

Executive Director Williams: The New York State Racing and Pari-mutuel Wagering and Breeding Laws' 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. Five members having been confirmed by the New York State Senate affords the Commission an ability to establish a quorum and undertake action. This present meeting of the Commission is now called to order. Ms. Secretary, will you please call the roll?

Secretary: John Crotty?

John Crotty: Here.

Secretary: Peter Moschetti?

Peter Moschetti: Here.

Secretary: John Poklemba?

John Poklemba: Here.

Secretary: Barry Sample?

Barry Sample: Here.

Secretary: Todd Snyder?

Todd Snyder: Here.

Executive Director Williams: Ms. Secretary, will you please have the record reflect that a quorum of qualified members are present, thus enabling the transaction of business? Given the absence of a designated chair, would the members like to select someone for the purpose of presiding over today's meeting?

Unidentified Male: I nominate \_\_\_\_\_ [00:00:55]

Unidentified Male: If you do it, I'm going to second.

Unidentified Male: Okay, fine. I'd like to nominate Mr. John Crotty, please.

Unidentified Male: Second.

John Crotty: All right. Well, thank you all very much. The minutes were circulated from the last meeting of January 23. At this time, are there edits, corrections, or amendments? We have none; minutes are accepted. Now, we'll go to the report of Rob Williams.

Executive Director Williams: Well, thank you. This afternoon, I'd like to discuss the development status of Montrain, a lone commercial casino project remaining under development, and to discuss the Commission's intentions for this upcoming Problem Gambling Awareness Month.

Montrain reports that they are fully completed with a variety of projects including mass excavation, concrete slabs for the parking garage, and both the structural steel and concrete slabs for the hotel. They further report that they are 98% complete for the parking garage, precast concrete structure, foundations excavation, and site grading and structural steel for the podium. They are also at over 90% complete for the foundations, site utilities, the podium curtain wall, and site retaining walls. Overall, construction is at 42% complete. Finally, Montrain reports that during the month of January, they expended over 53,000 union construction hours on the worksite and have expended over 425,000 in all for this project.

March is the Problem Gambling Awareness Month, since the Commission's founding we have endeavored to raise awareness about problem gambling. Our first effort occurred in 2013, when we partnered with the New York State Office of Alcohol and Substance Abuse Services and the New York Council on Problem Gambling to establish the Responsible Play Partnership.

The Responsible Play Partnership was designed to address a variety of issues surrounding problem gambling, including ensuring that gaming venues comply with all rules and regulations. And undertake proper outreach measures, reevaluate self-exclusion policies across the state to ensure consistency, and consider the best ways to advance New York's long-term commitment to prevent and treat problem gambling.

OASAS Commissioner Arlene Gonzales-Sanchez and the New York Council's Jim Mainey have provided instrumental leadership in ensuring their respective agencies participation as meaningful. And that the RPP and RPP Working Groups remain relevant to the evaluation and development of the state's conscious to the state's responsible gaming policies.

In the past year, the RPP have implemented a mix of internal and public-facing initiatives in support of problem gambling awareness including the adoption of a comprehensive regulatory package addressing responsible gaming plans for the newly licenses commercial casinos, transitioning from facility-specific self-exclusion policies to a statewide policy which ensures those who chose to self-exclude will be unable to game the system by simply traveling to another state licensed facility to play, continuing public advocacy of the issue of problem gambling via multiple public service announcements and various messaging throughout the state, and sponsoring and participating in multiple sessions at the National Council on Problem Gambling's Annual Conference which was conducted in Tarrytown.

This year, the Commission in conjunction with the Responsible Play Partnership has a variety of plans relative to Problem Gambling Awareness Month. We plan on conducting a series of regional events in proximity to the newly opened commercial casinos, to underscore New York's commitment to ensuring those who need help with problem gambling have access to it. We will also be re-running the Have a Gambling Conversation with Your Kids public service announcement on television and radio stations statewide.

This PSA enjoyed statewide, widespread exposure last year, running more than 4,000 times in March and April alone. We also plan on producing a fourth public service announcement, this one reintroducing the Office of Alcohol and Substance Abuse Services HOPEline. The HOPEline is a free, confidential service that operates 24 hours, 7 days a week, 365 days a year.

Finally, the Lottery Division - oh, by the way, I want to mention is represented today by Gwen Deen who is the new Director of the Lottery. The Lottery Division will be enacting measures to ensure that the National Problem Gambling Awareness Month messaging profile is raised. These measures will include ensuring signage is present on all terminals and vending machines statewide, promoting the HOPEline on the ESMM screens at Lottery terminals at retail, linking the Commission and the Lottery's webpages to the New York Council on Problem Gambling and the National Council on Problem Gambling's website, tweaking scripts used during the Lottery's live drawings to feature a referral line, and imprinting a Problem Gambling Awareness message on draw gaming tickets as space allows.

Finally, I'd like to close with a couple of items of potential interest. Since our last meeting, two commercial casinos have opened operations. On February 1, Del Lago Resort and Casino opened entire and one week later, on February 8, Rivers Casino and Resort opened in Schenectady. Once again, I'd like to acknowledge the incredible effort of the Commission Staff in getting those two facilities plus Tioga Downs in December, to be in a position to open. In a relatively short period of time, staff with the Gaming Facility Location Board, developed requests for proposals, conducted a number of public hearings, shepherded the formal bidding process and application review, supervised and directed the licensing process, and undertook extensive rule making. The speed and quality of the work product is a testament to the staff's capabilities.

The Agriculture and New York State Horse Breeding Development Fund and Yonkers Raceway have committed to conducting both the Stire Stakes Finals and the International Trot on October 14. The Stire Stakes Night of Champions consists of eight races, featuring the best New York State Bred, Standard Bred competing for a combined purse of \$1.8 million. The \$1 million International Trot which was first held at the Roosevelt Raceway in Westbury, from 1959 to 1988, before it moved to Yonkers Raceway, was conducted there until 1995 when it ceased. Yonkers returned it in 2015,

following a 20 year hiatus and has drawn attendance from many different countries and Europe to contest the \$1 million prize. This will be the first time that both races will be on the same card, which will make it one of the largest events in harness racing in the nation and it's certainly one of the most anticipated.

Finally, this morning Commission Staff executed the final documents necessary for Suffolk County's Regional Off-Track Betting Corporation to commence video Lottery Gaming operations in Islandia, excuse me. The facility which is branded as Jake's 58 Hotel & Casino is located near Exit 58 of the Long Island Expressway on the grounds of the former Islandia Marriott. Managed by the Delaware North Corporations, the facility will be opening with a small number of video lottery gaming terminals and increase to the full statutory compliments 1,000 by early this summer.

John Crotty: Okay, that's pretty complete. Thank you, Rob. So on to rule making, New York State Racing Pari-Mutuel Wagering and Breeding Law, 104.19 authorizes the Commission to promulgate rules and regulations that it deems necessary to carry out its responsibilities. In that regard, the Commission will, from time to time, promulgate rules and have rule amendments pursuant to the State Administrative Procedures Act. We have one item for consideration today. Rob, will you please outline it?

Executive Director Williams: Oh sure. For Commission consideration is a revised proposal of a rule regarding 48 hour restrictions on the use of non-steroidal anti-inflammatory drugs before horse races, for the purpose of preventing concurrent and otherwise excessive administration of such drugs. The proposed revision that follows the public comment period and is responsive to concerns raised therein.

If you recall, the intent of this rule making is to prevent concurrent and otherwise excessive administration of NSAIDs in race horses. This practice is commonly referred to as stacking and can be employed to enhance and disguise the presence of prohibited substances in horses from regulator's testing methods. These non-steroidal anti-inflammatory drugs act to reduce pain by inhibiting the inflammatory process which is caused by injury and results in inflammation, pain, and fever.

While NSAIDs mitigate pain and improve the healing and recovery from injury, they also inhibit the effects of the natural healing process, including swelling, and associated pain that could prevent the horse from sustaining - that would prevent the horse from sustaining further injury. The pending rule making proposal published in the November 9, 2016 State Register was intended to disallow the use of one NSAID within one week of racing. Since NSAIDs can be administered in combination that increases the potency and duration of the effect of the drugs. The Commission received two public

comments, one from the Racing Medication and Testing Consortium and the other from the New York Thoroughbred Horsemen's Association.

Both comments expressed concern about the proposed prohibition on using more than one NSAID for one week before a race, with NYTHA suggesting that the one week prohibition should be discussed further with the RMTC and the Association of Racing Commissioners International. Commission Equine Medical Director Scott Palmer did discuss these comments with representatives of both parties and further consulted with leading veterinarians who have expressed their opinions that under certain circumstances, it may be beneficial to the health of the horse to be able to administer a second NSAID during the week before racing.

RMTC cited the ARCI model rule where the primary thresholds represented an administration given at least 24 hours before racing, and lower secondary thresholds represent administrations given until 48 hours before racing. Under this approach, a horse could be given an unlimited number of NSAIDs until 48 hours before racing, but only one NSAID during the period of 24 to 48 hours before racing.

The comments further suggest that the proposed rules would put New York out of step with other jurisdictions that remedy NSAID stacking by establishing a second set of thresholds lower than the national thresholds for NSAIDs that were widely adopted in 2014. Commission Staff, however, believes that the ARCI model rule is flawed as the ARCI Anti-stacking model rule may result in false positives for trainers who follow the recommended withdrawal periods.

The ARCI model rule also permits unlimited NSAIDs to be administered in preparation for upcoming races. This has resulted in unintended consequence, administering different NSAIDs at 72, 48, and 24 hours before races. Furthermore, the ARCI model rule has no thresholds for many NSAIDs that can be stacked before racing. The ARCI model rule has no restriction on the use of NSAIDs per which the ARCI has not yet adopted a threshold.

When New York adopted a primary NSAID threshold in 2014, the Commission held a public hearing where it discussed that a 48 hour - not a 24 hour restricted time period was required, to avoid equine drug positives for NSAID administrations of clinical dosages that complied with the national thresholds. Commission Staff also conferred with Dr. George Maylin, who's the Director of the New York Drug Testing Program. Dr. Maylin advised that a 98 hour restricted time period would be more enforceable than a lesser period, given the state of knowledge about such thresholds.

The 98 hour restricted period for a second NSAID would also prevent stacking, while allowing the use of more than one NSAID in the week before racing, and provide trainers with the assurance that compliance with the

restricted time periods would prevent a drug-positive. Commission Staff also suggests a revision unrelated to the two public comments, specifically the deletion of meclufenamic acid as an NSAID, permitted to be administered within one week of racing. This substance is no longer marketed by any pharmaceutical company and it might be efficacious for more than 48 hours. There is no veterinarian necessity for its use within one week of racing and there is no national threshold for this drug.

So in conclusion, considering the concerns raised by the comments received, Commission Staff recommends revising the pending proposal to allow a second NSAID to be used within one week of racing, provided that the second NSAID is not used within 96 hours of the race. It is important to note, that should the Commission determine to repropose this rule making as a revision, upon publication in the State Register, affected and interested parties will have an additional 30 day period to tender comments and concerns. Staff recommends that the Commission authorize the reproposal of this rule making as a revision.

John Crotty: Okay. Well, \_\_\_\_\_ [00:15:38]. We're going to need a motion so we repropose this revised rule.

Unidentified Male: So moved.

John Crotty: Do we have a second?

Unidentified Male: Second.

John Crotty: Okay; all in favor?

Unidentified Male: I.

Unidentified Male: I.

John Crotty: The motion carries.

Unidentified Male: If we vote in favor of reproposing this, there will be a 30 day comment period and we'll be able to look at those comments before we vote?

John Crotty: Yes.

Executive Director Williams: That is correct. Upon publication in the State Register, there will be an additional 30 days for people to comment. That will then come back in the same manner that rules do here, for final adoption, so you would be able to ...

Unidentified Male: \_\_\_\_\_ [00:16:20] next meeting?

John Crotty: Probably not next meeting.

Executive Director Williams: It will probably be the April meeting.

Unidentified Male: Thank you. Sorry.

John Crotty: No, no problem. Would that change your vote here on this? Okay, so all in favor?

Unidentified Male: I.

Unidentified Male: I.

Unidentified Male: I.

John Crotty: Okay. None opposed? Motion carries. Now, we have three adjudications today. Rob, I'm going to turn it over to you for the first one.

Executive Director Williams: The first one is in the matter of Dinion Newsstand. On August 15, 2016, the Bureau of Licensing issued a Notice of License Suspension, and ordered the immediate temporary suspension of the lottery sales agent license of Dinion Newsstand which is located at 214B, Stanhope Street, in Brooklyn. The Notice informed Dinion Newsstand that the suspension was for failure to comply with the Commission's instructions regarding licensed activity, and for fraud, deceit, and misrepresentation or conduct prejudicial to the public confidence in the State Lottery.

The Notice stated that the owner of record, Yassen Joba [PH] had been arrested for possession of narcotics, with intent to sell, possession of untaxed cigarettes, and the possession of marijuana. The Notice also stated that the suspension could become a revocation unless Dinion Newsstand requested a hearing. Pursuant to Tax Law, Section 1607D, the Lottery License may be suspended or revoked for fraud, deceit, misrepresentation or conduct prejudicial to public confidence in the State Lottery.

A lottery license may also be suspended or revoked upon a violation of the Licensing Agreement, or upon a finding by the Commission that the agent's experience, character, or general fitness are such that the agent's participation as a lottery sales agent is inconsistent with the public interest for convenience or for any other reason within the discretion of the Commission.

After requests by Dinion Newsstand, a hearing was conducted on December 21. A Hearing Officer submitted a report to the Commission's acting Secretary dated December 30. The Hearing Officer recommended that the license be revoked and that the period from the date of suspension to the Commission's decision be a suspension of a 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.

John Crotty: Okay. Well, we did deliberate and consider this matter and determined on a vote of 5-0 to sustain the Hearing Officers recommendations. I'll now turn it over to you for matter number two.

Executive Director Williams: The next matter is in the matter of Empire State Deli. On August 22, 2016, the Bureau of Licensing issued a Notice of Suspension - License Suspension and ordered the immediate temporary suspension of the Lottery Sales Agent License of Empire State Deli at 4216 3rd Avenue, in Astoria, Queens.

The notice informed Empire State Deli that the suspension was for failure to comply with the Commission's instructions in regards to licensed activity and for fraud, deceit, misrepresentation, or conduct prejudicial to the public confidence in the State Lottery. The Notice stated that the owner of record, Jamal Allahwog [PH], had been arrested for several alleged felonies including attempted possession of a forged instrument, attempted possession of untaxed - unstamped cigarettes, and attempted possession of a counterfeit cigarette stamp.

The Notice also stated that the suspension could become a revocation unless Empire State Deli requested a hearing. An amended Notice of License Suspension dated September 15, 2016 added additional grounds that the licensee failed to remit funds due to the Commission.

Pursuant to New York Tax Law, Section 1607B, a Lottery License may be suspended or revoked for fraud, deceit, misrepresentation, or conduct prejudicial to public confidence in the State Lottery. Pursuant to Tax Law, Section 1607A, a Lottery License may be suspended or revoked for the failure to account for lottery proceeds. A Lottery License may also be suspended or revoked for failure to file any returns or reports or to keep records or pay any fee or tax required by Lottery Regulations, upon violation of the Lottery License Agreement, or upon a finding by the Commission that the agent's 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 requests by Empire State Deli Newsstand, a hearing was conducted on December 21, 2016. The Hearing Officer submitted a report to the Commission's Acting Secretary on December 29. The Hearing Officer recommended that the license be revoked and that the period from the date of suspension to the Commission's decision be a suspension of the license. The Commission considered this matter at a meeting conducted pursuant to the

judicial or quasi-judicial proceedings exemption of New York Public Law, Section 108.1.

John Crotty: Thanks, Rob. We did consider this matter and voted as a group, 5-0 to sustain the Hearing Officer's reports and recommendations. We have one last matter.

Executive Director Williams: The final adjudication is in the matter of Hathi Inc doing business as Friends Grocery. On July 25, 2016, the Bureau of Licensing issued a Notice of License Suspension and ordered the immediate temporary suspension of the Lottery Sales Agent License of Hathi Inc., doing business as Friends Grocery at 46 Court St, in Binghamton. The Notice informed Hathi Inc. that the suspension was for fraud, deceit, misrepresentation, or conduct prejudicial to the public confidence in the State Lottery.

The Notice stated that the owner of record, Vijay Kumar Hathi had been charged with an alleged misdemeanor sale of synthetic drugs, and had violated a New York Department of Health regulation banning the possession of synthetic cannabinoid substances. The Notice also stated that the suspension could become a revocation unless Hathi Inc. requested a hearing.

Pursuant to Tax law, Section 1607.D a Lottery License may be suspended or revoked for fraud, deceit, misrepresentation, or conduct prejudicial to the public confidence in the State Lottery. A Lottery License may also be suspended or revoked upon violation of the Licensing Agreement or upon a finding of the Commission that an agent's 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 matter within the discretion of the Commission.

After a request by Hathi Inc., a hearing was conducted on September 14. The Hearing Officer submitted a report to the Commission's Acting Secretary dated December 29, 2016. The Hearing Officer recommended that the license be revoked and that the period from the date of suspension to the Commission's decision be a suspension of the license. The Commission considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceeding exemption of New York Public Officers Law, Section 108.1.

John Crotty: The Commission did deliberate and consider this matter and voted to sustain the Hearing Officer's recommendation reports by a vote of 3-2. With that, we'll go on to Item Number Six; Old Business.

Executive Director Williams: Could I also have the record reflect that Commissioner Moschetti and Snyder voted in the negative relative to that.

John Crotty: Any old business, that is in front of us? Any new business? Okay, well the meeting - the next meeting is scheduled to be on March 27. So if you all will

go back and talk to Miss Buckley about your availability. Anything else to consider?

Unidentified Male: No, sir.

John Crotty: No? We will adjourn this meeting.