

NEW JERSEY RACING COMMISSION
WEDNESDAY, JANUARY 22, 2020
FREEHOLD RACEWAY
“RENAISSANCE DINING ROOM”
FREEHOLD, NEW JERSEY

An executive meeting of the New Jersey Racing Commission was held on Wednesday, January 22, 2020 in the Renaissance Dining Room, located at Freehold Raceway, Freehold, New Jersey.

The following were present:

Pamela J. Clyne, Chairman
Francis X. Keegan, Jr., Commissioner
Michael J. Arnone, Commissioner
Glen Vetrano, Commissioner
Judith A. Nason, Executive Director
John Tomasello, Deputy Director
Jason M. Timmerman, Manager, Regulatory Affairs
Lauren Nathan-LaRusso, Esq., Governor’s Authorities Unit (Telephone)
SDAG George Cohen

Executive Director Nason read the following statement:

“This meeting today conforms with 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 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 settlement agreement in the matter of Philip Jasper v. New Jersey Racing Commission, OAL Docket No. RAC 18438-17;
2. Legal advice concerning the initial decision in the matter of John Colasanti v. New Jersey Racing Commission, OAL Docket No. RAC-11895-18;

3. Legal advice concerning the initial decision in the matter of John Colasanti v. New Jersey Racing Commission, OAL Docket No. RAC 18173-19; and
4. Other legal advice.

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 Arnone motioned to adopt the resolution to adjourn into Executive Session. Commissioner Vetrano seconded the motion. All of the Commissioners voted to affirm. The Commission then adjourned to Executive Session.

Chairman Clyne made a motion to adjourn from Executive Session into the Public Session. Commissioner Vetrano 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 20, 2019 COMMISSION MEETING

Chairman Clyne made a motion to approve the public and executive minutes of the November 20, 2019 Commission meeting. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF NEW MEADOWLANDS RACETRACK TO AMEND ITS RACE DATES FOR 2020

Executive Director Nason introduced the matter by stating that at the November meeting, the Commission allocated 90 race days to New Meadowlands Racetrack for 2020 with the understanding that the track would need to work out the overlap in racing schedules with the Thoroughbred Horsemen's Association. On December 17, 2019, New Meadowlands filed a request to amend its race dates. NMR is now requesting an allocation of 92 race dates, which is an increase of two days. The proposed standardbred calendar is modified to cancel racing on January 9th and June 4th. NMR will add race dates on November 27th, November 28th, December 3rd and December 4th. Executive Director Nason explained that the SBOA has filed its written consent to the 92 race days.

Executive Director Nason noted that Jason Settlemoir was not present but that Racing Secretary Scott Warren was present on behalf of New Meadowlands Racetrack, LLC to answer any questions.

There were no questions for Mr. Warren.

Commissioner Keegan moved that the Commission approve the request of New Meadowlands Racetrack, LLC to amend their race dates for 2020. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER RATIFICATION OF THE CANCELLATION OF RACING AT NEW MEADOWLANDS RACETRACK ON JANUARY 9, 2020 DUE TO ITS REQUEST TO AMEND ITS RACE DATES

Executive Director Nason explained that New Meadowlands request to amend its 2020 race dates included the cancellation of racing on January 9th. On January 2, 2020, COO/General Manager Jason Settlemoir requested permission to cancel racing on that day. Executive Director Nason approved the cancellation of racing subject to the Commission's ratification at today's meeting.

Commissioner Vetrano moved that the Commission ratify the cancellation of racing at New Meadowlands Racetrack due to its request to amend its race dates. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF MONMOUTH PARK TO AMEND THE RACING SURFACE FOR THE LAST FOUR DAYS IN THE MONMOUTH PARK AT MEADOWLANDS THOROUGHBRED MEET

Executive Director Nason explained that Monmouth Park worked out the fall race schedules at the Meadowlands with NMR. On January 9, 2020, Monmouth Park filed a request with the Commission to amend its racing schedule. The number of thoroughbred race dates at the Meadowlands will remain the same. The Commission allocated 19 days at the November meeting.

However, the THA is requesting approval to conclude dual surface racing at the Meadowlands on November 21, 2020. The main track will then be converted from dirt back to a stone surface for the standardbreds. The thoroughbred meet will continue at the Meadowlands on the turf track only on November 27th, November 28th, December 4th and December 5th.

John Heims was present on behalf of Monmouth Park to answer any questions.

Commissioner Vetrano stated that the turnover of the surface timeframe is a very short timeframe and asked John Heims if that would be enough time. John Heims directed the Commissioner's question to Scott Warren of New Meadowlands Racetrack, LLC. Mr. Warren said that it is a short timeframe and that he's not a track superintendent so he didn't believe that he was qualified to answer.

Commissioner Vetrano then asked if the SBOA had any concern about the issue.

Mark Ford, President of the SBOA, said that the SBOA had a lot of concern about the situation. He said that it seems as though the cost of converting the track back and forth for only

12 days would seem prohibitive. Mr. Ford is still wondering if they are going to end up converting the track or not.

Commissioner Vetrano expressed concerns about the condition of the a new racing surface that has not settled.

Mr. Ford explained that converting the track to a thoroughbred dirt surface is more challenging than converting it back to a harness surface.

Executive Director Nason then asked Mr. Heims to comment on the THA's ability to run 19 days at New Meadowlands Racetrack if the main track is not converted.

John Heims explained that the turf track would not be able to exclusively support 19 days of racing and that in order to run all the thoroughbred dates as requested and expected, the outer ring of the racetrack would have to be converted to dirt so that both dirt and turf thoroughbred races could be run.

Commissioner Arnone moved that the Commission approve the request of Monmouth Park to amend the racing surface. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE SETTLEMENT AGREEMENT IN THE MATTER OF PHILIP JASPER V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 18438-17

Executive Director Nason introduced the agenda by explaining that on November 12, 2016, the horse "Stakeout," trained by Philip Jasper, finished 3rd in the 2nd race at Freehold Raceway. The horse's blood and urine samples tested positive for Glaucine at very high levels. Finding that that Jasper violated N.J.A.C. 13:71-23.1, 23.6 and 23.7, the Board of Judges imposed a 45-day suspension, \$1,500 fine and ordered loss of purse. Jasper appealed and the matter was transmitted to the Office of Administrative Law as a contested case.

Prior to a hearing, counsel for the parties negotiated a proposed settlement agreement, which is before you for your consideration. Pursuant to the proposed settlement, Jasper agrees to a 20-day suspension, \$1,000 fine, loss of purse and disqualification of the horse. Jasper would withdraw the appeal and have a record of violating N.J.A.C. 13:71-23.1, -23.6, and -23.7. Settling the case would avoid the cost of obtaining expert testimony as well as the cost and inconvenience of proceeding to a hearing.

Executive Director Nason presented the proposed settlement agreement before the Commissioners to accept, reject or modify.

Commissioner Vetrano moved that the Commission approve the settlement agreement between the Commission and Philip Jasper because he found the terms acceptable and he also moved to authorize the Executive Director to sign the agreement on the Commission's behalf. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF FREEHOLD RACEWAY AND NEW MEADOWLANDS RACETRACK FOR A TEMPORARY WAIVER OF N.J.A.C. 13:71-16.5 TO ALLOW THE UNCOUPLING OF HORSES WITH COMMON OWNERS OR COMMON TRAINERS

Executive Director Nason explained that on January 17th, the NJRC received a written request from Freehold Raceway asking the Commission to continue to waive the standardbred coupling rule for 2020 to allow separate betting interests in the case of common ownership or a common trainer. Noting that the Commission waived this rule in 2019 on an experimental basis, General Manager Howard Bruno reported positive results from the waiver. Mr. Bruno indicated that the separate betting interests led to more wagering options and a higher handle. Pointing out that coupled entries often create heavy favorites and lower handle, Mr. Bruno stated that Freehold Raceway did not experience any negative impact from uncoupling last year.

Executive Director Nason continued and explained that New Meadowlands Racetrack has joined in this request. In New Meadowland's request, Mr. Settlemoir also reported positive results from the 2019 waiver at his track as it led to increased betting interests, more wagering options and higher handle. Mr. Settlemoir stated that the waiver did not result in any negative comments or impacts.

Executive Director Nason stated that the requests for a waiver are made pursuant to N.J.A.C. 13:71-1.34(b) which states, in part, that the Commission may grant a waiver if it determines "that such a waiver will benefit the horse racing industry in this State." Both racetracks have reported positive results. Commission staff is not aware of any negative impact from the 2019 waiver. As horse populations have decreased, many racing jurisdictions, which are competing for horses, have decided to allow uncoupling. Pursuant to the Commission's rules, the Commission may decide to waive the coupling rule if the Commissioners find that the waiver will benefit horse racing in this State.

Executive Director Nason asked the Commissioners that if they decide to waive the coupling rule for 2020, could they please consider granting her the authority, as they did last year, to terminate the waiver if there are any problems.

Chairman Clyne stated that waiving the coupling rule will benefit the New Jersey horse racing industry and moved that the Commission waive the uncoupling rule and grant the Executive Director the ability to immediately terminate the waiver if any problems arise. Commissioner Keegan seconded the motion.

SDAG George Cohen interjected to correct the record and explained that the written request of Freehold Raceway was received on January 11th as opposed to January 17th as stated by the Executive Director. The Executive Director apologized for misstating the date.

Commissioner Vetrano stated that Howard Bruno of Freehold Raceway and the representatives from New Meadowlands stated that the uncoupling has increased revenue and that this must be a benefit to the industry.

Howard Bruno responded that more wagering interests are always preferable for the racetracks because more wagering interests typically means more money wagered which increases the racetrack's revenues and in turn benefits the industry.

Executive Director Nason asked Mr. Bruno if he would contact the Commission should any issues arise with the practice of uncoupling.

Mr. Bruno responded that absolutely he would.

The matter was then brought to a vote and all Commissioners voted yes to waive the rule and allow uncoupling at Freehold Raceway and New Meadowlands Racetrack for 2020.

CONSIDER THE APPROVAL OF CHARITY DAYS FOR 2020

Executive Director Nason explained that pursuant to statute, the Commission must designate 5 race days per racing permit as charity race days: 3 days benefit the developmentally disabled, 1 day benefits the backstretch benevolency programs and 1 day benefits the Horse Park and retired race horses. In 2019, the designated racing days generated a little over \$32,000 for the charities. She explained that staff prepared a proposed list of charity racing days intended to result in the highest amount of revenue for the charities. She then explained that the selected days are before the Commissioners for their approval.

Commissioner Vetrano moved that the Commission approve the list of charity days for 2020. Commissioner Arnone seconded the motion and all Commissioners voted yes.

CONSIDER THE INITIAL DECISION IN JOHN COLASANTI V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 11895-18

Executive Director Nason explained that after conducting a hearing on June 22, 2018, the Board of Judges found Colasanti in violation of several Commission rules, including N.J.A.C. 13:71-6.13, -7.1, -7.29 and -26.7. The Board of Judges ordered a 2-year suspension and \$1,000 fine.

Despite being unlicensed, Colasanti was discovered on multiple occasions performing racing-related tasks permitted only by those with a valid Commission license. On February 14, 2018, a Commission investigator discovered Colasanti on the grounds of Congress Hill Farm and observed him placing a horse in cross ties. Colasanti refused to give the investigator his full name. The investigator informed Colasanti that he was not permitted to be in the barn working with race horses if he was unlicensed. The next day, on February 15, 2018, the investigator observed Colasanti in the paddock area of Freehold Raceway. The investigator followed Colasanti from Freehold Raceway to Congress Hill Farm and observed Colasanti unload a horse into a stall. The

next day, on February 16, 2018, two investigators saw Colasanti unload a horse into the paddock area at Freehold Raceway. The investigators informed Colasanti that he was not permitted to be in the paddock area or work with racehorses.

After the Board of Judges hearing in which the judges issued the penalty consisted of a 2-year suspension and \$1,000 fine, Colisanti appealed and the matter was transmitted to the OAL as a contested case. After conducting a hearing, the ALJ issued the initial decision on December 20, 2019. In the initial decision, the ALJ concluded that Colisanti violated the Commission's rules. The ALJ affirmed the 2-year suspension and \$1,000 fine imposed by the Board of Judges. On January 6, 2020, counsel for Colisanti filed exceptions with the Commission. The DAG representing the Commission filed a reply to the exceptions on January 13, 2020. With the filing of this reply, the record closed.

Executive Director Nason then placed the matter before the Commission to adopt, reject or modify the initial decision.

Chairman Clyne stated that she believed the ALJ made the correct decision and that the Commission cannot allow unlicensed persons to care for or transport racehorses and that the penalty was warranted. Chairman Clyne then moved that the Commission adopt the initial decision. Commissioner Keegan seconded the motion and all Commissioners voted yes.

At this time, Executive Director Nason explained that she was recusing herself from advising the Commission on the next matter. While she does not believe that recusal is required, nevertheless, out of an abundance of caution, she is stepping down to avoid any appearance of impropriety. She also explained that Deputy Director John Tomasello recused himself from both of the Colasanti matters and, as a result, Jason Timmerman, the Commission's Manager of Regulatory Affairs, has advised the Commissioners and will present the matter to the Commission

CONSIDER THE INITIAL DECISION IN JOHN COLASANTI V. NEW JERSEY RACING
COMMISISON, OAL DOCKET NO. RAC 18173-18

Manager of Regulatory Affairs Jason Timmerman explained that on August 10, 2018, John Colisanti filed an application for a standardbred stable employee license. The State Steward did not recommend Colisanti for licensure. Colisanti challenged the decision and then-Assistant Director John Tomasello conducted an informal hearing on October 12, 2018. During the informal hearing, Colisanti admitted to being on the grounds of a licensed facility and to handling and transporting his parent's horses without a license.

Along with this admission by Colasanti, Tomasello also considered Colasanti's 1996 arrest and subsequent conviction for a crime that was later expunged in 2010. When considering the expunged crime, Tomasello applied the factors required by the Rehabilitated Convicted Offenders Act and determined that Colisanti's conviction related adversely to the occupation for which the license was sought.

Agreeing with the decision of the State Steward, Tomasello determined that Colisanti had failed to establish that he possesses the requisite integrity and that he has not shown that he is

qualified in every respect to receive a license from the Commission. Finding that Colisanti did not meet the burden for licensure as established in N.J.A.C. 13:71-7.7 and 7.28, Tomasello denied Colisanti's application for licensure in accordance with N.J.S.A. 5:5-33 and N.J.A.C. 13:71-7.3.

Colisanti appealed and the matter was transmitted to the OAL as a contested case. The OAL conducted a hearing on August 6, 2019 and issued an initial decision on December 20, 2019. In the initial decision, the ALJ found that the "Commission has proven that the petitioner did not demonstrate that he possessed the integrity necessary for granting a groomers [sic] license." The ALJ affirmed the Commission's denial of Colasanti's request for licensure. However, while concluding that the Commission acted properly when denying Colasanti's application, the ALJ found that the Commission's consideration of Colasanti's expunged record was improper because the "expungement statute is clear, and it does in fact exempt certain parties." On January 6, 2020, counsel for both parties filed exceptions to the ALJ's initial decision with the Commission. On January 13, 2020, the DAG representing the Commission filed a reply to Colisanti's exceptions. With the filing of this reply, the record closed.

Manager Timmerman then placed the matter before the Commission to adopt, reject or modify the initial decision. Chairman Clyne stated that she agrees with the ALJ that Colisanti did not demonstrate his suitability for licensure. However, she stated that she does not agree with the ALJ's conclusion that the Commission could not consider the expunged crime. She explained that the expunged crime relates adversely to Colisanti's application for a stable employee license and staff properly considered the necessary factors.

As a result, Chairman Clyne moved that the Commission modify the initial decision by issuing the draft Final Decision. She explained that the draft Final Decision adopts all of the ALJ's findings of fact and conclusions, except for her conclusion regarding the expunged crime, which is rejected. Commissioner Keegan seconded the motion and all Commissioners voted yes.

That concluded the items on the formal portion of the agenda. Executive Director Nason then moved to Part B of the agenda and announced the drug testing statistics for calendar year 2019. She explained that 231 human drug tests were taken, resulting in 7 positive results. In 2018, there were 305 human tests conducted, which resulted in 3 positives.

In 2019, there were 22,113 tests conducted on blood and urine samples taken from standardbred horses which resulted in 32 positives. There were 6,824 tests conducted on blood and urine samples taken from thoroughbred horses which resulted in 13 positives. To compare figures, in 2018, there were 20,217 samples tested from blood and urine samples taken from standardbred horses, which resulted in 28 positives and 5,214 samples tested from blood and urine samples taken from thoroughbred horses which resulted in 6 positives. Executive Director Nason explained that the testing increased in 2019 and the positives went up, however the percentages of positive test results remained largely the same which is substantially less than 1%.

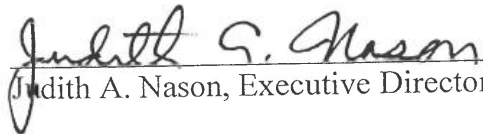
Executive Director Nason then acknowledged the Commission's receipt of Darby Development LLC's independent auditor's report and consolidated financial statement for 2018.

Executive Director Nason also explained that there were copies of a spreadsheet of financial information available to anyone who wanted a copy.

No members of the public raised new business with the Commission.

Commissioner Keegan moved to adjourn the meeting. Chairman Clyne seconded the motion and it was approved unanimously.

ATTEST:


Judith A. Nason, Executive Director