

**NEW JERSEY RACING COMMISSION
WEDNESDAY, JANUARY 18, 2017
NEW MEADOWLANDS RACETRACK
“THE GALLERY” GRANDSTAND BUILDING, 2ND LEVEL
1 RACETRACK DRIVE, EAST RUTHERFORD, NEW JERSEY**

A meeting of the New Jersey Racing Commission was held on Wednesday, January 18, 2017 in the Gallery located at the New Meadowlands Racetrack in East Rutherford, New Jersey.

The following were present:

Pamela J. Clyne, Chairman
Michael J. Arnone, Commissioner
Peter J. Cofrancesco, III, Commissioner (by phone)
Francis X. Keegan, Jr., Commissioner
Peter T. Roselle, Commissioner (by phone)
Frank Zanzuccki, Executive Director
SDAG George Cohen

The following were absent:

Anthony T. Abbatiello, 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 concerning the request of the New Jersey Thoroughbred Horsemen's Association to use purse monies to fund workers compensation insurance premiums for thoroughbred horse racing industry employees pursuant to N.J.S.A. 34:15-134.
2. Legal advice concerning the joint petition of the New Jersey Sports and Exposition Authority and Darby Development, LLC seeking approval pursuant to N.J.A.C. 13:74C-3.5 of an outside certified public accountant being proposed to conduct a comprehensive audit of exchange wagering revenues accumulated during the first year of operation.
3. Legal advice concerning the Initial Decision issued in Jane Cibelli v. New Jersey Racing Commission, OAL Docket No. RAC 13821-2015N.
4. Legal advice concerning the settlement agreement in Jan Henriksen v. New Jersey Racing Commission, OAL Docket No. RAC 13528-2013S.
5. Legal advice concerning the settlement agreement in Tony J. O'Sullivan v. New Jersey Racing Commission, OAL Docket No. RAC 09751-2016N and Ted Mazzarisi v. New Jersey Racing Commission, OAL Docket No. RAC 09752-2016N (consolidated).
6. 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 NOVEMBER 16, 2016 COMMISSION MEETING

Chairman Clyne made a motion to approve the public and executive minutes of the November 16, 2016 meeting. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE APPLICATION OF THE THOROUGHBRED HORSEMEN'S ASSOCIATION TO CONDUCT A ONE-DAY SPECIAL STEEPLECHASE RACE MEETING AT MOORELAND FARMS, LOCATED IN FAR HILLS, NEW JERSEY, ON OCTOBER 21, 2017 PURSUANT TO N.J.S.A. 5:5-38.2

Commissioner Keegan motioned to approve the application of the Thoroughbred Horsemen's Association to conduct a steeplechase race meeting in Far Hills, New Jersey, on October 21, 2017. Commissioner Arnone seconded the motion and all Commissioners voted yes.

PURSUANT TO N.J.S.A. 5:5-189, CONSIDER THE REQUEST OF THE NEW JERSEY THOROUGHBRED HORSEMEN'S ASSOCIATION TO USE PURSE MONIES TO FUND WORKERS COMPENSATION INSURANCE PREMIUMS FOR THOROUGHBRED HORSE RACING INDUSTRY EMPLOYEES PURSUANT TO N.J.S.A. 34:15-134

Executive Director Zanzuccki stated that this request has been withdrawn by the New Jersey Thoroughbred Horsemen's Association and, therefore, no action is required.

CONSIDER THE JOINT PETITION OF THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY AND DARBY DEVELOPMENT, LLC SEEKING APPROVAL PURSUANT TO N.J.A.C. 13:74C-3.5 OF AN OUTSIDE CERTIFIED PUBLIC ACCOUNTANT BEING PROPOSED TO CONDUCT A COMPREHENSIVE AUDIT OF EXCHANGE WAGERING REVENUES ACCUMULATED DURING THE FIRST YEAR OF OPERATION

It was noted that Commissioner Keegan was recused from this matter.

Executive Director Zanzuccki introduced the representative of Darby, Michael Vukceovich, who provided a presentation to the Commission. Mr. Vukceovich stated that in December 2016, a petition was filed with the Commission seeking approval of an outside, independent accounting firm, the Perkowski firm, and the alternate choice, which is the

Churchin Group. He stated that the petition established the qualifications under the rules for positive action by the Commission as to the first choice, and if that is found unsuccessful, for the second choice. Mr. Vukcevich stated that the Perkowski firm is here today represented by the managing partner, Paul Perkowski, and staff member Brian Moberg, and the Churchin Group is also present and is represented by John Snowden.

Executive Director Zanzuccki noted that in the Perkowski certification it was disclosed the firm provides audit and tax compliance services for the New Jersey Thoroughbred Horsemen's Association ("THA") but asserts that having the THA as a client does not constitute a conflict of interest which would preclude the firm from doing this work. In addition, the Executive Director noted that in reviewing the records, the THA is also a signature party to the Exchange Wagering Agreement that was entered into with Betfair, Darby and the THA. The Executive Director asked Mr. Perkowski to explain to the Commission why the firm believes it does not have a conflict and whether the firm's independence has not been affected.

Paul Perkowski stated to the Commission that there are governing bodies which establish rules requiring that the firm is independent as auditors. This means the firm stands outside of having any type of relationship that would skew the results of the audit. He continued to explain that as concerns the contract with Betfair, the firm has no contact or no relationship with the other parties involved in that contract. He also explained that in regard to the THA, the firm performs the audit for the THA and has done so for several years. The auditors are responsible to be independent with respect to the firm's audit of the THA itself and as a result, the firm does not believe that it has any independence issues with the fact that the THA organization is part of the Exchange Wagering Agreement.

Executive Director Zanzuccki asked Mr. Perkowski if it would be possible to screen off the auditors that perform the work for the THA and have a separate group of auditors perform the work on the exchange wagering audit. Mr. Perkowski replied that the firm staffs approximately 12 to 13 people, most of which are CPAs and he would be able to segregate the executives for each audit, which would lend to more of an independence and appearance factor. He did not believe the firm would be able to separate the auditors that will be doing the groundwork. Mr. Perkowski indicated that he would oversee both audits.

With respect to the alternate firm, the Churchin Group, the Executive Director noted that the certification indicated that the firm does provide tax preparation services for several horse owners who compete in New Jersey and that in 2005, Mr. Snowden while working for a different firm, did provide services to the New Jersey Sports and Exposition Authority. The Commission called upon Mr. Snowden as to whether the firm asserts that the two issues do not present a conflict.

Mr. Snowden indicated that the Churchill Group does prepare tax services to horse owners and does not perform audits of any of the entities and, therefore, does not see any conflict. He added that the firm staffs over 30 employees and the firm does provide service to a stable, however, he does not perform any services to horse owners. Mr. Snowden stated that the firm does not see any conflict of interest in appearance or independence at all.

Chairman Clyne made a motion to table this decision until the March 2017 public meeting so that the Commission has an opportunity to review the information given in today's presentations. Commissioner Arnone seconded the motion and all Commissioners voted yes with the exception of Commissioner Keegan who was recused.

CONSIDER FREEHOLD'S REQUEST TO CANCEL LIVE RACING ON JANUARY 7, 2017 DUE TO SEVERE WEATHER CONDITIONS

Chairman Clyne motioned to approve the request of Freehold Raceway to cancel live racing on January 7, 2017 due to weather. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE 2017 BUDGET OF THE THOROUGHBRED BREEDERS' ASSOCIATION

Chairman Clyne made a motion to approve the 2017 budget of the Thoroughbred Breeders' Association. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE 2017 CHARITY DAYS

Chairman Clyne motioned to approve the 2017 charity days. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE INITIAL DECISION ISSUED IN JANE CIBELLI V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 13821-2015N

Commissioner Keegan made a motion to accept the Initial Decision of the OAL which affirmed the Stewards imposition of a fine of \$500 and a suspension of 15 days on the license of Jane Cibelli. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER THE SETTLEMENT AGREEMENT IN JAN HENRIKSEN V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 13528-2013S

Chairman Clyne motioned to table this agenda item as the agreement was not executed by Jan Henriksen. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE SETTLEMENT AGREEMENT IN TONY J. O’SULLIVAN V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 09751-2016N AND TED MAZZARISI V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 09752-2016N (CONSOLIDATED)

Chairman Clyne motioned to accept the settlement agreement in matter of Tony J. O’Sullivan which involves a fine of \$2,500 and a suspension of 15 days, and the settlement agreement in the matter of Ted Mazzarisi which involves a fine of \$2,500 and a suspension of 20 days. Commissioner Keegan seconded the motion and all Commissioners voted yes.

ITEMS FOR DISCUSSION AND INFORMATION

The Executive Director read the following 2016 statistics regarding the human and equine drug testing programs:

Human: 400 fluid samples were tested resulting in 2 positives compared to 340 fluid samples tested in 2015 resulting in 10 positive

Equine: 29,610 total samples were tested resulting in a total of 50 positives.

23,833 standardbred blood and urine samples were tested resulting in 40 positives


5,777 thoroughbred blood and urine samples were tested resulting in 10 positives

In 2015, a total of 27,735 samples were tested resulting in 33 positives.

The Executive Director noted that the number of positives for standardbreds and thoroughbreds were comparable given the fact that the number of standardbred race dates far exceed the number of thoroughbred race dates.

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

ATTEST:



Executive Director Frank Zanzuccki