

**NEW JERSEY RACING COMMISSION  
FRIDAY, APRIL 22, 2022  
SPECIAL TELEPHONE MEETING**

A special public meeting of the New Jersey Racing Commission ("NJRC") was held on Friday, April 22, 2022 by telephone.

The following were present:

Pamela J. Clyne, Chairman  
Michael J. Arnone, D.D.S., Commissioner  
Lawrence DeMarzo, Commissioner  
Francis X. Keegan, Jr., Commissioner  
Charles E. Tomaro, Commissioner  
Glen Vetrano, Commissioner  
Judith A. Nason, Executive Director  
Jeffrey Nielsen, Associate Counsel, Governor's Authorities Unit  
SDAG George Cohen

Executive Director Nason read the following resolution:

"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. Consider Monmouth Park's Request to Waive N.J.A.C. 13:70-11.12 (Riding Crop Prohibited) and N.J.A.C. 13:70-11.12A (Emergency Use of Riding Crop) Starting on May 7, 2022.
2. 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 adjourn into Executive Session. Commissioner Keegan seconded the motion. All of the Commissioners 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 Tomaro seconded the motion and all of the Commissioners voted yes.

The Executive Session ended.

CONSIDER MONMOUTH PARK'S REQUEST TO WAIVE N.J.A.C. 13:70-11.12 (RIDING CROP PROHIBITED) AND N.J.A.C. 13:70-11.12A (EMERGENCY USE OF RIDING CROP) STARTING ON MAY 7, 2022

Executive Director Nason explained that the Horseracing Integrity and Safety Authority ("HISA") assumes jurisdiction over thoroughbred racetrack safety starting on July 1, 2022. Pursuant to federal law, rules adopted by HISA preempt the rules of the state racing commissions starting on that date.

Executive Director Nason indicated that earlier this year, HISA adopted riding crop rules, which allow 6 overhand strikes and unlimited underhand strikes on the horses' shoulders. She explained that these rules, which go into effect on July 1<sup>st</sup>, will preempt New Jersey's riding crop rules, which prohibit the use of the riding crop except when necessary for the safety of the horse or rider.

Executive Director Nason stated that Monmouth Park's meet begins on May 7<sup>th</sup>. Jockeys and exercise riders will have to comply with the New Jersey's riding crop rules from May 7<sup>th</sup> through June 30<sup>th</sup> and then transition to HISA's more permissive riding crop rule starting on July 1<sup>st</sup>.

Executive Director Nason stated that on April 7<sup>th</sup>, John Heims, who is In-House Counsel for Monmouth Park, filed a request asking the Commission to waive N.J.A.C. 13:70-11.12 and N.J.A.C. 13:70-11.12A from May 7<sup>th</sup> through June 30<sup>th</sup>. Monmouth Park states that if the Commission waives these two riding crop rules, the racetrack will institute "house" rules that are identical to HISA's riding crop rules starting on May 7<sup>th</sup>. As a result, the effect of the waiver would be that the jockeys and exercise riders could follow HISA's riding crop rules throughout the Monmouth Park meet.

Executive Director Nason outlined Monmouth Park's proposal. To enforce the racetrack's riding crop rules, Monmouth Park will establish a three-person Committee comprised of racing officials who will review each race in order to ensure compliance with the racetrack's riding crop rules. Mr. Heims indicates that Monmouth Park will impose the following mandatory penalties on jockeys for violation of the racetrack's riding crop rules. A first offense will result in the forfeiture of the jockey's percentage of the purse, a \$500.00 fine and a 3-day suspension from riding. A second offense will result in forfeiture of the jockey's percentage of the purse, a \$2,500.00 fine and a 7-day suspension from riding. A third offense will result in forfeiture of the jockey's percentage of the purse, a \$5,000.00 fine and dismissal from the grounds of the racetrack for the remainder of the race meeting.

Mr. Heims states that the racing secretary will act as hearing officer should the jockey wish to be heard and present evidence contrary to the offense charged by the Committee. Notwithstanding the jockey's right to appeal, the decision of the racing secretary will be final.

Regarding exercise riders, Monmouth Park will authorize the racetrack safety officer and outriders to enforce the racetrack's riding crop rules. Monmouth Park has specified separate mandatory penalties for violations by exercise riders.

In support of the request, Monmouth Park points out that the requested waiver and implementation of the racetrack's riding crop rules would benefit New Jersey's horse racing industry because it would create uniformity throughout the 2022 racing season to the benefit of industry stakeholders and more importantly the wagering public, who should be afforded consistency when handicapping races. In the request, Mr. Heims states that New Jersey's riding crop rules led to a decrease in wagering handle for 2021. As a result, Mr. Heims believes that waiving the riding crop rules starting on May 7, 2022 with Monmouth Park instituting racetrack riding crop rules that are identical to HISA's riding crop rules will benefit the racetrack and allow it to attract new horses and riders.

Executive Director Nason indicated that the Commission may waive N.J.A.C. 13:70-11.12 and 11.12A if the Commissioners believe that the waiver will benefit the horse racing industry in this State.

The Executive Director reminded the Commissioners that the Jockeys' Guild had filed an appeal challenging the Commission's riding crop rules. She explained that last week, the Superior Court of New Jersey issued a decision upholding New Jersey's riding crop rules. After rejecting the Jockeys' Guild's assertion that the Commission acted without a quorum, the court held that the NJRC complied with all statutory requirements for exercising its rule-making authority. The court determined that the Commission was entitled to rely upon the calls for change made by The Jockey Club to eliminate the use of the riding crop to encourage the horse, and in particular, to rely upon the views of The Jockey Club's Thoroughbred Safety Committee, which conducted research in the area of horse and rider safety. Finding that the Commission was rightly concerned about the well-being of racehorses and the negative public perception of racing attached to practices such as whipping a horse to make it run faster, the court affirmed the Commission's adoption of the riding crop rules.

Executive Director Nason commented that the Commission is pleased, but not surprised, that the court understood the important reasons why the Commission promulgated the riding crop rules.

However, the Executive Director noted, it can be difficult, operationally, to change important rules in the middle of a racetrack's meet. She reminded the Commission that when the Commission adopted the riding crop rules, the new rules became effective on October 19, 2020. At that time, Monmouth Park was in the middle of the Meadowlands at Monmouth Park meet. Rather than implementing the new rules in the middle of that meet, the Commission delayed the implementation of the new riding crop rules until the beginning of Monmouth Park's 2021 meet.

Executive Director Nason stressed that here, federal law will cause rule changes in the middle of Monmouth Park's meet. The effective date of the Horseracing Integrity and Safety Act is July 1st and that is when HISA's rules will take effect. HISA's new riding crop rules will take effect throughout the United States on July 1<sup>st</sup> and the NJRC cannot stop that from happening.

Although the NJRC cannot prevent this rule change, Executive Director Nason pointed out that the Commission has the ability to avert this mid-meet transition by waiving New Jersey's riding crop rules from May 7<sup>th</sup> to June 30<sup>th</sup>. Monmouth Park states it will institute racetrack "house" rules identical to HISA's riding crop rules. The result would be that persons competing at Monmouth Park would be able to follow uniform riding crop rules throughout the duration of the meet.

Executive Director Nason indicated that the decision whether or not to do so lies in the discretion of the Commissioners. N.J.A.C. 13:70-1.39(b) states that Commission may waive a rule if it determines that such a waiver will benefit the horse racing industry in this State. She noted that if the Commission decides to waive the two riding crop rules starting on May 7<sup>th</sup>, staff recommend that the Commission grant its Executive Director the authority and discretion to immediately terminate the waiver should any problems occur with the implementation or enforcement of the racetrack's riding crop rules from May 7, 2022 through June 30, 2022.

Commissioner Keegan made a motion to waive the two riding crops rules starting on May 7<sup>th</sup> and grant the Executive Director the authority and discretion to terminate the waiver should any problems occur. Commissioner Arnone seconded the motion. All of the Commissioners voted in favor of the motion except for Commissioner DeMarzo who voted no.

Executive Director Nason indicated that concluded the items on the agenda for the special telephone meeting. She then opened the meeting to the public on the telephone to hear any questions or comments.

A member of the public asked what the HISA riding crop rules allow and what the acronym HISA means. Executive Director Nason explained that HISA is the Horseracing Integrity and Safety Authority and that its rules allow 6 overhand strikes and unlimited underhand strikes on the horses' shoulders.

There were no additional questions or comments.

Executive Director Nason asked if anyone had any other new business to discuss. Hearing none, Commissioner DeMarzo moved to adjourn the meeting. Commissioner Vetrano seconded the motion and it was approved unanimously.

ATTEST:

  
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Judith A. Nason, Executive Director