

**NEW JERSEY RACING COMMISSION
WEDNESDAY, MAY 17, 2017
“LIBRARY ROOM”
MONMOUTH PARK
OCEANPORT, NEW JERSEY**

A meeting of the New Jersey Racing Commission was held on Wednesday, May 17, 2017 in the Library Room, located at Monmouth Park, Oceanport, New Jersey.

The following were present:

Pamela J. Clyne, Chairman
Michael J. Arnone, Commissioner
Peter J. Cofrancesco, III, Commissioner
John A. Hoffman, Commissioner
Francis X. Keegan, Jr., Commissioner
Frank Zanzuccki, Executive Director
SDAG George Cohen

The following were absent:

Anthony T. Abbatiello, Commissioner
Peter T. Roselle, Commissioner

Executive Director Frank Zanzuccki read the following statement:

“This meeting today conforms with Chapter 231, P.L. 1975, called the ‘Open Public Meetings Act,’ and as per the requirements of the statute, notification of this meeting has been filed with the Secretary of State and with the following newspapers: Daily Racing Form, Bergen Record, Asbury Park Press, Courier-Post and the Newark Star Ledger.

WHEREAS, in order to protect the personal privacy and to avoid situations wherein the public interest might be disserved, the Open Public Meetings Act permits bodies to exclude the public from that portion of a meeting at which certain matters are discussed.

NOW, THEREFORE, BE IT RESOLVED that consistent with N.J.S.A. 10:4-12(b), the Commission will now adjourn to executive session to obtain legal advice protected from disclosure by the attorney-client privilege on the following matters:

1. Legal advice related to the application of the New Jersey Sports and Exposition Authority and ACRA Turf Club, LLC for an initial license to open an off-track wagering facility in Egg Harbor Township;
2. Legal advice related to the initial decision in the matter of Darran Cassar v. New Jersey Racing Commission, OAL Docket No. RAC 13660-2014N; and
3. Other matters requiring the advice of counsel.

Discussion of the above matters falls within the exceptions under the law; specifically, matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the Commission's attorney to exercise his ethical duties as a lawyer, and/or matters involving pending or anticipated litigation.”

Commissioner Cofrancesco motioned to adopt the resolution to adjourn. Commissioner Keegan seconded the motion. All of the Commissioners present voted to affirm. The Commission then adjourned to Executive Session.

Commissioner Keegan made a motion to adjourn from Executive Session into the Public Session. Commissioner Arnone seconded the motion and the Commissioners voted to affirm. The Executive Session ended.

CONSIDER APPROVAL OF THE PUBLIC AND EXECUTIVE SESSION MINUTES OF THE MARCH 21, 2017 COMMISSION MEETING AND THE PUBLIC SESSION MINUTES OF THE APRIL 26, 2017 COMMISSION MEETING

Commissioner Cofrancesco made a motion to approve the public and executive minutes of the March 21, 2017 public meeting and the public minutes of the April 26, 2017 meeting. Commissioner Keegan seconded the motion and all Commissioners voted yes with the exception of Commissioner Hoffman who abstained in regard to the March 21, 2017 minutes.

CONSIDER THE APPLICATION OF THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY AND ACRA TURF CLUB, LLC FOR AN INITIAL LICENSE TO OPEN AN OFF-TRACK WAGERING FACILITY IN EGG HARBOR TOWNSHIP

Executive Director Zanzuccki read the following introduction:

“On or about October 4, 2016, the New Jersey Sports and Exposition Authority (‘Authority’) and ACRA Turf Club, LLC filed an application for an initial license to operate an

off-track wagering facility in Egg Harbor Township. The OTW, which will be known as 'Favorites at Egg Harbor,' will be constructed in an existing Chickie's & Pete's, which is located at 6055 Black Horse Pike, Egg Harbor Township. The Authority will transfer the license to ACRA Turf Club which will operate the OTW.

On March 21, 2017, the Commission conducted a public hearing in Egg Harbor Township at the Municipal Building. ACRA Turf Club presented testimony in support of the proposed OTW and detailed its compliance with the requirements of the Off-Track and Account Wagering Act and the Commission's rules. ACRA Turf Club also submitted a letter from the Authority stating that it 'fully supports the application.' At the conclusion of the public hearing, the Commission closed the record.

The matter is now before you to decide whether to grant an initial license to the Authority for the proposed Egg Harbor Township OTW and to approve the transfer of the license to ACRA Turf Club. Each Commissioner has been provided with copies of the record, which includes the application, attachments, the parties' supplemental submissions, investigative reports, the transcript of the public hearing, copies of all of the comments received, other documents compiled by staff and a draft Final Determination and Order. Staff recommends that the Commission grant the license and approve the transfer of it to ACRA Turf Club.

In rendering a decision today, I would note that, by law, the Commission is required to submit its determination to the Attorney General for his review and approval and that the decision of the Attorney General constitutes a final decision with regard to this matter."

Chairman Clyne made the following motion:

"I believe that the Authority and ACRA Turf Club have demonstrated their suitability for licensure by clear and convincing evidence. Both applicants are well-known to the Commission. The Commission has issued six initial OTW licenses to the Authority as well as the account wagering license and the exchange wagering license. The Commission has issued an OTW license to ACRA Turf Club in 2007 for the Vineland OTW which was the first OTW in this State. At the public hearing, ACRA Turf Club offered extensive evidence as to its suitability for licensure. Both applicants are in good standing with the Commission.

I also believe that the applicants have demonstrated by clear and convincing evidence that the plans for the proposed OTW include appropriate standards of quality for the premises and services it will provide. The record includes detailed information about the size, seating capacity, parking and services to be provided. Based upon the plans submitted to the Commission, it appears that the OTW will offer maximum comfort and safety for viewing and wagering on simulcast races. Chickie's & Pete's, whose employees will apply to the Commission for licensure, will provide quality bar and restaurant services to the OTW patrons which is comparable to or exceeds those offered at other OTWs.

Finally, I believe that the applicants have demonstrated by clear and convincing evidence that the proposed OTW ‘will not be inimical to the interests of the public and horse racing industry.’ At the public hearing, the applicants presented extensive testimony in support of the OTW’s proposed location. The Deputy Mayor and a representative from the Township Committee testified that Egg Harbor Township supports the proposed OTW as it will create jobs and help other local businesses. Members of the public also commented in support of the OTW which will offer recreational opportunities that have been missed since the closure of Atlantic City Race Course. No permit holder or OTW licensee has objected to the proposed location for the OTW and the projected handle for the proposed OTW, which is approximately \$1.5 million, will generate much-needed purse money for the thoroughbred racing industry.

As a result, based upon the findings proposed above, I move that the Commission grant an initial off-track wagering license to the Authority and approve the transfer of that license to ACRA Turf Club. The grant of this license shall be subject to the conditions set forth in the draft Final Determination and Order provided by staff which the Executive Director shall execute on the Commission’s behalf.

This concludes my motion.”

Commissioner Arnone seconded the motion and all Commissioners voted yes.

CONSIDER THE INITIAL DECISION IN THE MATTER OF DARRAN CASSAR V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 13660-14

Executive Director Zanzuccki read the following introduction:

“On March 22, 2014, the standardbred horse, Machapelo, won the second race at the Meadowlands. The horse was trained by Petitioner, Darran Cassar. The post-race urine sample taken from the horse tested positive for morphine and hydromorphone, which are listed as Class 1 drugs in the ARCI’s ‘Uniform Classification Guidelines for Foreign Substances with Recommended Penalties.’ Petitioner requested that a split sample be sent to the Veterinary Diagnostic Laboratory at Iowa State University which confirmed the presence of morphine and hydromorphone. The Commission’s Board of Judges conducted a hearing and determined that Petitioner had violated N.J.A.C. 13:71-7.29(a)(13), -23.1, -23.6 and -23.7. The Board of Judges imposed a 1-year suspension and \$1,000 fine, disqualified the horse and ordered the redistribution of the purse. Petitioner appealed and the matter was transmitted to the Office of Administrative Law as a contested case.

On April 20, 2017, the Administrative Law Judge issued an Initial Decision. The ALJ determined that Petitioner violated the Commission’s rules when the horse tested positive for morphine. Relying on the penalty recommended by the ARCI in Version 12 of the Uniform Classification Guidelines, the ALJ concluded that Petitioner should be suspended for 15 days and fined \$500 for the reasons set forth in the Initial Decision.

The Initial Decision is a recommended decision which the Commission may adopt, modify or reject in a Final Decision. Staff's recommendations have been provided to the Commission along with a draft Final Decision."

Chairman Clyne made the following motion:

"The Commission has reviewed the Initial Decision, the record from the OAL hearing and the exceptions filed by the attorneys for the parties. I move that the Commission order the Executive Director to execute the draft Final Decision on the Commission's behalf and issue a ruling that:

- suspends Petitioner's license for 1 year,
- imposes a \$1,000 fine,
- disqualifies the horse,
- orders the redistribution of the purse and
- bars Petitioner from all grounds subject to the Commission's jurisdiction.

The basis for this decision is explained and documented in the Commission's Final Decision.

This concludes my motion."

Commissioner Cofrancesco seconded the motion and all Commissioners voted yes.

AGENDA ITEMS FOR DISCUSSION AND INFORMATION

ACKNOWLEDGMENT OF EXECUTIVE ASSISTANT GLORIA THAYER, AS THE RECIPIENT OF THE 2017 ATTORNEY GENERAL'S AWARD FOR EXCEPTIONAL SERVICE

The Commission acknowledged Gloria Thayer as the recipient of the 2017 Attorney General's Award for Exceptional Service.

US DISTRICT COURT DECISION IN ACRA TURF CLUB, LLC ET AL., V. FRANK ZANZUCCKI, CIVIL ACTION NO. 12-2775(MAS), DENYING PLAINTIFFS' REQUEST FOR RECONSIDERATION

Executive Director Zanzuccki stated the recent decision in ACRA Turf Club, LLC v. Frank Zanzuccki, which denies plaintiffs' request for reconsideration, clears the way for the Commission to move forward in amending the progress and forfeiture regulations concerning off-track wagering facilities. The Executive Director indicated that it is the Commission's intention to schedule meetings with the industry to discuss the proposed amendments. It is anticipated that the meetings will be scheduled in June.

There being no further discussion or comments from the public, Commissioner Keegan moved that the meeting be adjourned. Chairman Cofrancesco seconded the motion and it was approved unanimously.

ATTEST:



Executive Director Frank Zanzucchi