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**KIM GUADAGNO**  
*Lt. Governor*

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**DEPARTMENT OF LAW AND PUBLIC SAFETY**  
**DIVISION OF NEW JERSEY RACING COMMISSION**  
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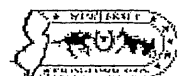
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**PETER T. ROSELLE**  
*Commissioners*

**FRANCESCO ZANZUCCHI**  
*Executive Director*

**FINAL DETERMINATION AND ORDER  
OF THE NEW JERSEY RACING COMMISSION**

**IN THE MATTER OF THE APPLICATIONS OF  
THE NEW JERSEY SPORTS AND EXPOSITION  
AUTHORITY AND THE NEW JERSEY  
THOROUGHBRED HORSEMEN'S ASSOCIATION,  
INC. FOR A LICENSE TO ESTABLISH AN  
OFF-TRACK WAGERING FACILITY IN  
HILLSBOROUGH TOWNSHIP, SOMERSET  
COUNTY, NEW JERSEY AND RELATED  
MATTERS**

The New Jersey Sports and Exposition Authority ("Authority"), having filed an application with the New Jersey Racing Commission ("Commission") for the issuance to it of an initial off-track wagering license, pursuant to Public Law 2001, Chapter 199 (N.J.S.A. 5:5-127 et seq.), the Off-Track and Account Wagering Act ("Act"), and Chapter 74 of Title 13 of the New Jersey Administrative Code (N.J.A.C. 13:74-1.1 et seq.) ("Chapter 74"); and the Authority and the New Jersey Thoroughbred Horsemen's Association, Inc. ("NJTHA"), having applied for the Commission's approval to immediately transfer or assign to the NJTHA any off-track wagering license issued to the Authority as a result of said application of the Authority in accordance with the Act and Chapter 74; and, pursuant to the described transaction contemplated by the Authority and the NJTHA, the NJTHA, having filed an application with the Commission for the issuance to it of the initial off-track wagering license in accordance with the Act and Chapter 74 to establish an off-track wagering facility in Hillsborough Township, Somerset County, New Jersey; and, in the event such license is issued to the NJTHA, the NJTHA, having applied to the Commission, pursuant to N.J.S.A. 5:5-133 and N.J.A.C. 13:74-4.1, for approval to enter into a contract or agreement (that is, an "operating agreement") authorizing Darby Development, LLC ("Darby") to conduct or operate the Hillsborough Township off-track wagering facility for it and to act as the NJTHA's agent in all-off-track wagering matters approved by the Commission in accordance with N.J.A.C. 13:74-4.2;



**AND**, the respective applications for the issuance of an off-track wagering license, as filed by the Authority and the NJTHA, having each been accompanied by a filing fee of \$2,500 as required by N.J.A.C. 13:74-2.1(a);

**AND**, the applications of the Authority and the NJTHA, having been accompanied by a fully executed Master Off-Track Wagering Participation Agreement, as amended, which the Authority entered into with all parties or successors in interest that held a valid race permit in year 2000, in full compliance with N.J.A.C. 13:74-2.1(b)(2) and (3);

**AND**, the application of the NJTHA, having sought the issuance to it of a license to establish an off-track wagering facility in Hillsborough Township, Somerset County, particularly described in said application as the following premises: 150 Route 206, Hillsborough, New Jersey 08844;

**AND**, the Commission, having conducted investigations into the application of the Authority for the issuance to it of an off-track wagering license, the applications seeking the immediate transfer or assignment of any off-track wagering license issued to the Authority to the NJTHA pursuant to N.J.A.C. 13:74-4.1, the application of the NJTHA for the issuance of the license for the establishment of an off-track wagering facility in Hillsborough Township, and the NJTHA's application to the Commission for approval to enter into an operating agreement authorizing Darby to conduct or operate the off-track wagering facility for it and to act as the NJTHA's agent in all-off-track wagering matters approved by the Commission pursuant to N.J.A.C. 13:74-4.2;

**AND**, the Commission's Executive Director, in accordance with N.J.A.C. 13:74-2.1, having determined, on June 9, 2015, that the respective off-track wagering applications of the Authority and the NJTHA were complete and, upon legal review, were in due form and consistent with the requirements of law;

**AND**, complying with the public notice requirements of the Act and Chapter 74, the Commission, on July 22, 2015, conducted a public hearing in Hillsborough Township regarding the relief sought in the applications filed by the Authority and the NJTHA;

**AND**, the Commission, having determined to allow the July 22, 2015 hearing record to remain open for seven days for the purpose of affording further opportunity for the submission of written public comment through and including July 29, 2015 and for the purpose of allowing the Authority and NJTHA additional time to supplement their applications and the hearing record;

**AND**, additional written submissions from the NJTHA and additional public comment having been filed with the Commission on or before the closure of the hearing record;

**AND**, the Commission, having received important contractual documents submitted by the NJTHA in supplementation of its application and additional public comments filed shortly after the closure of the hearing record;

**AND**, the following Commissioners, having attended the September 16, 2015 public meeting: Anthony T. Abbatiello, Michael J. Arnone, D.D.S., Pamela J. Clyne, Anthony G. DePaola, David C. Gruskos and Peter T. Roselle;

**AND**, the Commissioners, having voted to extend the closure of the record from the public hearing through and including August 4, 2015 to allow for the filing of the NJTHA's submissions and public comments received;

**AND**, the Commission, having considered a draft Final Determination and Order addressing each of the aforesaid matters, as more particularly described in the public meeting agenda for the September 16, 2015 public meeting;

**AND**, the Commissioners, having carefully considered the record before them which included, but was not limited to, the applications, attachments and supplemental submissions of the applicants, correspondence, investigative reports, public hearing transcript, written public comments and other documents submitted by staff;

**AND THE COMMISSION FINDING THAT** the Authority, as contemplated by the Act and Chapter 74, inclusive of N.J.A.C. 13:74-2.1, has demonstrated by clear and convincing evidence that it is qualified to be issued an off-track wagering license for the purpose set forth in its application, that is, the immediate transfer of said license to the NJTHA;

**AND THE COMMISSION FINDING THAT** the Authority and the NJTHA have, pursuant to N.J.S.A. 5:5-131 and N.J.A.C. 13:74-2.1(j), demonstrated by clear and convincing evidence through their respective applications that the proposed off-track wagering facility site is in an appropriate location and that it is located in an area zoned commercial;

**AND THE COMMISSION FINDING THAT** the establishment of the Hillsborough off-track wagering facility at its proposed location will not be inimical to the interests of another planned or established off-track wagering facility or to a State racetrack as required by N.J.S.A. 5:5-131 and N.J.A.C. 13:74-2.1(g);

**AND THE COMMISSION FINDING THAT** the Authority and the NJTHA, have demonstrated by clear and convincing evidence through their respective applications that: the plan and specifications for the proposed off-track wagering facility, including its size, seating capacity, parking and services to be provided reflects appropriate standards of quality; that the plan and specifications for the facility promote maximum comfort and safety for patrons and efficient operation of the facility, as well as viewing of simulcast races by patrons in a comfortable manner, which is not obtrusive to the additional amenities offered; that the dining, handicapping and security facilities comply with the Act and Chapter 74; and that there is sufficient and convenient parking, all in compliance with N.J.S.A. 5:5-131, N.J.S.A. 5:5-133, N.J.A.C. 13:74-2.1(j) and 6.1;

**AND THE COMMISSION FINDING THAT**, the NJTHA has demonstrated its suitability for licensure by clear and convincing evidence which included proof of financial resources sufficient to enable it to establish and conduct a quality off-track wagering facility with appropriately staffed and managed operations and proof of good character and integrity as required by N.J.A.C. 13:74-2.1(h) and 5.8;

**AND THE COMMISSION FINDING THAT** the NJTHA, subject to the conditions noted below and as contemplated by the Act and Chapter 74, together with its employees, is qualified in all respects to hold a license to establish an off-track wagering facility at 150 Route 206 in Hillsborough Township, New Jersey;

**AND THE COMMISSION FINDING THAT** the Authority and the NJTHA have demonstrated by clear and convincing evidence through their respective applications that each of the other licensure requirements of N.J.A.C. 13:74-2.1 have been met;

**AND THE COMMISSION FINDING THAT**, as required by N.J.A.C. 13:74-4.1, that the Authority and the NJTHA have demonstrated by clear and convincing evidence that the NJTHA and its employees are qualified in all respects to hold the off-track wagering license, the transfer of the off-track wagering license from the Authority to the NJTHA will not be inimical to the best interests of the public and the horse racing industry in this State and that, subject to the approval of the Attorney General, all requirements of the Act and Chapter 74 have been met;

**AND THE COMMISSION FINDING THAT** the immediate transfer of the off-track wagering license issued to the Authority to the NJTHA, pursuant to its related off-track wagering license application filed with the Commission, is therefore consistent with the Act and Chapter 74 in all respects;

**AND THE COMMISSION FINDING THAT** the NJTHA and Darby have demonstrated by clear and convincing evidence that Darby is qualified in all respects to conduct or operate the Hillsborough Township off-track wagering facility for the

NJTHA and to act as its agent in all off-track wagering matters approved by the Commission pursuant to N.J.A.C. 13:74-4.2 and that Darby is qualified, together with its employees, to hold a license to engage in all such activities on behalf of the NJTHA and to perform the functions required by the operating agreement;

**IT IS THEREFORE ORDERED** that the application of the Authority for an off-track wagering license is approved subject to the conditions set forth in Schedule A, which conditions are attached hereto and incorporated herein.

**IT IS FURTHER ORDERED** that the application filed by the Authority and the NJTHA seeking Commission approval for the Authority to immediately transfer or assign the off-track wagering license to the NJTHA is granted subject to the conditions set forth in Schedule A.

**IT IS FURTHER ORDERED** that the application of the NJTHA for the issuance of an off-track wagering license is approved subject to the conditions set forth in Schedule A.

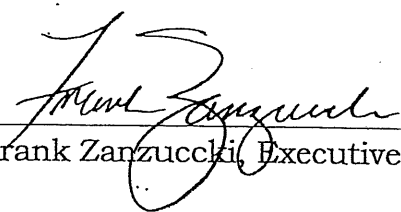
**IT IS FURTHER ORDERED** that the application of the NJTHA for approval to enter into an operating agreement authorizing Darby to conduct or operate the Hillsborough Township off-track wagering facility for it and to act as the NJTHA's agent in all off-track wagering matters approved by the Commission is approved subject to the conditions set forth in Schedule A.

The Commission reserves the right and ability, consistent with its broad regulatory authority, to impose additional conditions upon the off-track wagering licensee as well as Darby where necessary to effectuate the purposes of the Act, Chapter 74 and other applicable laws.

This Order memorializes the final determination of the Commission which was rendered at its public meeting of September 16, 2015.

**NEW JERSEY RACING COMMISSION**

By:

  
Frank Zanzuccki, Executive Director

Dated: September 21, 2015

## Schedule A - Conditions

- 1) The Commission's Final Determination and Order shall be subject to the review and approval of the Attorney General as required by N.J.S.A. 5:5-133 and N.J.A.C. 13:74-2.1.
- 2) The Commission's Final Determination and Order shall be subject to the approval of any other governmental agency necessary to the establishment and operation of the off-track wagering facility.
- 3) All individuals employed at the proposed off-track wagering facility and any persons, regardless of location, who are responsible for the supervision or oversight of any aspect of an off-track wagering facility shall, pursuant to N.J.A.C. 13:74-5.1, be required to take out the appropriate license from the Commission.
- 4) The NJTHA, prior to the opening of the proposed off-track wagering facility and consistent with N.J.A.C. 13:74-5.7, shall submit for approval to the Commission's Executive Director the final version of the identification tag to be worn by all Commission licensed personnel to be employed at the off-track wagering facility.
- 5) All vendors of the proposed off-track wagering facility shall be licensed by the Commission unless an exemption is granted pursuant to N.J.A.C. 13:74-5.1(f) through (i).
- 6) The NJTHA, in connection with the operation of the proposed off-track wagering facility, shall comply with the "Standards for Off-Track Wagering Facilities" set forth in N.J.A.C. 13:74-6.1 et seq.
- 7) The NJTHA shall comply with the "Conduct of Off-Track Wagering" provisions set forth in N.J.A.C. 13:74-8.1 et seq.
- 8) Prior to the opening of the proposed off-track wagering facility, the NJTHA shall cause to be implemented testing of all equipment and software associated with the proposed off-track wagering facility and related totalisator system as well as all equipment on the premises of the facility which can impact the public's safety or well-being. Prior to the opening of the proposed off-track wagering facility, the NJTHA shall provide the Commission with written evidence that such testing has been successfully accomplished.

- 9) The off-track wagering licensee shall receive all live races that are offered and transmitted by in-State sending tracks approved by the Commission. Where the off-track wagering licensee offers a wagering opportunity on a race from an approved in-State sending or host track or from an approved out-of-state sending or host track, each patron of the off-track wagering facility shall be offered the same wagering opportunity on that race.
- 10) Agreements between the off-track wagering licensee and a sending track shall be in writing and shall be filed with the Commission.
- 11) The off-track wagering licensee, unless the Commission approves otherwise, shall use the same hub facility as the account wagering licensee as required by N.J.A.C. 13:74-8.1. Sportech Racing, LLC ("Sportech"), as the present operator of said hub facility, shall comply with all previous requirements imposed upon it by the Commission. The Commission reserves the right to impose additional conditions upon Sportech where necessary to effectuate the purposes of the Act and Chapter 74.
- 12) The off-track wagering licensee, at a location within the off-track wagering facility approved by the Commission, shall provide a "comment box" with a locking mechanism to allow patrons the ability to provide written complaints or comment to the Commission by depositing a completed form, as provided by the Commission, in the comment box.
- 13) The off-track wagering licensee and Darby Development, LLC shall comply with all laws and regulations related to its securing and maintaining of any liquor license.
- 14) The off-track wagering facility shall install and maintain in good working order security and surveillance equipment in public and non-public areas to enhance safety, the integrity of wagering and the integrity of the proceeds from wagering. The money room at the off-track wagering facility, established pursuant to N.J.A.C. 13:74-6.11, shall include closed circuit television equipment. The Commission shall have access to the system or its signal to the same extent as employees of the off-track wagering licensee.
- 15) The Commission, its agents and representatives, in furtherance of its regulatory responsibilities, shall have unrestricted access to the off-track wagering facility.
- 16) The off-track wagering licensee shall, in furtherance of the Commission's regulatory responsibilities and unless otherwise directed by the

Commission, provide the Commission with two suitable designated parking spaces.

- 17) The off-track wagering licensee shall, in a timely fashion, satisfy its obligations for racing costs as set forth in N.J.A.C. 13:74-10.1.
- 18) The off-track wagering licensee shall comply with all representations made in its application for a license to the Commission, including those within its internal control procedures. Any amendments to the off-track wagering licensee's internal control procedures, prior to implementation thereof, shall be submitted to the Commission's Executive Director for approval.
- 19) The off-track wagering licensee, prior to the opening of the off-track wagering facility and if not included in its original application submission, shall submit for approval to the Commission's Executive Director an internal control procedure establishing a "self-exclusion list" pursuant to N.J.A.C. 13:74-12.1 and N.J.A.C. 13:74A-1.1 et seq.
- 20) The off-track wagering licensee may not open to the public unless and until the Commission's Executive Director or his designee conducts an inspection of the completed facility and finds that the facility is in accordance with the Act, Chapter 74 and the Commission's Final Determination and Order.
- 21) Upon the opening to the public of the off-track wagering facility and thereafter, the off-track wagering licensee shall, within twenty-four hours of such occurrence, notify the Commission in writing, on a form to be provided by the Commission, of any technological or non-technological occurrence not delegated to the totalisator operator which has disrupted or negatively impacted the ability of the off-track wagering licensee to continually offer wagering to the public or which has temporarily or permanently negatively impacted the integrity of any aspect of the off-track wagering infrastructure. Where delegated to the totalisator operator (that is, Sportech), Sportech shall submit such writing within twenty-four hours of the occurrence to the Commission.
- 22) Upon the opening to the public of the off-track wagering facility, the off-track wagering licensee shall be required each month to file a document request with the Records Bureau of the Hillsborough Township Police Department to obtain Police Reports and Motor Vehicle Accident Reports related to traffic, parking, disorderly persons and criminal violations and motor vehicle accidents occurring within one-half mile of the off-track wagering facility's location. The off-track wagering licensee shall be



required to file a summary report setting forth the details of these Police Reports and Motor Vehicle Accident Reports with the Commission every three months.

- 23) The off-track wagering license may not be transferred or assigned to a successor in interest absent the prior approval of the Commission and Attorney General.
- 24) The off-track wagering licensee shall comply with the Act, the regulations of the Commission, any directives or orders of the Commission, these conditions and any additional laws that may be applicable.
- 25) The issuance of any off-track wagering license to the NJTHA shall not constitute precedent in terms of any other application that the NJTHA may file with the Commission for the issuance of an off-track wagering license.
- 26) Following the approval thereof by the Attorney General, as required by N.J.S.A. 5:5-133 and N.J.A.C. 13:74-2.1, the Commission shall issue an off-track wagering license to the NJTHA pursuant to the terms of the Act and Chapter 74.