute gambling. The proposed regulation seeks to foster slow and consumer protections and ensure the IFS contests remain within the scope of activity the legislature authorized. A draft of this proposal was shared with all New York temporary permittees, and with Industry Trade Associations. Commission Staff also met with representatives of those entities and discussed their comments, which were then incorporated where appropriate into the current proposal. The proposal contains the following parts: definitions, registration of interactive fantasy sports operators, permissible contests, requirement for contests, restrictions on play, accounting controls, internal controls, advertising in marketing, misconduct, associations and duties to promote integrity, reporting and auditing, axis and fees, financial stability, complaints, and penalties and sanctions. I think it's important to note that these regulations are unprecedented. Very few States promulgated regulations regarding this activity, and certainly none as comprehensive or containing the patrons and action components that are within our proposal. Staff recommends that the Commission authorize the proposal of this rule maker.
- Peter Moschetti: Commissioner, is there any questions on the proposal for rule pertaining to interactive fantasy sports? Hearing none, may I have a motion to propose this rule.
- Unidentified Male: So moved.
- Unidentified Male: Second.
- Peter Moschetti: Any discussion on the motion. Hearing none, all in favor?
- Unidentified Males: Ayes.
- Peter Moschetti: Any opposed? The motion carries. So the next agenda is the adjudications. Today we have four I guess. Mr. Williams agreed to the first one to start.
- Director Williams: Sure. In the matter of Lashay's (?) Grocery. On October 11, 2016, the Bureau of Licensing issued a notice of lottery license suspension, and ordered the immediate temporary suspension of

lottery sales agent license for Lashay's Grocery Store on Linden Boulevard in Queens. The notice informed Lashays that their suspension was for failure to comply with the Commissions instructions in regard to the licensed activity, because the licensees experience, character and fitness are such that the participation as a lottery sales agent was inconsistent with the public interest. The notice stated that Lashays had an outstanding tax liability to New York State. The notice also stated that the suspension could become a revocation unless Lashay's requested a hearing. An amended notice of license suspension dated November 8 added the grounds for suspension that the licensee had failed to remit funds due the lottery.

Pursuant to tax law section 1607(a), in Commission Rules 5119(a)1 and 4, a lottery licensee may be suspended or revoked for failure to account for lottery tickets received or the proceeds of sale of lottery tickets. Pursuant to tax law section 1607(c) in Commission Rule 5119(a)4, lottery licensee may be suspended or revoked for failure to pay any tax required by the New York State Tax Law. A lottery licensee may also be suspended or revoked upon violation of the licensing agreement or upon a finding of the Commission that the agents experience, character and general fitness are such that the agent's participation as a lottery sales agent is inconsistent with the public interest or convenience or for any other reason within the discretion of the Commission.

After request by Lashays, a hearing was conducted on March 2 and March 30 of 2017. The Hearing Officer submitted a report to the Commission Secretary dated May 12. The Hearing Officer recommended that the license be revoked on the grounds that the agent's failure to resolve an outstanding tax obligation, but not on the ground of the amount owed to the lottery because the Hearing Officer concluded there was insufficient evidence to establish that the agent was properly notified of the amount owed. 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.

Peter Moschetti: Commission duly deliberated and determined upon a vote of 6 to 0 to sustain the Hearing Officer's report and recommendation. So we have our next.

Director Williams: The next matter is in the matter of Jose Logrono. On January 27, 2017, the Bureau of Licensing denied the application of Jose Logrono for a temporary gaming employee registration in connection with potential employment as a dealer at Rivers Casino

in Schenectady, citing Commission rule 5306.2(c) which refers to the standard set forth in New York Racing Pari-mutual Wagering and Breeding Law section 1318. Among the 1318 disqualifying criteria is at sub (c) the conviction of an 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. Mr. Logrono requested a hearing which was conducted on May 4. The Hearing Officer submitted a report to the Commission Secretary dated May 10. The Hearing Officer recommended that the denial of Mr. Logrono's application be upheld. The Commission considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of New York Public Office Law section 108.1.

Peter Moschetti: Just for clarification, the application was for cook.

Unidentified Male: And not a dealer.

Director Williams: Oh I'm sorry. Not a dealer.

Peter Moschetti: Yes with that understanding, the Commission duly deliberated and determined upon a vote 4 to 2, to sustain the Hearing Officer's report and recommendations. The two opposing that, were Commissioner Skurnik and me. And basically we voted to approve the application. We also note that this decision is effective to the applicant's temporary gaming employee registration. Next matter.

Director Williams: In the matter of Angela Lopez. On January 27, 2017 the Bureau of Licensing denied the application of Angela Lopez for a temporary gaming employee registration in connection with potential employment as a dealer at Rivers Casino in Schenectady. The same Commission rule 5305.2(c) which refers to the standard set forth in the New York Racing Pari-mutual Wagering and Breeding Law section 1318. Among the 1318 disqualifying criteria are the failure of the applicant to prove by clear and convincing evidence that the applicant is qualified in accordance with the provisions of this article and the conviction of the applicant of any offense in any jurisdiction which it is or would be a felony or other crime involving public integrity, embezzlement, theft, fraud or perjury. Ms. Lopez requested a hearing, which was held on April 19. The Hearing Officer submitted a report dated May 8. The Hearing Officer recommended that the denial of Ms. Lopez's application be upheld. The Commission considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of New York Public Offices Law section 108.1.

Peter Moschetti: The Commission duly deliberated and determined upon the vote of 6 – 0 to sustain the Hearing Officer’s report and recommendation. Again, we also note that this decision is effective as to the applicant’s temporary gaming employee registration.

Director Williams: The final adjudication for review for today is in the matter of Daniel Shockley. On January 27, 2017 the Bureau of Licensing denied the application of Daniel Shockley for a temporary gaming employee registration in connection with potential employment as a dealer at Rivers Casino in Schenectady, citing Commission rule 5305.2(c), which refers to the standard set forth in the New York Racing Pari-mutual Wagering and Breeding Law section 1318. Among the section 1318 disqualifying criteria are the conviction of the applicant of any offense in any jurisdiction which it is or would be a felony or other crime involving public integrity, embezzlement, theft, fraud or perjury, and committing prior acts which may have not been prosecuted, or in which the applicant or any person required to be qualified under this article as a condition of license was not convicted, but preformed a pattern of misconduct that makes the applicant unsuitable for a license under this article. Mr. Shockley requested a hearing, which was conducted on April 19, 2017. The Hearing Officer submitted a report dated May 9. The Hearing Officer recommended that the denial of Mr. Shockley’s application be upheld. The Commission considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of New York Public Offices Law section 108.1.

Peter Moschetti: Commission deliberated and determined upon a vote of 6 – 0, to sustain the Hearing Officer’s report and recommendations. This decision is effective as to the applicant’s temporary gaming employee registration. Next is old business, and there is none on the agenda. Does anyone have any old business to consider? John?

Unidentified Male: Nope. We talked about the Lasix, it would be nice to see something come out of that besides rhetoric, because in the end, it would seem like there’s a real undercurrent by a portion of the racing – we need to go back to see it happen in an equally strong and perhaps louder current that does it. I don’t know why we can’t at least take a look at it. You know, Hong Kong does the handle of all of North America. They do it successfully, you can only _____[00:40:04] something bigger and better over there.

Unidentified Male: How long is their racing season?

Unidentified Male: Way shorter and they do way more. It’s like I forget what Nader

said, it's like 100 days, 90 days. And then you do more than all the tracks at North America combined.

Unidentified Male: In terms of handling each of them.

Unidentified Male: Yeah, handling. And then you know, he went through in some detail, look their protocols were on Lasix, so it's not the detriment of the product at all frankly.

Unidentified Male: Well this is last time we might meet before we go to Saratoga. Do we want to try to reach some closure now of what we want to do there, or –

Peter Moschetti: I think what we had proposed, and maybe if Rick Goodell could be there and also Doctor Palmer, and we could engage in the conversation in an open format about it. At least to get us started.

Unidentified Male: Before sending it to the structure of the floor, we could –

Unidentified Male: Yeah, but we could do it here at the meeting, everybody could be involved.

Unidentified Male: We heard from a lot of experts.

Unidentified Male: We did.

Unidentified Male: It should be enough, I don't know why NYRA couldn't be compelled to at least take a look at doing something, even on a trial basis where –

Unidentified Male: I mean they just had – you mentioned that a few times, but I don't know if she'd –

Unidentified Male: Carded Lasix free race day, carded Lasix free races.

Unidentified Male: I see, okay.

Unidentified Male: Do it for two year olds maybe. I mean those guys are experts, they have better thoughts on it, but you would – as to the breeding and the end result of the bloodline is important, maybe start with the two year olds.

Director Williams: Would you like me to extend an offer to Martin Panza, who is the Director of Racing at NYRA to come in and talk?

Unidentified Male: Sure.

Unidentified Male: I don't know why he would – is he just lone determinate of what they card? I just don't know their process.

Director Williams: He's over the races, he's over the racing side of that, so yeah.

Unidentified Male: Be able to hear his perspective for sure.

Director Williams: I'll extend him an invitation.

Peter Moschetti: Any new business?

Unidentified Male: I have one thing Peter, at the last meeting of the Thoroughbred Breeders Fund, the future of Finger Lakes came up again. As a result of some efforts that Rob put in, we're able to put together a temporary funding package to get them through the next year. But we're going to be faced with that exact same problem again. The New York Breeders are very concerned that Finger Lakes continue to operate, because that's where they get all of their opportunities to run. And they're looking for some type of long term solution, perhaps involving NYRA participating since it's the only track that NYRA doesn't operate. But if it's just let go, they're not going to have a solution and the fund isn't going to be able to bail them out again. With the new casinos opening up, the funding is dissipating, so they're looking to – the commission to at least discuss it and have some of our expertise on how we might help them continue operating.

Peter Moschetti: Any sense on how NYRA feels about this, if they're even aware?

Unidentified Male: I was told about ten years ago they were very interested in acquiring Finger Lakes. And the owner was not interested in selling at that time. That was ten years ago, so it's –

Unidentified Male: The industry changed a lot since then.

Unidentified Male: The landscape has changed totally, but I think for the industry, for the farmers and the success of the New York Breeding Operation, Finger Lakes is going to be really important. And I think it would be a real tragedy to let it go, and I don't think we'd be able to pull that coalition together again but if it was done.

Unidentified Male: It was a two-year deal. It is a long term concern.

Unidentified Male: Yeah.

Unidentified Male: So we're going to have right, is the first year are you going to see whether or not, or to what degree there is cannibalization with the opening of the casinos, and how it affects the racing over there, right, the slots.

Unidentified Male: Yes.

Unidentified Male: And then it's profitability.

Unidentified Male: They were ready to shut down last year without this infusion of new funding. So at the end of the two-year period they're going to be in the exact same position unless some type of long term solution. And since we're going to have Martin Panza there anyway, maybe we could discuss and see if there's any interest or get some input from our staff with any suggestions they might have.

Unidentified Male: Rob, on this issue, is there a structure to the Saratoga meeting. Do we bring NYRA folks in, how does that work?

Director Williams: They have usually attended but they don't generally present.

Unidentified Male: Up until about six months ago they had somebody at just about every one of our meetings, right?

Unidentified Male: In their defense we are streaming so – they could be attending, they just could not be present.

Unidentified Male: Well what do we think about that, I think that's a good idea. Can we get that done too?

Unidentified Male: That's great, I'm all for it. But it's really not their problem, right?

Unidentified Male: No, absolutely, and I didn't mean to suggest that at all.

Unidentified Male: Yeah right.

Unidentified Male: But if they are interested in having like a minor league team, then Finger Lakes New York would be great to –

Unidentified Male: It might be in a collateral way, because it keeps horses running.

Unidentified Male: I'm not saying they don't have a vested interest, it just is not their business decision.

Unidentified Male: Yeah, no, no, I agree.

Unidentified Male: I don't think it's really on them, they can say what they want, you could still have a different rationale for it.

Unidentified Male: Absolutely, and I didn't mean to suggest it was their problem.

Unidentified Male: And I'm not sticking up for them, just they may or may not want –

Unidentified Male: I just think it's in the best interest of racing generally, especially New York State Racing that Finger Lakes continue to operate.

Unidentified Male: Should we invite someone from Finger Lakes to Saratoga?

Unidentified Male: When is the meeting scheduled?

Director Williams: I'm sorry Bob?

Unidentified Male: When are we scheduled to be in Saratoga?

Director Williams: As a general sense we're usually the fourth Monday of every month, which would be the first week of Saratoga and also right after or right around Travers Week. As far as inviting someone from Finger Lakes, I'll certainly extend an invitation.

Unidentified Male: So to his question, it's July what we're going to meet?

Unidentified Male: July 24th. I think that's the first –

Director Williams: The 24th, July 24th would be the fourth Monday. Opening day is this Friday. And then the fourth –

Unidentified Male: That's about when we did it last year, isn't it?

Director Williams: The fourth into August is the 28th.

Unidentified Male: Yeah, last couple years we actually hadn't had meetings in July.

Unidentified Male: Why did you skip, it was consolidation late in June.

Director Williams: Yeah, we've done that in years past. We're certainly –

Unidentified Male: _____[00:47:58] in the earlier part rather than the later part of the day.

Unidentified Male: Yeah, that what I saying as a question.

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- Director Williams: Well, we can do either one or both will be. The Staff's going to want to do –
- Unidentified Male: One in late July or towards the end, and then we can meet and see where we are and then if we want to plug one in towards the end of the meet in Saratoga.
- Unidentified Male: Two times.
- Unidentified Male: I know.
- Unidentified Male: I support that.
- Unidentified Male: You have consensus. From the new guy no less.
- Peter Moschetti: All right so.
- Director Williams: It's new business.
- Peter Moschetti: So it's up to Kristin to get together then right?
- Director Williams: Yeah.
- Peter Moschetti: I know that I think concludes today's published agenda. Anything else?
- Unidentified Male: Just to thank Mr. Chairman.
- Peter Moschetti: It's a privilege.
- Unidentified Male: Excellent job.
- Peter Moschetti: It's a privilege leading you folks.