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Executive Director

ORDER

ALLOCATION OF RACE DATES TO THOROUGHBRED PERMIT HOLDER FOR 2018

WHEREAS, the New Jersey Racing Commission ("Commission") received timely applications for thoroughbred permits and race dates at Monmouth Park and the Meadowlands racetrack;

WHEREAS, the Commission received a timely application for a special permit to conduct a one-day steeplechase meet at Mooreland Farm in Far Hills and Bedminster Township, New Jersey;

WHEREAS, the Commission considered all information submitted in connection with the permit applications, applications for race dates and any public comments offered at its November 15, 2017 and January 10, 2018 public meetings;

WHEREAS, the New Jersey Thoroughbred Horsemen's Association ("THA") requested 52 race dates for Monmouth Park starting May 5, 2018 and ending September 9, 2018;

WHEREAS, the THA requested 6 race dates for the Meadowlands racetrack starting on September 14, 2018 and ending September 29, 2018;

WHEREAS, the THA requested 1 race date for Mooreland Farm on October 29, 2018;

WHEREAS, the race dates applied for satisfy the conditions of the Off-Track and Account Wagering Act, N.J.S.A. 5:5-127 et seq.;



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AND THE COMMISSION FINDING THAT approval of the race date applications would be in the public interest as set forth in N.J.S.A. 5:5-22 et seq., specifically as provided for in N.J.S.A. 5:5-43 and -44;

AND THE COMMISSION FINDING THAT approval of the requested race dates is consistent with the Commission's obligation to endeavor to allot to each applicant the dates requested in the respective applications after giving due consideration to all factors involved, including the interests of the applicants, the industry participants and the public;

AND THE COMMISSION FINDING THAT the proposed schedule of thoroughbred racing dates, while not achieving a year-round circuit, will provide for a reasonable continuity of thoroughbred racing in the State for the calendar year 2018;

AND THE COMMISSION FINDING THAT the proposed schedule of thoroughbred racing dates will serve to promote the thoroughbred racing industry, maintain and enhance the employment which it provides, encourage thoroughbred owners to keep their horses in New Jersey, provide revenue to the State and horsemen, help the State maintain and improve its competitive position in relation to neighboring states and provide for recreational opportunities for New Jersey residents who attend thoroughbred races:

IT IS THEREFORE ORDERED THAT the 2018 thoroughbred race date applications of the THA are approved subject to acceptance of the conditions set forth in Schedule A which is attached to this Order and incorporated herein.

This Order memorializes the action taken by the Commission at its November 15, 2017 and January 10, 2018 meetings.

NEW JERSEY RACING COMMISSION

By: _____

Frank Zanzuccki, Executive Director

Dated: February 5, 2018

Schedule A - Conditions

- 1) The permit holder shall comply with any and all obligations imposed upon it pursuant to the Racing Act of 1940, N.J.S.A. 5:5-22 et seq., the Off-Track and Account Wagering Act, N.J.S.A. 5:5-127 et seq. and all other applicable state and federal laws.
- 2) The permit holder shall be responsible for the prompt and timely payment of any invoice in accordance with N.J.S.A. 13:74-10.1 and 10.2 for "racing costs" as defined by N.J.S.A. 5:5-129. Each permit holder will be called upon to make payments as directed by the Commission for "racing costs" which may include, but shall not be limited to:
 - a) The funding of the Commission's license program;
 - b) The funding of the Commission's drug testing program as well as all costs incurred by the Commission in funding a uniform drug testing and quality assurance program;
 - c) All reasonable fees related to the Commission's appointment of engineers who shall conduct fire, safety and other inspections at each racing association;
 - d) The funding of the Commission's investigative unit; and
 - e) The funding of Commission's Supervisor of Mutuels position associated with live racing operations and non-casino parimutuel wagering activities.
- 3) The permit holder shall ensure that all statutorily allocated revenues, including those derived from live racing, simulcasting and off-track or account wagering, are distributed as required by law. The Commission's approvals for participation in live racing, simulcasting and off-track or account wagering are conditional upon satisfaction of the live racing permit.
- 4) The permit holder shall make prompt and timely payments pursuant to all "seven-day reports" issued by the Commission, which reports may require the payment of racing costs, purse monies and other racing-related revenue consistent with law.

- 5) By April 1, 2018, the permit holder shall submit to the Commission anticipated capital improvements to be made in 2018 as well as anticipated expenditures to be made in connection with the maintenance and renovation of existing facilities.
- 6) The permit holder shall, if so directed, open its stable area and track facilities 30 days prior to its scheduled opening of the race meet and shall keep the stable area and track facilities open for a period of 30 days following the close of its respective race meeting(s). If the permit holder is unable to open its stable area due to other racing commitments, the Commission may direct the permit holder to provide alternate stabling or contribute toward the purchase of alternate stabling.
- 7) At least 30 days prior to the opening of a race meeting, the permit holder's Director of Security shall provide the Commission with a list of all persons who will be employed in its security department.
- 8) At least 14 days prior to the opening of a race meet, the permit holder's Director of Security shall review the racetrack's security program with the Commission and the New Jersey State Police.
- 9) Consistent with N.J.S.A. 5:12-195, if the permit holder cancels any live race day or part thereof due to weather or another act of God, the permit holder shall promptly apply for Commission approval if it seeks to count such a canceled race day (or part thereof) toward its statutorily required minimum number of race dates.
- 10) A permit holder seeking to cancel any portion of a race meet due to the voluntary scheduling of a non-racing-related event must obtain the Commission's approval, which approval may be conditioned upon mandatory compensation as determined by the Commission for loss to the State and other racing interests. The voluntary cancellation of a race date shall not count toward the statutorily required minimum number of race dates.
- 11) The issuance and acceptance of this permit shall be deemed an express waiver of any rights the permit holder may have to a renewal of the permit at any time hereafter.
- 12) The permits shall be conditional upon compliance with all laws, rules, conditions and directives of the Commission. The permits shall be revocable by the Commission for any violation of applicable statutes, rules, conditions or directives imposed by Commission.

- 13) The permit holder shall be required to comply with minimum simulcast signal-to-operator hub facility staffing levels as the Commission or the Commission's Executive Director shall require regardless of whether the permit holder conducts such operations itself or through a third party or parties.
- 14) All members and employees of the THA involved in the management, oversight or operation of Monmouth Park, the thoroughbred meet at the Meadowlands or the special steeplechase meet, if applicable, shall secure licensure from the Commission before engaging in activities requiring licensure. The THA shall ensure that all members and employees of entities utilized by the THA in connection with the management and operation of Monmouth Park, the thoroughbred meet at the Meadowlands racetrack or the special steeplechase meet have secured licensure from the Commission before engaging in activities requiring licensure.
- 15) The THA shall advise the Commission in writing of any facts immediately upon recognition of any issue existent that could potentially be disruptive to racing, racing-related activities or the conduct of parimutuel wagering at any of the race meets that are authorized by this Order.
- 16) The permit granted to the THA for the thoroughbred race meet at the Meadowlands racetrack shall be subject to all rights granted and incident to the standardbred permit granted to New Meadowlands Racetrack, LLC ("NMRLLC").
- 17) The THA, Darby Development, LLC ("Darby") and any of their appointed agents shall comply in a timely manner with all reasonable requests of the Commission for information in connection with the THA's permits and license conditions.
- 18) The THA shall file with the Commission an executed management agreement related to the operation of the thoroughbred race meets at Monmouth Park and the Meadowlands which sets forth with specificity the rights, duties, obligations and responsibilities of the THA, Darby and their appointed agents, if any.
- 19) On or before July 15, 2018, the THA shall notify the Commission, in writing, of its intent to hold the special steeplechase meet at Far Hills/Bedminster Township. Should the THA indicate that it intends to conduct the meet but the meet is then not held, the THA shall be responsible for all costs incurred by the Commission in preparation for the meet.

- 20) On or before September 15, 2018, the THA shall file with the Commission fully executed management and operation agreements which detail the operation, management, supervision, security and control of all aspects of the special steeplechase meet including all details related to the operation, management, supervision, security and control of all simulcasting and parimutuel wagering to be conducted in connection with the special steeplechase meet.
- 21) The THA shall promptly report in writing to the Commission any material changes regarding information the THA submitted in connection with its applications including, but not limited to, any proposed changes to the THA's management agreement with Darby.
- 22) The THA shall require Darby and Elite Equine Consultants ("Elite") to provide, on an annual basis, to the attention of the THA Board of Directors with a copy to the Commission, the results of a full and complete independent audit (conducted by a certified public accounting firm licensed in New Jersey, chosen from a list of such firms compiled by the Commission) of all funds directly or indirectly referenced in the management agreement and under the direct or indirect control of Darby and/or Elite which shall include but not be limited to: funds held on behalf of the THA; funds expended on behalf of the THA; funds collected and disbursed with regard to any activity which is related to racing, parimutuel wagering, gaming, off-track wagering, account wagering, simulcasting and other regulated activities; fees and reimbursements to Darby; fees and reimbursements to Elite; fees, costs and reimbursements to Drazin and Warshaw P.C. as well as its members and employees.
- 23) Within 30 days of the date of this Order, the THA shall demonstrate to the satisfaction of the Commission's Executive Director that, under the terms of the THA's management agreement with Darby, the THA will continue to retain sufficient control and oversight responsibilities as concerns the permits for Monmouth Park, the thoroughbred race meet at the Meadowlands and the special steeplechase meet as well as the off-track wagering licenses for the facilities located in Woodbridge and Hillsborough, New Jersey. The THA shall set forth with specificity its responsibilities as to all aspects of the day-to-day operation of the tracks, the race meets and the off-track wagering facilities and it shall describe in detail all reporting requirements by Darby or Elite to the THA. The THA must demonstrate to the satisfaction of the Commission that it has not delegated any final decision making authority for any aspect of the operation of the tracks, the race meets or the off-track wagering facilities that would conflict with applicable laws, rules, conditions or directives of the Commission.

- 24) Within 30 days of the date of this Order, the THA shall demonstrate to the satisfaction of the Commission that the THA by-laws continue to permit it to take all actions necessary for the operation of Monmouth Park and the thoroughbred meet at the Meadowlands as well as the special steeplechase meet and the operation of the Woodbridge and Hillsborough off-track wagering facilities.
- 25) Should any of the foregoing conditions not be met within the time periods provided, the Commission may, in its sole discretion, immediately revoke the THA's permits and/or licenses.
- 26) Any time limits set forth herein may be extended at the discretion of the Commission or its Executive Director.
- 27) Permit holders shall file fully completed 2019 permit applications and applications for 2019 race dates with the Commission on or before October 15, 2018.
- 28) If the number of 2019 race dates sought by the permit holder requires the written consent of the THA pursuant to N.J.S.A. 5:5-156, the permit holder shall obtain the written consent of the THA and file it with the Commission on or before November 1, 2018.