

**NEW JERSEY RACING COMMISSION
WEDNESDAY, SEPTEMBER 17, 2014
“LIBRARY ROOM”
MONMOUTH PARK RACETRACK
OCEANPORT, NEW JERSEY**

A meeting of the New Jersey Racing Commission was held on Wednesday, September 17, 2014, in the Library Room of Monmouth Park, located in Oceanport, New Jersey.

The following were present:

Pamela J. Clyne, Chairman
Anthony T. Abbatiello, Commissioner
Manny E. Aponte, Commissioner (by phone)
Michael J. Arnone, Commissioner
Peter J. Cofrancesco, III, Commissioner (by phone)
Anthony G. DePaola, Commissioner
Peter T. Roselle, Commissioner
Frank Zanzuccki, Executive Director
DAG Judith A. Nason

The following were absent:

Francis X. Keegan, Jr., Commissioner

Executive Director Frank Zanzuccki read the following statement:

“This meeting today conforms with Chapter 231, P.L. 1975, called the “Open Public Meeting Law,” 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 the provision of N.J.S.A. 10:4-12(b), the New Jersey Racing 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 regarding public comments received concerning proposed new rules N.J.A.C. 13:74C (Exchange Wagering), and whether or not to adopt those proposed rules;
2. Legal advice regarding the adoption of N.J.A.C. 13:70-14A.1, 14A.7 and 14A.17 and N.J.A.C. 13:71-23.1, 23.7 and 23.16 (Intent of Medication Rules; General Provisions; Penalties; Anabolic Steroids);
3. Legal advice regarding the request of the Thoroughbred Breeders' Association of New Jersey's petition for rulemaking regarding N.J.A.C. 13:70-12 (Claiming);
4. Legal advice concerning Casino Simulcasting Special Fund:
 - a) Consider whether to accept the Standardbred Breeder's & Owner's Association's request for Casino Simulcasting Special Fund monies submitted to the Commission after the filing deadline.
 - b) Consider distribution of the Casino Simulcasting Special Fund monies accumulated in 2013 pursuant to N.J.S.A 5:12-205(d) in the amount of \$825,065;
5. Legal advice regarding the matter of Amber Buter v. New Jersey Racing Commission, OAL Docket No. RAC 05890-2014A;
6. Legal advice regarding a Settlement Agreement in the matter of Newton Sheridan v. New Jersey Racing Commission, OAL Docket No. RAC 05884-2014S;
7. Legal advice regarding the matter of Thomas Turano and Theodore Throckmorton v. New Jersey Racing Commission, OAL Docket Nos. RAC 600-13 and RAC 601-13 (consolidated);

8. Legal advice concerning the Freehold Accident on January 10, 2014; and
9. Legal advice concerning the receipt of Superior Court of New Jersey Appellate Division Decision In the Matter of Michael Gulotta, on behalf of all owners of Crys Dream v. New Jersey Racing Commission, Docket No. A-1774-12T3.

Discussion of the above matters fall 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 her ethical duties as a lawyer and/or matters involving pending or anticipated litigation."

It was noted that Commissioner Aponte and Commissioner Cofrancesco are participating by telephone.

Commissioner DePaola motioned to adopt the resolution to adjourn. Commissioner Arnone seconded the motion and the Commission concurred. The Commission then adjourned to Executive Session.

CONSIDER APPROVAL OF THE MINUTES OF THE PUBLIC AND EXECUTIVE SESSIONS OF THE JULY 16, 2014 COMMISSION MEETING

Commissioner DePaola made a motion to approve the public and executive minutes of the July 16, 2014 public meeting. Chairman Clyne seconded the motion and all Commissioners voted yes.

RESOLUTION IN RECOGNITION OF DEPUTY DIRECTOR MICHAEL VUKCEVICH

Executive Director Zanzuccki read the following proposed motion:

WHEREAS, Michael Vukceovich served the State of New Jersey in a distinguished career with the Division of Criminal Justice, the Division of Gaming Enforcement, and the New Jersey Racing Commission for 34 years, and served as the Deputy Director for the New Jersey Racing Commission for the last 22 of those years, and;

WHEREAS, Mr. Vukceovich received the Department of Law and Public Safety's Exceptional Service Award in 2005 for outstanding job performance, and;

WHEREAS, during his career, he prepared complex rules and regulations, reviewed permit applications for compliance with Statutes, led complex investigations and assisted assigned DAG's with litigation often recommending settlement conditions on contentious matters, and;

WHEREAS, during his tenure with the Racing Commission he served as Ethics Liaison Officer, Administrative Practice Officer, Public Information Press Officer and Liaison to the Division of Gaming Enforcement and the Casino Control Commission in matters relating to joint regulations, and;

WHEREAS, Michael Vukcevich earned and deserved the respect and admiration of the Racing Commissioners, the employees of the Racing Commission and members of the regulated horse racing community; and

NOW THEREFORE, BE IT RESOLVED that the members on the New Jersey Racing Commission, on behalf of all its members past and present and the citizens which it serves, do hereby express their grateful appreciation for his devoted and professional service, and;

BE IT FURTHER RESOLVED, that this resolution be spread upon the permanent records of the New Jersey Racing Commission and a suitable copy be presented to him.

Commissioner DePaola motioned to accept the resolution as read by the Executive Director. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER RATIFICATION AND APPROVAL OF THE FOLLOWING HANDICAPPING CONTESTS:

- a) Approval of New Meadowlands Racetrack's request to conduct a thoroughbred handicapping contest on Saturday, October 18, 2014 involving races from Santa Anita, Indiana Downs, Evangeline Downs and Monmouth Park at Meadowlands.
- b) Approval of Monmouth Park's request to conduct a handicapping contest on Sunday, October 19, 2014 at Favorites at Woodbridge Off-track Wagering facility involving races from Belmont, Keeneland and Woodbine racetracks.

- c) Approval of New Meadowlands Racetrack's request to conduct the \$300 Breeders' Crown Challenge on Friday, November 21 and Saturday, November 22, 2014.
 - d) Ratification of the approval granted to Monmouth Park to conduct a handicapping contest on Sunday, September 14, 2014 at Monmouth Park racetrack involving races from Monmouth Park and Woodbine Racetracks.
 - e) Ratification of the approval granted to the Borgata Hotel-Casino and Spa to conduct a handicapping contest on Saturday, September 6, 2014.
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Commissioner DePaola motioned to approve agenda items A.4.a), b), and c) and to ratify approval granted in agenda items A.4 d) and e) concerning Monmouth Park and the Borgata Hotel-Casino. Commissioner Arnone seconded the motion and all Commissioners voted yes.

CONSIDER RATIFICATION OF THE APPROVAL GRANTED TO THE NEW MEADOWLANDS RACETRACK TO AMEND THE RACE FORMAT ON HAMBLETONIAN DAY, AUGUST 2, 2014

Commissioner DePaola motioned to approve ratification of approval granted to the New Meadowlands Racetrack to amend the race format on Hambletonian Day. Commissioner Arnone seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE BORGATA HOTEL-CASINO AND SPA TO PAY A FEE IN EXCESS OF 6% TO SANTA ANITA RACETRACK FOR THE BREEDERS' CUP RACES AND ALL OTHER RACES CONDUCTED ON BREEDERS' CUP DAY PURSUANT TO N.J.S.A. 5:12-201(B)

Commissioner DePaola made a motion to approve the request of the Borgata Hotel-Casino to pay a fee in excess of 6% to Santa Anita Racetrack for the Breeders' Cup races and all other races conducted on that day. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF MONMOUTH PARK TO AMEND THE 2014 MONMOUTH PARK AT THE MEADOWLANDS THOROUGHBRED FALL RACE DATES

Commissioner DePaola motioned to approve the request of Monmouth Park to amend the 2014 thoroughbred fall race dates which are conducted at the Meadowlands Racetrack. Commissioner Arnone seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE WAGERING FORMAT AND RACING OFFICIALS FOR THE 2014 MONMOUTH PARK AT THE MEADOWLANDS FALL RACE MEET

Commissioner DePaola motioned to approved the 2014 race format of the Monmouth Park at the Meadowlands Racetrack meet. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF TVG AND DARBY DEVELOPMENT TO RELOCATE THE PHONE BANK TO A DIFFERENT LOCATION AT MONMOUTH PARK

Commissioner Arnone made a motion to approve the relocation of the phone bank located at Monmouth Park to a different area. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER THE ADVERTISEMENT FOR PUBLIC COMMENT (READOPTION) IN THE NEW JERSEY REGISTER OF THE RACING COMMISSION'S REGULATIONS FOR OFF-TRACK AND ACCOUNT WAGERING WHICH APPEAR AS CHAPTER 74 OF THE NEW JERSEY ADMINISTRATIVE CODE AND WHICH ARE DUE TO EXPIRE ON SEPTEMBER 20, 2014

Commissioner Abbatiello made a motion to approve the advertisement of the readoption of Chapter 74 regarding off-track and account wagering. Commissioner Arnone seconded the motion and all Commissioners voted yes.

CONSIDER PUBLIC COMMENTS SUBMITTED IN CONNECTION WITH PROPOSED NEW RULES N.J.A.C. 13:74C (EXCHANGE WAGERING), THE COMMISSION'S RESPONSE TO THE SUBMITTED COMMENTS AND COMMISSION ACTION REGARDING THE ADOPTION, MODIFICATION OR REJECTION OF THE PROPOSED NEW RULES

Executive Director Zanzuccki stated that written comments have been received and staff is in the process of evaluating the comments. Based upon advice of counsel, the Commission cannot act on the proposed new rules at this time.

Chairman Clyne made the following motion:

The proposed exchange wagering rules were advertised for public comment in the New Jersey Register on June 16, 2014. The public was given 60 days to submit written comments to the Commission and the record closed on August 15, 2014. Written submissions were filed by the Jockeys' Guild; the Council on Compulsive Gambling of New Jersey, Inc.; and Global Betting Exchange Technologies. Commission staff summarized these comments for our review in preparation for today's meeting. However, before the Commission can move forward and take action on the proposed new rules, N.J.S.A. 52:14B-4(a)(4) requires that the Commission prepare a report for public distribution "summarizing the content of the submissions and providing the agency's response to the data, views and arguments contained in the submissions."

Exchange wagering has not yet been implemented within the United States. Although exchange wagering has been authorized in California, that State has been unable to implement this new form of wagering because California law mandates that its racing industry must reach certain agreements before exchange wagering can take place. Its racing industry has been unable to do so.

The written comments received by this Commission urge us to modify the rules we proposed in June. Of particular concern are those comments which allege that the proposed rules do not sufficiently address important integrity issues that are inherent in this new type of wagering. For example, in exchange wagering, people may bet on horses to lose. The Jockeys' Guild asserts that the proposed rules do not adequately protect jockeys from unfounded assertions of improper conduct which may arise when a horse fails to finish in the money or has a bad day.

Pursuant to New Jersey law, this Commission cannot allow exchange wagering to proceed until we determine, through the receipt of clear and convincing evidence, "that wagers placed through the proposed exchange wagering system will be accurately processed and that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State."

We recently formed a committee to address the issues of uniform medication in the state of New Jersey. I would like to make a motion that we form a committee today. I think this needs to be addressed quickly and I think we need to form a committee today and address it in the same way that we addressed the medication issue by having a meeting of members of the industry who can come and present their thoughts and feelings on this issue.

We can listen to that and we can bring it back to the Commission and then, hopefully, have a decision on it in a timely manner.

I would move that the Commission form this committee today and it be comprised of three members. I would be one of them, and I have spoken to Commissioner Keegan and to Commissioner Cofrancesco and they have agreed to be on this committee also. I believe that I would move that the committee be so formed that the committee consider fully the issues raised and the comments and report back to the Commission with a recommendations on how to respond.

I also move that the Committee consider the proposed new rules and report back with recommendations as to whether the proposed rules adequately ensure that exchange wagers will be accurately processed; and contain sufficient safeguards to maintain the integrity of the horse racing industry in this State.

I would welcome the comments of anybody who would like to participate in that meeting and I think it would be irresponsible for us to act without having the information that we really need to do this in a way that would be right.

Commissioner Cofrancesco seconded the motion.

Chairman Clyne indicated that since the committee will be meeting, she welcomed the attendance of members of the industry to provide comments and input and to enlighten the Commission concerning exchange wagering.

Thomas Kennedy, Esq., counsel for the Jockey's Guild, thanked the Commission for their attention to this matter and stated that the Jockey's Guild will be part of the meeting.

Dennis Drazin, Esq. stated that the exchange wagering law was passed in 2011 and the Commission has had since that time to satisfy itself with the integrity of exchange wagering. Mr. Drazin indicated that Mr. Hindman, counsel for TVG-Betfair, is present if the Commission has any questions and he would be happy to amplify the subject. Mr. Drazin stated that he does understand that the Commission has the responsibility to analyze the comments and he hoped that the Commission would have had the chance to do that before today. He stated that exchange wagering is very important for the survival of Monmouth Park and asked at the very least if the Commission would limit the time period in which to review the rules.

Chairman Clyne stated that the Commission recognizes that it is an important issue and welcomes his attendance at the meeting and will value his input, however, legally, the Commission cannot act on the rules today. Mr. Drazin stated that if the Commission does not move forward on exchange wagering it will have a significant negative financial impact on Monmouth Park and require significant monies be paid back to Betfair and TVG. The Chairman asked what is Monmouth Park's time frame in regard to a decision being made on the advertisement of the rules, and Mr. Drazin asked if the Commission can make a determination within the next thirty days. The Chairman expressed that the Commission will make every effort to resolve this issue within thirty days.

John Hindman, Esq., on behalf of TVG-Betfair, commented that there are a lot of requirements in the regulations relating to integrity and ensuring the safety and accuracy of wagering and these issues will be considered once the Commission is considering a license application. He indicated that the adoption of the rules is one step in the process to allow the Commission to impose conditions to ensure the integrity of the wagering. Mr. Hindman asked that the Commission understands that by acting on the rules, the Commission is not limiting the integrity process but that another process will exist once an application is received and the Commission will have the opportunity to satisfy all of their concerns.

Commissioner DePaola, indicated that he, Commissioner Arnone and Commissioner Roselle, were appointed to the Commission in 2014 and would like to be educated on exchange wagering.

Commissioner Arnone stated that a time frame of thirty days to make a decision is reasonable, perceived exchange wagering to be beneficial for racing, and suggested that the committee be expanded to include four Commissioners.

The Executive Director clarified that the committee is committed to complete its work within thirty days and prepare a report to the Racing Commission. Shortly thereafter, a meeting can be scheduled to consider the report prior to the November 19 meeting. The Executive Director noted that the adoption of these regulations is the first step in the application process. He pointed out that although the regulations require the applicant to address integrity concerns, there are other issues the committee is interested in reviewing.

Commissioner Roselle inquired if the application process can be started prior to the Commission approving the regulations. Mr. Drazin responded that he believes the Commission has taken the position that until one more agreement is secured—the one between the NJSEA and Darby to move forward, then any application forwarded by TVG would be deemed incomplete. Mr. Drazin noted that the economics that the Commission has concern with were all discussed and testified to during the legislative process. Mr. Drazin asked that the Commission move the approval of the rules as quickly as possible.

Chairman Clyne indicated that the Racing Commission is moving forward by establishing the committee, and inviting industry members to the meeting. The Chairman stated that the committee will do its best to make its recommendations within thirty days. The Chairman added that while the permit holder may be ready to gamble on the implementation of exchange wagering, the Commission is not willing to gamble yet on something that, hopefully, will help the industry, but, possibly, could hurt the industry.

A roll call of the Commissioners indicated that all Commissioners voted yes to the Chairman's motion.

CONSIDER ADOPTION OF N.J.A.C. 13:70-14A.1, 14A.7 AND 14A.17 AND N.J.A.C. 13:71-23.1, 23.7 AND 23.16 (INTENT OF MEDICATION RULES; GENERAL PROVISIONS; PENALTIES; ANABOLIC STEROIDS)

Executive Director Zanzuccki stated that the comment period has ended regarding the rule proposal and no comments were received, therefore, the Commission can consider the rules for adoption.

Noting, Chairman Clyne indicated that the proposed amendments were advertised in the New Jersey Register on June 15, 2014, the changes are intended to incorporate by reference RCI Model Rules concerning threshold levels of medication administered to thoroughbred race horses and standardbred or harness race horses as well, as the penalties associated with violations of these thresholds. Chairman Clyne added that the amendments also remove the anabolic steroid Stanozolol since it is no longer manufactured.

The Chairman Clyne then proposed the following motion:

I make a motion to adopt the rule proposals. The adoption of these amendments is important for several reasons. One of the goals of the Commission and other horse racing regulatory bodies is more uniformity throughout the jurisdictions. The adoption of these amendments is a step toward that goal through the incorporation by reference of provisions of the RCI Model Rules concerning medications and regulatory thresholds.

Additionally, protecting the health and safety of race horses is of paramount concern to this Commission, as well as vital to ensuring that the public's trust in the fairness of the sport of horse racing is maintained. The adoption of these amendments will assist in assuring that no race horse is given an unfair competitive edge over another.

The regulatory thresholds established by the amendments and the recommended administration time periods will also assist those charged with the care of the race horses, such as owners, trainers, vets, and others, guiding those individuals in the best practices to ensure the safety of their race horses and, indirectly the jockeys and drivers.

Commissioner DePaola seconded the motion and all Commissioners voted yes.

The Executive Director stated that it is important to note that the adoption of these rules will allow the Commission to adopt the RCI Model Rules by reference. Therefore, the Commission will not be required to go through the rulemaking process in each instance when a new drug is added to the model rules.

CONSIDER THE REQUEST OF THE THOROUGHBRED BREEDERS' ASSOCIATION OF NEW JERSEY'S PETITION FOR RULEMAKING REGARDING N.J.A.C. 13:70-12 (CLAIMING)

The Executive Director stated that the petition as submitted by the Thoroughbred Breeders' Association asks the Commission to modify the claiming rule to add a 10 percent fee on the claiming price of any Jersey-bred that may be claimed in a race conducted in New Jersey. He indicated that staff referred this petition to legal counsel and based on legal advice, the Commission must deny the petition because the agency does not have the legal authority to impose such taxes, fees or additional charges. He noted that this is a matter which must be authorized by the Legislature.

Commissioner DePaola motioned to deny the petition. Chairman Clyne seconded the motion and all Commissioners voted yes with the exception of Commissioner Cofrancesco who had been briefly disconnected from the conference call.

CASINO SIMULCASTING SPECIAL FUND

- a) Consider whether to accept the Standardbred Breeder's & Owner's Association's request for Casino Simulcasting Special Fund monies submitted to the Commission after the filing deadline.
- b) Consider distribution of the Casino Simulcasting Special Fund monies accumulated in 2013 pursuant to N.J.S.A 5:12-205(d) in the amount of \$825,065.

It was noted for the record that Commissioner Roselle has recused himself on this matter.

Commissioner Abbatiello motioned to accept the SBOA's request for Casino Simulcasting Special Fund monies. Chairman Clyne seconded the motion and all Commissioners voted yes with the exception of Commissioner Roselle who was recused and Commissioner Cofrancesco who had not yet rejoined the conference call.

Commissioner Cofrancesco rejoined the meeting by telephone.

It was noted that the Commission received comments from the Thoroughbred Breeders' Association in a timely manner addressing many of the submittals of the racetracks. A copy of the comments was circulated to the industry, however, a response to the TBA's comments was received by the New Meadowlands Racetrack. Those comments have not been distributed because it was not filed in a timely manner. Staff recommended that the Commission either allow the racetrack to comment verbally today, or accept the written comments from the New Meadowlands Racetrack and allow them to be considered with all of the materials submitted on this matter.

Chairman Clyne motioned to accept the written comments. Commissioner DePaola seconded the matter and all Commissioners voted yes with the exception of Commissioner Roselle who was recused.

The Commission afforded the interested parties the opportunity to supplement the record verbally. No comment was heard from Freehold Raceway, New Meadowlands Racetrack, Monmouth Park, Atlantic City Race Course or the SBOA.

Michael Musto, Executive Director of the Thoroughbred Horsemen's Association, stated that the request for a large portion of the funds is due to the horsemen's association's continuing efforts to benefit the backstretch program. Mr. Musto clarified his written comments concerning the 50 percent reduction in THA revenues in past budget years. He indicated that past budget years was intended to mean past years of 2010 to 2013.

Michael Campbell, Executive Director of the Thoroughbred Breeders' Association commented that the TBA does not specifically have any monies that will be directed to it from exchange wagering and indicated uncertainty as to whether the TBA would receive any funds from sports wagering if it were allowed. Mr. Campbell asked the Commission to consider these lack of revenues for the Breeders' Program in their decision to distribute the casino simulcasting funds.

Commissioner Aponte motioned to close the record on September 17, 2014 and proceed to committee to address the distribution of funds. Commissioner Abbatiello seconded the motion and all Commissioners voted yes with the exception of Commissioner Roselle who recused himself.

The Commission then considered the establishment of a committee to consider the submissions by the interested parties to form a recommendation and report back at a later meeting with a recommendation as to how to distribute the monies. Chairman Clyne asked and moved that Commissioner Aponte, Commissioner Arnone, Commissioner Abbatiello and the Chairman herself serve on the committee. Commissioner DePaola seconded the motion and all Commissioners voted yes with the exception of Commissioner Roselle who recused himself.

CONSIDER THE MATTER OF AMBER BUTER V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 05890-2014A

Commissioner DePaola motioned to impose the original penalty on trainer Amber Buter due to her failure to appear for a scheduled OAL proceeding, and to refer the matter to the judges to determine if this was a frivolous appeal. Commissioner Arnone seconded the motion and all Commissioners voted yes.

The Executive Director noted that based on legal advice, the Commission has adjusted its policy concerning matters referred from the OAL. He stated that once a record has been created by the OAL, the Commission cannot consider any additional information that is not contained in the record. In the past, the Commission has allowed verbal comment with respect to OAL matters before the Commission acted. Under the new policy, the Commission will no longer offer the opportunity to present verbal comment at a public meeting on matters from the OAL because the record is closed.

CONSIDER A SETTLEMENT AGREEMENT IN THE MATTER OF NEWTON SHERIDAN V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 05884-2014S

Chairman Clyne motioned to accept the settlement agreement, as amended by counsel, in the matter of Newton Sheridan which involves a 10-day suspension, \$500 fine and loss of purse money. Commissioner DePaola seconded the motion and all Commissioners voted yes.

CONSIDER THE MATTER OF THOMAS TURANO AND THEODORE THROCKMORTON V NEW JERSEY RACING COMMISSION, OAL DOCKET NOS. RAC 600-13 AND RAC 601-13 (CONSOLIDATED)

The Commission considered the following motion which Commissioner DePaola asked the Executive Director to render on his behalf:

The Commission has been provided with the Initial Decision of the Administrative Law Judge (ALJ), the record and a draft Final Decision which we have reviewed. In the Initial Decision, the ALJ concluded that Thomas Turano and Theodore Throckmorton each violated N.J.A.C. 13:71-26.5 by knowingly assisted in ten-percenting schemes at Freehold Raceway where each was employed and licensed as a pari-mutuel clerk. The ALJ also concluded that Turano violated N.J.A.C. 13:71-26.7 by failing to cooperate with the Commission's investigation into his involvement in the ten-percenting schemes.

I move that the Commission direct staff to issue the draft Final Decision as the decision of this Commission in accordance with N.J.S.A. 52:14B-10. The Final Decision accurately sets forth the Commission's determination to adopt the ALJ's findings of fact and conclusions of law. However, the Commission modifies the ALJ's order with respect to the penalties imposed on Turano for the reasons fully set forth therein.

The ALJ ordered that Throckmorton received a six-month suspension and \$1,500 fine for his violation of N.J.A.C. 13:71-26.5 and that Turano received a six-month suspension and \$2,500 fine for his much more serious conduct which violated both N.J.A.C. 13:71-26.5 and N.J.A.C. 13:71-26.7.

The facts of what occurred and the licensees' violations of this Commission's rules are not in dispute. Turano's failure to cooperate constitutes an egregious violation of our rules and this conduct, in connection with his knowing assistance in ten-percent schemes, warrants a penalty much more severe than that imposed by the ALJ.

Although the ALJ recognized that Turano's failure to cooperate adds to the reason for a significant penalty, the ALJ then rejected the penalty sought by the Commission -- decreasing the fine from \$2,500 to \$2,000 and eliminating the additional six-month suspension entirely. Allowing the penalty imposed by the ALJ to stand would undoubtedly send a message to licensees that the only consequence of refusing to cooperate with Commission investigators is, at most, a monetary one. This Commission cannot allow any such message to be sent and must instead seek to deter licensees from failing to cooperate.

Based upon our expertise within this highly regulated industry and upon our discretion as Commissioners, it is our judgment that we must modify the ALJ's order to impose a six-month suspension and \$2,500 fine for Turano's violation of N.J.A.C. 13:71-26.7. This suspension shall be imposed and run consecutively after the six-month suspension imposed for Turano's violation of N.J.A.C. 13:71-26.5. The Commission adopts the ALJ's findings of fact, conclusions of law and his order regarding the six-month suspension and \$1,500 fine imposed upon Throckmorton.

Because the draft Final Decision accurately sets forth the Commission's decision, I move that we direct staff to issue it as the decision of this Commission.

Commissioner DePaola motioned to accept the proposed motion. Chairman Clyne seconded the motion and all Commissioners voted yes.

AGENDA ITEMS FOR DISCUSSION AND INFORMATION

Executive Director Zanzuccki reminded all permit holders that race date requests for 2015 are due in the Racing Commission office before October 15, and this also includes the applications for simulcasting, requests for license renewals for off-track wagering facilities and account wagering.

There being no further discussion or comments from the public, Commissioner DePaola moved that the meeting be adjourned subject to the provisions of the "Open Public Meeting Act." Commissioner Arnone seconded the motion and it was approved unanimously.

ATTEST:



Executive Director Frank Zanzuccki