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FRANCESCO ZANZUCCKI
Executive Director

**ORDER OF THE NEW JERSEY
RACING COMMISSION**

**)Consider the Distribution of the
)Casino Simulcasting Special
)Funds Accumulated in 2014 in the
)Amount of \$535,768.11
)Pursuant to N.J.S.A. 5:12-205d**

THIS MATTER having been considered by the Racing Commission at its September 16, 2015 public meeting:

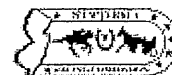
AND, the Racing Commission, having given the interested parties the opportunity to submit written comments regarding the distribution of casino simulcasting special funds accumulated in 2014 prior to that meeting;

AND, the interested parties were given the opportunity to make oral comments at the September 16, 2015 public meeting;

AND, the Racing Commission having created a committee to review submissions and make recommendations to the entire Commission at a public meeting dealing with this matter;

AND, Executive Director Zanzuccki, having been requested by the Committee to lead a discussion of this matter at the September 16, 2015 public meeting;

AND, the Executive Director having discussed this matter as follows:



The Commission has received written requests for CSSF monies seeking the following amounts:

- Monmouth Park ("Monmouth") - "substantial amount";
- Meadowlands Racetrack ("Meadowlands") - "Appropriate share";
- Freehold Raceway ("Freehold") - \$250,000;
- Thoroughbred Breeders' Association of New Jersey ("TBA") - \$133,942;
- New Jersey Thoroughbred Horsemen's Association, Inc. ("THA") - 50% of available funds after distribution of priority d1 and d2;
- Standardbred Breeders & Owners Association of New Jersey, Inc. ("SBOA") - \$200,000 + \$7,500 for retired racehorses; and
- Atlantic City Race Course ("ACRC") - \$482,191.

The Executive Director noted that every year the racetracks and horsemen's groups set forth compassionate need for casino simulcasting special fund monies. However, the Commission cannot logistically fulfill the requests of each interest group for any single year due to the fact that we are working with limited funds. This Fund continues to decline year after year with the 2014 amount being almost \$290,000 (35% decline) less than the 2013 amount, since only one casino offered simulcasting in 2014.

The Executive Director added that although the Commission can allocate these monies as it considers appropriate, in exercising its discretion, it must follow the statutory guidelines and priorities established by law. The Commission must give the highest priority to any racetrack which demonstrates that its financial well-being has been negatively affected by casino simulcasting, then to any racetrack which demonstrates that it is financially distressed, then to any horsemen's organization which will use the money to fund a project that the Commission determines will be beneficial to the racing industry, and finally, if there are any monies left following our application of these tiered levels of priority, the remaining monies are required to be equally divided amongst each racetrack.

The Executive Director stated that the CSSF Committee met on September 10, 2015 to review all documentation and reasoning regarding this matter in order to report back to the Commissioners. The Committee's members are Commissioners Aponte, Arnone and Chairman Clyne.

The Executive Director stated that the total amount to be distributed is \$535,768.11 and noted that the statute governing distribution of Casino Simulcasting Special Funds designates an order of priority by which allocation of these funds to racetracks and horsemen's groups can and should be made.

The Commission must start with Priority Category No. 1 - any racetrack that can demonstrate to the Commission that its financial well-being is negatively affected by casino simulcasting. The Executive Director reported the Committee's findings that the one casino simulcasting facility and casino gaming in general continue to negatively impact our four racetracks. As the Commission determined in the past, based on gaming and transportation reports, casinos market to all areas of the State, provide transportation services and offer incentives to visit Atlantic City such as free rooms and beverages. Because of these statewide marketing efforts, a racetrack's proximity to the Atlantic City casinos is not a determining factor in this priority. In addition, there is substantial competition for the gaming dollar from facilities in surrounding jurisdictions that impacts the revenues for New Jersey racetracks and casinos.

The Committee reported that all racetracks have submitted documentation and/or testified having been negatively impacted by casino simulcasting and historically the Commission has found this to be the case when previously allocating these funds.

With the exception of Atlantic City Race Course, which was removed from consideration today, the Executive Director asked whether the Commissioners agree that all racetracks are negatively affected by casino simulcasting. All Racing Commissioners were in agreement with the Committee's findings that, with the exception of Atlantic City, all racetracks are negatively affected by casino simulcasting.

The Commission moved to Priority Category No. 2 - any racetrack in this State which the Commission finds to be financially distressed. The Committee reported that we all are aware of the financial hardships facing the horse racing industry in New Jersey. All three racetracks, we are excluding Atlantic City, have stated that they are financially distressed. It is believed that they all have successfully stated their financial distress and thus all racetracks qualify for funds under this priority.

The Executive Director asked whether the Commissioners agree, with the exception of the Atlantic City Race Course, that all of the racetracks are financially distressed and qualify. All of the Commissioners were in agreement of the Committee's determination that all racetracks are financially distressed and qualify for funds.

The Commission then discussed allocations among the affected racetracks under the top two priorities. The Executive Director, reading the Committee's findings, reported that as each year passes, the regional draw of Atlantic City

casinos and the impact of casino simulcasting on our racetracks becomes less related to a particular racetrack's proximity to Atlantic City. This was documented in the Commission's 1999 distribution and also upheld by the Appellate Division in 2003. Following a careful review of all facts in the record, it is our belief that the most viable racetracks are affected the greatest and those that offer meaningful and substantial racing opportunities should receive the largest distribution of these funds. Atlantic City Race Course has maintained in its correspondence that they are impacted to the greatest degree due to their close proximity to the Atlantic City casinos. We feel that Atlantic City Race Course's six-day live race meet does not represent a significant and viable racing opportunity when compared to the State's other racetracks - MonmouthPark/Meadowlands Thoroughbred: 71 dates; Freehold Raceway: 108 dates; New Meadowlands Harness: 82 dates. Yet, Atlantic City Race Course continues to request 90% of the funds.

The Executive Director asked if the Commissioners agree that Atlantic City Race Course should not receive the bulk of the funds. All Commissioners were in agreement with the Committee's findings that Atlantic City should not receive the bulk of the funds.

The Executive Director stated that with the foregoing facts in mind and giving due consideration to the reduced funds accumulated in 2014, the Committee proposes that under the first two priorities, the four racetracks receive 80% of the available funds to be distributed as follows: Monmouth Park, New Meadowlands and Freehold to receive 70% of the funds in nearly equal amounts of \$125,012 each.

The Executive Director stated that the Committee had recommended that Atlantic City receive the other 10% of that amount which would be \$53,576.80. He noted again that the Commission was tabling any recommended allocation to Atlantic City Race Course at this time.

The Commission moved to Priority Category No. 3 - any horsemen's organization which will use the money to fund a project which the Commission determines will be beneficial to the racing industry. The Executive Director stated that based on its review of their submissions, the Committee believes the three horsemen's associations which have submitted requests for funds qualify, for the most part, since they intend to use the funds allotted for the benefit of the industry by helping fund health and welfare programs for horsemen and to help sustain and or increase New Jersey Breeders' awards programs. The SBOA submitted a request to fund its Health Benefits Program and to also fund standardbred horse retirement programs. The amount requested is \$200,000 for

its Health Benefits Program and \$7,500 for funding standardbred retirement programs. The Executive Director asked the Commissioners if the SBOA's proposed uses of money are appropriate and comply with the regulations. All of the Commissioners were in agreement with the Committee's finding that the SBOA's proposed use of funds was appropriate and complied with the regulations.

The Executive Director stated that the THA submitted requests for funds for use in its Backstretch Health and Welfare program and noted that the Committee recommends the Commission grant an appropriate share of these funds for this use to assist in maintaining current levels of coverage. The Executive Director asked if the Commissioners believe the funds should be used for this purpose. All Commissioners were in agreement with the Committee's determination to grant an appropriate share of funds for use in maintaining current levels of Backstretch Health and Welfare coverage.

The Executive Director stated that the TBA requests \$133,942 to provide monies to cover the payment of 2015 breeders awards. He noted that the Commission has always found this to be a viable use of these funds and that the Committee recommends the Commission award an appropriate amount to support their breeders' awards program. The Executive Director asked whether the Commissioners agree with this use of funds. All of the Commissioners were in agreement with the determination of the Committee to award an appropriation of funds to support the breeders' awards program.

The Executive Director pointed out that after allocating funding under Priority Categories 1 and 2, there remains a balance of \$107,153.60 for distribution under Priority Category No. 3. He stated the Committee recommends that the funds be divided equally by breed. Each breed provides significant live racing opportunities, each provides opportunities for employment, each provides substantial open space by virtue of the land devoted to horse breeding and training and each provides recreational opportunities for our residents.

The Executive Director asked whether the Commissioners agree that the funds should be divided equally by breed. Commissioner Gruskos was not in agreement and stated that he believes that the distribution should be proportionate based on the dollars wagered on each breed. He stated that he does not believe Monmouth Park is the only thoroughbred entity because the Meadowlands qualifies as a thoroughbred racetrack. The Executive Director clarified that the Commissioners were considering Priority Category No. 3, which is the distribution of funds among horsemen's organizations and not the distribution of monies among the racetracks. The Executive Director noted that the Commission was considering the Committee's proposal that 20% of the fund

be divided equally between standardbred entities and thoroughbred entities for the proposed uses which comply with the Commission's regulations. Commissioner Gruskos indicated his agreement with the horsemen's groups' use of the funds, but stated that he does not agree with the distribution of the funds under Priority Category Nos. 1 and 2.

Following this discussion, all Commissioners were in agreement with the Committee's findings that an even distribution between the standardbred horsemen's association and the thoroughbred horsemen's associations is appropriate.

The Executive Director pointed out that the standardbreds are represented by one organization, the SBOA. The thoroughbreds are represented by two groups, the THA and the TBA. He stated that the Committee recommends that half of the remaining funds should go to the SBOA, which is \$53,576.80 of which \$5,000 can be used for funding retired racehorse programs, and the remaining funds to be split evenly between the two thoroughbred horsemen's organizations with \$26,788.40 to the THA and \$26,788.40 to the TBA.

The Executive Director stated that no funds remain for distribution under Priority Category No. 4 - for all racetracks in this State on an equal basis.

The Executive Director noted that the Committee had requested that staff prepare a draft motion that reflected its recommendations for distribution of 2014 Casino Simulcasting Special Funds.

THEREFORE Chairman Clyne made the following motion:

"Regarding the 2014 accumulated fund monies, which totals \$535,768.11, I would note that this represents a 35% percent decrease in the funds available for distribution compared to the prior year. For comparison purposes, in 1999 this fund had over \$2.2 million available for distribution.

We have received applications from each racetrack, and from each horsemen's group.

In these applications, all of the racetracks have requested that funds be distributed to them pursuant to N.J.S.A. 5:12-205d(1) (the racetrack can demonstrate that its financial well-being has been negatively affected by casino simulcasting) and 205d(2) (the Commission finds the racetrack to be financially distressed).

Specifically, the Commission has received written requests for CSSF's seeking the following amounts: Monmouth Park - substantial amount; Meadowlands Racetrack - "Appropriate share"; Freehold Raceway - \$250,000; and Atlantic City Race Course, which we are not considering today, has asked for \$482,191.

Under priority 205d(3) (any horsemen's organization which will use the money to fund a project which the Commission determines will be beneficial to the racing industry), the following are the written requests for CSSF monies from horsemen's groups:

New Jersey Thoroughbred Horsemen's Association, Inc. - No specific amount. It requests the balance after distribution of priority d1 and d2.

Standardbred Breeders & Owners Association of New Jersey, Inc. - \$200,000 plus \$7,500 for donation for care of retired standardbred racehorses.

Thoroughbred Breeders' Association of New Jersey - \$133,942 for its 2015 awards program.

At this September 16, 2015 meeting, the Commission gave all of the interested parties the opportunity to provide additional, verbal comments regarding the distribution of the Casino Simulcasting Special Funds. The representative for Monmouth Park gave additional comment explaining casino simulcasting's negative effect on its operations and noted that it continues to be financially distressed.

The Commission has reviewed the written documents and heard oral presentations and determines that all racetracks presented documentation and statements that they have suffered a negative financial impact from Atlantic City casino simulcasting and as in the past, the Commission agrees that all racetracks qualify under N.J.S.A. 5:12-205d(1), the highest priority. All racetracks have documented again that they are financially distressed. The Commission agrees all racetracks qualify under N.J.S.A. 5:12-205d(2), the second highest priority. The horsemen's groups have again properly applied for funds under N.J.S.A. 5:12-205d(3) the third highest priority and have suggested uses of the funds that could be considered appropriate.

Based on the discussions at this meeting and the CSSF Committee recommendations, I believe that the Meadowlands, Monmouth Park, Freehold racetracks qualify under priority 1 and 2 and I make a motion to distribute to the racetracks the following: Monmouth Park \$125,012.55, Meadowlands

\$125,012.56 and Freehold \$125,012.60, pursuant to paragraphs d(1) and d(2) of the statute; and to table the Committee's ACRC recommended allocation of \$53,576.80, pursuant to paragraph d(1) and d(2) to the statute.

Next is the third priority category and \$107,153.60 remains available after the above distributions under the higher priority provisions. The third priority category authorizes the Commission to allocate funds, in the amount it deems appropriate, to any horsemen's group which will use the money to fund a project beneficial to racing. I believe that the remaining funds should be shared by breed with the SBOA receiving 50 percent and the THA and TBA 25 percent each.

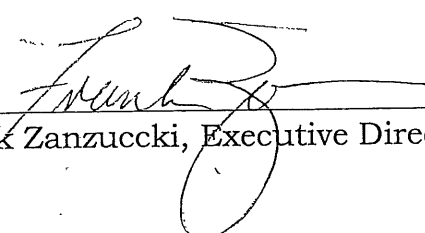
Accordingly, the funds I propose for distribution to the SBOA may be used for their health and welfare programs to cover ever increasing health insurance costs and up to \$5,000 of the amount may be used for funding programs. As concerns the TBA, it is expected that the TBA will use any allocated monies to fund its breeders award programs. The THA will use its funds for its health and benefits program.

Based on the discussions at this meeting and the CSSF Committee recommendations, I make a motion to distribute to the horsemen's groups the following: \$53,576.80 to the SBOA, as the horsemen's organization representing the standardbred horsemen; and \$26,788.40 each to the THA and TBA, as the horsemen's organizations representing the thoroughbred horsemen."

Commissioner Abbatiello seconded the motion and all Commissioners voted yes with the exception of Commissioner Gruskos who voted no and Commissioner Roselle who was recused.

SO ORDERED

Signed by: _____


Frank Zanzuccki, Executive Director

Dated: _____

10/29/15