

**NEW JERSEY RACING COMMISSION
WEDNESDAY, NOVEMBER 15, 2023
NEW JERSEY RACING COMMISSION
TRENTON OFFICE – 140 EAST FRONT STREET
TRENTON, NEW JERSEY**

A public meeting of the New Jersey Racing Commission (“NJRC” or “Commission”) was held on Wednesday, November 15, 2023 at the New Jersey Racing Commission Trenton Office located at 140 East Front St., Trenton, New Jersey.

The following were present:

Lawrence DeMarzo, Commissioner
Arlene Quinones Perez, Esq., Commissioner (by phone)
Charles E. Tomaro, Commissioner (by phone)
Glen Vetrano, Commissioner (by phone)
Judith A. Nason, Executive Director
Laura A. Wilton, Esq., Assoc. Counsel, Governor’s Auth. Unit
Sara Ben-David, Counsel to the Attorney General
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. Legal advice concerning the grant of 2024 standardbred permits to conduct racing at New Meadowlands Racetrack and Freehold Raceway; the grant of 2024 thoroughbred permits to conduct racing at Monmouth Park and the Meadowlands (including the special steeplechase permit for racing at Moorland Farm); and the allocation of race dates to the permit holders.

2. Legal advice concerning the distribution of the Casino Simulcasting Special Fund monies (accumulated in 2022) totaling \$353,160.99.
3. Legal advice concerning the initial decision in Ronald J. Burke v. NJRC, OAL Docket No. RAC 01559-22.
4. Legal advice concerning the initial decision in Mark N. Sheridan v. NJRC, OAL Docket No. RAC 03376-23.
5. Legal advice concerning the initial decision in Marten Woodhouse v. NJRC, OAL Docket No. RAC 17893-19.
6. 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 DeMarzo motioned to adjourn into Executive Session. Commissioner Vetrano seconded the motion. All of the Commissioners voted to adjourn.

Commissioner DeMarzo made a motion to adjourn from Executive Session into the Public Session. Commissioner Tomaro seconded the motion and all of the Commissioners voted yes.

CONSIDER APPROVAL OF THE PUBLIC AND EXECUTIVE SESSION MINUTES OF THE SEPTEMBER 20, 2023 COMMISSION MEETING

Commissioner Tomaro made a motion to approve the public and executive minutes of the September 20, 2023 Commission meeting. Commissioner Vetrano seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE PUBLIC AND EXECUTIVE SESSION MINUTES OF THE JULY 19, 2023 COMMISSION MEETING

Executive Director Nason stated that the Commission considered approval of the draft minutes for the July 19th meeting at the September 20th meeting. However, a motion to approve did not carry because two Commissioners, who were not present at the meeting, abstained from voting.

Executive Director Nason explained that Commissioner Vetrano has since listened to the recording of the July meeting and reviewed the draft minutes for that meeting.

Commissioner Perez indicated that she would still be abstaining from voting since she had not yet been sworn in as a Commissioner.

Commissioner Tomaro made a motion to approve the public and executive minutes of the July 19, 2023 Commission meeting. Commissioner DeMarzo seconded the motion and Commissioners Vetrano, Tomaro and DeMarzo voted yes. Commissioner Perez abstained.

CONSIDER RATIFICATION OF THE CANCELLATION OF THOROUGHBRED RACING AT THE MEADOWLANDS RACETRACK ON SEPTEMBER 23, 29, AND 30, 2023 AND OCTOBER 7, AND 14, 2023

Executive Director Nason stated that the turf course at the Meadowlands Racetrack can be negatively impacted by heavy rain which can render it unsafe for racing. Tropical Storm Ophelia produced heavy rain in New Jersey on September 23, 2023. The weeks that followed were also marked by heavy rain.

Executive Director Nason indicated that John F. Heims, who is Director of Racing at Monmouth Park, requested Commission approval to cancel racing on September 23, 29, 30, October 7, and 14, 2023 because the turf course was not safe for racing. Staff approved the cancellation of each of these race dates subject to the Commission's ratification at today's meeting.

Commissioner DeMarzo made a motion to ratify the cancellation of thoroughbred racing at the Meadowlands Racetrack. Commissioner Tomaro seconded the motion and all Commissioners voted yes.

CONSIDER RATIFICATION OF REVISED CHARITY RACE DATES FOR THE MEADOWLANDS RACETRACK'S THOROUGHBRED MEET

Executive Director Nason stated that three of the cancelled thoroughbred race dates were previously designated by the Commission as charity race dates for the Meadowlands Racetrack's thoroughbred meet. The charity race dates that were cancelled are September 23th, September 30th and October 7th.

Executive Director Nason explained that staff selected and approved the following race dates as substitutions for the cancelled days. For September 23rd, which was designated to benefit the Developmentally Disabled, staff substituted September 22nd. For September 30th, which was designated to benefit Backstretch Benevolency Programs, staff substituted October 6th. Finally, for

October 7th, which was designated to benefit the Horse Park of New Jersey and the care of retired race horses, staff selected October 13th.

Executive Director Nason stated that staff's selection of these race dates are subject to the Commission's ratification at this meeting.

Commissioner DeMarzo made a motion to ratify the revised charity race dates. Commissioner Tomaro seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE ADDITION OF THE UNPAID PICK 6 CARRYOVER TO THE OPENING DAY PICK 6 POOL AT MONMOUTH PARK

Executive Director Nason stated that October 14, 2023, the last day of the Meadowlands' thoroughbred meet, was cancelled. The cancellation resulted in an unpaid Pick 6 carryover of \$30,350. She noted that John Heims, who is also Racing Secretary and In-House Counsel for Monmouth Park, has requested on behalf of the thoroughbred permit holder that these monies, which will be placed in an interest bearing account, be added to the Pick 6 pool at Monmouth Park on opening day in 2024.

Executive Director Nason explained that in these circumstances, the Commission's rules provide that the carry-over plus accrued interest shall be added to a Pick 6 pool on a race date determined by the Commission.

Commissioner DeMarzo made a motion to approve the addition of the unpaid Pick 6 carryover to the opening day Pick 6 Pool at Monmouth Park. Commissioner Tomaro seconded the motion and all Commissioners voted yes.

CONSIDER THE GRANT OF 2024 STANDARD BRED PERMITS TO CONDUCT RACING AT NEW MEADOWLANDS RACETRACK AND FREEHOLD RACEWAY; THE GRANT OF 2024 THOROUGHBRED PERMITS TO CONDUCT RACING AT MONMOUTH PARK AND THE MEADOWLANDS (INCLUDING THE SPECIAL STEEPLECHASE PERMIT FOR RACING AT MOORLAND FARM); AND THE ALLOCATION OF RACE DATES TO THE PERMIT HOLDERS

Executive Director Nason stated that the New Jersey Thoroughbred Horsemen's Association ("THA"), New Meadowlands Racetrack, LLC and FR Park Racing, LP have all applied to renew their racing permits for calendar year 2024 and each has filed its request for race dates. Copies of the proposed calendars were made available to the public.

Executive Director Nason explained that the THA has applied to renew its three permits and has requested a total of 72 thoroughbred race dates. She stated that the THA proposes to race 51 days at Monmouth Park starting May 11th and ending September 15th; 20 days at Meadowlands starting October 4th and ending on December 7th; and 1 day at Moorland Farm on October 19st pursuant to the special steeplechase permit.

Executive Director Nason indicated that this is an increase of 10 days compared to the race dates requested for 2023. She noted that the THA submitted its written consent to the thoroughbred date request.

Executive Director Nason stated that the Commission provided the notice required by N.J.S.A. 5:5-38.2 to the Borough of Far Hills and Bedminster Township on October 18, 2022. The statute grants them 30 days to object. She explained that as a result, the Commission cannot act on the special steeplechase permit application at today's meeting and advised the Commission to table action on the special steeplechase permit application until the Commission's next meeting in January 2024.

Executive Director Nason stated that New Meadowlands Racetrack has applied to renew its harness permit and has requested 90 standardbred race dates. She explained that the racetrack's meet would begin on January 4th and end on December 28th.

Executive Director Nason noted that this is the same number of race dates as requested for 2023 and that the Standardbred Breeders and Owners Association of New Jersey ("SBOA") has submitted its written consent to these race dates.

Executive Director Nason explained that FR Park Racing, LP has applied to renew its two harness permits and has requested 85 standardbred race dates. Freehold Raceway proposes to race 42 days starting on January 5th and ending on May 25th and 43 days starting on August 23rd and ending on December 28th.

Executive Director Nason pointed out that this is the same number of days as requested for 2023 and that the SBOA has submitted its written consent to these race dates.

Executive Director Nason explained that both thoroughbreds and standardbreds race at the Meadowlands Racetrack. She pointed out that there is a conflict in the race dates requested by the THA and New Meadowlands Racetrack. Both permit holders have requested the allocation of race dates at the

Meadowlands Racetrack on Fridays and Saturdays from October 25, 2023 through December 7, 2023. Executive Director Nason went on to explain that negotiations are taking place between these two permit holders to reach an agreement and resolve the conflict.

Executive Director Nason stated that earlier this year, the THA provided notice that it intends to require the conversion of the main track to a dirt track in 2024 so that the thoroughbreds can race 10 additional days at the Meadowlands Racetrack utilizing both the main track and turf course. She explained that after the thoroughbred meet, the main track would then have to be converted back and banked properly for harness racing. She noted that conversion of the main track would significantly reduce the number of weeks available for standardbred racing.

Executive Director Nason stated that N.J.S.A. 5:5-43 requires that the NJRC must act on these applications for race dates prior to December 1st. She noted that the Commission handled a similar conflict in requests for race dates in November 2018, by approving the THA's and New Meadowlands Racetrack's application for 2019 race dates, despite the conflict in the fall schedule, upon the condition that the thoroughbred and standardbred permit holders reach an agreement and submit amended race date requests to the NJRC for the Commission's consideration at its January 2019 meeting.

Executive Director Nason suggested that the Commission take a similar approach at today's meeting. She stated that the Commission could approve the THA's and New Meadowlands Racetrack's application for race dates as submitted upon the condition that the two permit holders reach an agreement and file a request for amended race dates with the Commission for consideration at the January 2024 meeting.

The Executive Director announced that the Commission was opening the meeting to the public to accept comments or questions regarding the requested race dates.

A member of the public, Nancy Grbelja, who serves on the Board of Trustees for the New Jersey Sire Stakes, stated the need for additional standardbred race dates.

Al Ochsner, Executive Administrator of the SBOA, asked if negotiations between the THA and New Meadowlands Racetrack were currently taking place. Executive Director Nason indicated that they are.

There were no additional comments or questions.

Executive Director Nason explained that in considering the allocation of race dates, the Commission must consider the four public interest factors set forth in N.J.S.A. 5:5-44 which are: 1) protect the State's revenue; 2) provide for the continuity of year-round racing to promote the racing industry and the employment which it provides; 3) provide recreational opportunities for residents; and 4) maintain and improve the State's competitive position with regard to neighboring racing states.

Commissioner DeMarzo made a motion to table action regarding the special steeplechase permit. Commissioner Vetrano seconded the motion and all of the Commissioners voted yes.

The Executive Director asked if there is a motion to renew the remaining permits for 2024 and conditionally allocate the requested race dates with the condition that the approval of the race dates for New Meadowlands Racetrack and the THA is conditioned upon the two permit holders reaching an agreement for 2024 race dates at the Meadowlands Racetrack that are not in conflict and submitting amended race date requests to the Commission for consideration at its January 2024 meeting.

Commissioner DeMarzo made a motion to renew the remaining permits for 2024 and to conditionally allocate the requested race dates as indicated by staff. Commissioner Tomaro seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF FREEHOLD RACEWAY'S OFFICIALS, POOLS, POST-TIME, PRICES AND WAGERING FORMAT FOR THE 2024 WINTER/SPRING MEET

Executive Director Nason stated that the Commission is being asked to approve the racing and wagering format for the standardbred dates allocated to Freehold Raceway. She explained that the winter/spring meet will begin on January 5th and continue through May 25th. First-race post-time will be 12:30 pm. Live racing will primarily take place on Fridays and Saturdays with five consecutive Thursdays also being scheduled starting on September 12th.

Executive Director Nason explained that the officials and department heads remain the same as was approved for Freehold Raceway's 2023 summer/fall harness meet, which is currently being run. She further stated that the wagering format has been provided to the Commissioners.

Commissioner Tomaro made a motion to approve Freehold Raceway's officials, pools, post-time, prices and wagering format for the 2024 winter/spring

meet. Commissioner Vetrano seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF NEW MEADOWLANDS RACETRACK'S OFFICIALS, POOLS, POST-TIME, PRICES AND WAGERING FORMAT FOR THE 2024 STANDARDDBRED MEET

Executive Director Nason stated that the Commission is being asked to approve the racing and wagering format for the standardbred dates allocated to New Meadowlands Racetrack. She noted that the 2024 standardbred meet will begin on January 4th and continue through December 28th. First-race post-time will be 6:20 pm except for Hambletonian Day on August 3rd, which will be 12:00 noon.

Executive Director Nason explained that there will be approximately eleven to thirteen live races on Fridays and Saturdays and approximately nine to eleven races on the four scheduled Thursdays at the beginning of January and December.

Executive Director Nason stated that the operating and racing officials largely remain the same as approved for the 2023 race meeting with two changes. The Director of Wagering Services is Michael Refinski and the Director of Racing Properties and Track is Gary Wolff. She further stated that the wagering format has been provided to the Commissioners.

Commissioner DeMarzo made a motion to approve the New Meadowlands Racetrack's officials, pools, post-time, prices and wagering format for the 2024 standardbred meet. Commissioner Tomaro seconded the motion and all Commissioners voted yes.

CONSIDER THE RENEWAL OF LICENSES FOR 2024 FOR THE OFF-TRACK WAGERING FACILITIES ("OTWS") LOCATED IN TOMS RIVER, WOODBRIDGE, BAYONNE, GLOUCESTER TOWNSHIP, AND HILLSBOROUGH

Executive Director Nason stated that the Commission received timely applications from the THA, Freehold Raceway Off-Track and New Meadowlands Racetrack, LLC to renew their respective off-track wagering licenses for each of the five OTWs for calendar year 2024. She noted that staff reviewed the applications and determined them to be complete and in compliance with the requirements in N.J.A.C. 13:74-2.3. Each of the licensees remain in good standing with the Commission.

Executive Director Nason stated that each permit holder is in compliance with the required, minimum number of race dates, which is a condition for renewal of the off-track wagering licenses.

Executive Director Nason explained that draft orders with proposed conditions were provided to the Commissioners and explained that any decision to renew the off-track wagering licenses is subject to the review and approval of the Attorney General.

Commissioner DeMarzo made a motion that the Commission approve the renewal of the off-track wagering licenses for 2024 and authorize the Executive Director to issue the Orders on the Commission's behalf. Commissioner Vetrano seconded the motion and all Commissioners voted yes.

CONSIDER THE RENEWAL OF THE ACCOUNT WAGERING LICENSE FOR 2024

Executive Director Nason stated that the New Jersey Sports and Exposition Authority filed a timely application to renew the account wagering license for calendar year 2024. She stated that staff reviewed the application and determined it to be complete and in compliance with the requirements of N.J.A.C. 13:74-3.2.

Executive Director Nason explained that the Authority remains in good standing with the Commission. She noted that Darby Development, LLC will continue to manage the account wagering system and TVG Network will provide platform services. She further stated that Global Tote, LLC will continue to provide the totalisator services for the account wagering system.

Executive Director Nason stated that each permit holder is in compliance with the required, minimum number of race dates, which is a condition for renewal of the account wagering license.

Executive Director Nason indicated that a draft order with proposed conditions was provided to the Commissioners and explained that any decision to renew the account wagering license is subject to the review and approval of the Attorney General.

Commissioner DeMarzo made a motion that the Commission approve the renewal of the account wagering license for 2024 and authorize the Executive Director to issue the Final Determination and Order on the Commission's behalf. Commissioner Perez seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE NEW JERSEY PERMIT HOLDERS' REQUESTS TO CONDUCT SENDING AND RECEIVING, INTRA AND INTERSTATE SIMULCASTING WITH RACETRACKS, OTWS AND THE ACCOUNT WAGERING SYSTEM IN 2024 AND TO CONDUCT COMMON POOL AND SEPARATE POOL PARI-MUTUEL WAGERING THEREUPON

Executive Director Nason stated that the permit holders and account wagering licensee submitted requests to participate in intra and interstate simulcasting, both sending and receiving, for calendar year 2024. She noted that the requests seek approval to conduct common and separate pool wagering on the simulcasts and simulcasting approval for the OTWs and account wagering system as outlined in the meeting packet. She stated that the requests also seek the Commission's consent to the interstate pari-mutuel wagers pursuant to the Interstate Horseracing Act.

Commissioner DeMarzo made a motion to approve the requests to conduct intra and interstate simulcasting and allow pari-mutuel wagering subject to the conditions in Schedules E, F and G and to consent to the interstate pari-mutuel wagers. Commissioner Tomaro seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE REQUEST OF THE BORGATA HOTEL, CASINO AND SPA ("BORGATA") TO ACCEPT INTRA AND INTERSTATE SIMULCASTING FROM APPROVED RACETRACKS AND TO CONDUCT INTRA AND INTERSTATE COMMON POOL AND SEPARATE POOL PARI-MUTUEL WAGERING IN 2024

Executive Director Nason stated that the Borgata is seeking Commission approval to receive intrastate simulcasts from the New Jersey racetracks, to receive interstate simulcasts from the listed racetracks in the meeting packet and to conduct pari-mutuel wagering upon those simulcast signals in calendar year 2024. She stated that once again, the Commission would need to consent to the interstate wagers pursuant to the Interstate Horseracing Act.

Executive Director Nason explained that each permit holder is in compliance with the required, minimum number of race dates, which is a condition for participation in casino simulcasting. She stated that staff recommend that the Commission approve the intra and interstate simulcasting and pari-mutuel wagering subject to compliance with the conditions in Schedules B and C.

Commissioner DeMarzo made a motion to approve the Borgata's and permit holders' requests subject to the conditions in Schedules B and C, approve the sending tracks, and consent to the interstate wagers. Commissioner Tomaro seconded the motion and all Commissioners voted yes.

CONSIDER MONMOUTH PARK'S REQUEST FOR NEW JERSEY RACING COMMISSION CONSENT TO THE ACCEPTANCE OF FIXED ODDS WAGERS ON OUT-OF-STATE RACES IN 2024 AS REQUIRED BY THE INTERSTATE HORSERACING ACT

Executive Director Nason explained that on October 9, 2023, Darby Development, LLC in conjunction with Betmakers filed a request to obtain NJRC consent to fixed odds wagers in 2024 for the list of racetracks in the meeting packet. She stated that Monmouth Park Vice President Bill Knauf explained that all contracts authorizing fixed odds wagering will be filed with the Division of Gaming Enforcement ("DGE"), which regulates fixed odds wagering, and the NJRC. Mr. Knauf also indicated that Monmouth Park and Betmakers understand that they must obtain all necessary consents required by the Interstate Horseracing Act.

Executive Director Nason noted that the Interstate Horseracing Act requires the consent of the host racing commission in the state where the race is conducted and the off-track racing commission in the state where the wager is accepted. She further stated that the NJRC, as the off-track racing commission, would have to consent to the acceptance of fixed odds wagers in New Jersey on races conducted in another state.

Commissioner DeMarzo made a motion to consent to interstate fixed odds wagers for the racetracks listed in the meeting packet, subject to Monmouth Park's compliance with state and federal laws, including the Interstate Horseracing Act. Commissioner Perez seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF GLOBAL TOTE US, LLC TO CONTINUE TO PROVIDE TOTALISATOR SERVICES AND ACT AS THE HUB FACILITY AT THE MOUNT LAUREL DATA CENTER IN 2024 FOR RACETRACKS, THE OTWS, THE BORGATA AND THE NEW JERSEY ACCOUNT WAGERING SYSTEM

Executive Director Nason stated that Global Tote US, LLC operates the Quantum Data Center in Mount Laurel, NJ where it acts as the hub facility and provides totalisator services for the racetracks, OTWs, the Borgata and the New Jersey account wagering system. She stated that Global Tote continues to be in good standing with the Commission.

Commissioner DeMarzo made a motion to approve Global Tote US, LLC to continue to provide totalisator services and act as the hub facility in 2024 subject to the conditions in Schedule D. Commissioner Tomaro seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE RACETRACK PERMIT HOLDERS, THE OTWS, THE BORGATA AND THE NEW JERSEY ACCOUNT WAGERING SYSTEM TO CONDUCT ADVANCE WAGERING (FULL OR PARTIAL CARD) ON CERTAIN DESIGNATED RACES OF NATIONAL INTEREST IN 2024

Executive Director Nason stated that the racetracks, OTWs, account wagering system and the Borgata have sought approval to conduct advance wagering, full or partial card, on certain designated races of national interest in 2024. She further stated that the list of these races have been provided to the Commissioners in the meeting packet.

Executive Director Nason stated that staff recommend approval subject to two conditions: 1) no advance wagering shall commence until the program information has been received from the host track and is approved by the Supervisor of Mutuels; and 2) all wagering shall be in compliance with the common pool procedures and rules of this Commission.

Commissioner DeMarzo made a motion to approve the requests to conduct advance wagering on the designated races of national interest in 2024 subject to the two conditions recommended by staff. Commissioner Vetrano seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE RACETRACK PERMIT HOLDERS, THE OTWS, THE BORGATA AND THE NEW JERSEY ACCOUNT WAGERING SYSTEM TO OFFER CERTAIN DESIGNATED SPECIAL WAGERS OF NATIONAL INTEREST AND TO CONDUCT ADVANCE WAGERING IN 2024

Executive Director Nason explained that the racetracks, OTWs, account wagering system and the Borgata have sought the Commission's approval to offer and conduct advanced wagering on special wagers of national interest in 2024. She stated that the special wagers have been provided to the Commissioners in the meeting packet.

Executive Director Nason stated that staff recommend approval subject to compliance with the conditions in Schedule F and H.

Commissioner DeMarzo made a motion to approve the requests regarding the special wagers of national interest subject to the conditions in Schedules F and H. Commissioner Perez seconded the motion and all Commissioners voted yes.

Executive Director Nason then stated that throughout the calendar year, the Commission receives additional requests to offer special wagers of national interest and to conduct advance wagering upon them. In past years, the Commission has authorized the Executive Director to consider and approve

additional requests filed during the calendar year subject to the conditions in Schedules F and H. She asked if the Commission will grant the Executive Director this authority for 2024.

Commissioner Tomaro made a motion to authorize the Executive Director to approve requests in 2024 subject to the conditions in Schedules F and H. Commissioner Perez seconded the motion and all Commissioners voted yes.

CONSIDER THE DISTRIBUTION OF THE CASINO SIMULCASTING SPECIAL FUND MONIES (ACCUMULATED IN 2022) TOTALING \$353,160.99

The Executive Director explained that at the September meeting, the Commission closed the record and appointed Commissioner Keegan, Commissioner Tomaro and Commissioner Vetrano to the CSSF Committee to consider the requests and report back with their recommendations for the distribution of these monies. She stated that the Committee met on November 2, 2023; however, due to a medical issue, Commissioner Keegan was not able to participate.

Executive Director Nason then summarized the committee's findings and recommendations. She stated that each of the racetracks requested monies pursuant to N.J.S.A. 5:12-205(d)(1) and (d)(2). She indicated that Monmouth Park requested "the most significant share of available CSSF monies." Freehold Raceway requested "a reasonable portion of available funds." New Meadowlands Racetrack requested "an appropriate portion" of the monies.

Executive Director Nason explained that the Committee considered category N.J.S.A. 5:12-205(d)(1) (a racetrack can demonstrate that its financial well-being has been negatively affected by casino simulcasting) and also considered N.J.S.A. 5:12-205(d)(2) (the Commission finds the racetrack to be financially distressed). She pointed out that the Committee found that all three racetracks should qualify under both N.J.S.A. 5:12-205(d)(1) and N.J.S.A. 5:12-205(d)(2).

Executive Director Nason stated that regarding N.J.S.A. 5:12-205(d)(1), based upon the racetrack's submissions, the Committee recommends that the Commission find that each racetrack has demonstrated that its financial well-being has been negatively affected by casino simulcasting. She stated that in considering the submissions of the racetracks, the Committee did not agree with Monmouth Park's assertion that it was more negatively affected by casino simulcasting than the other two racetracks. The Committee found that Monmouth Park did not submit data in support of that assertion.

Executive Director Nason explained that regarding N.J.S.A. 5:12-205(d)(2), the Committee recommends that the Commission find that each racetrack has

demonstrated that it is financially distressed. She stated that in reaching its finding, the Committee considered that Freehold Raceway reported a net loss of approximately \$6.7 million from track operations. New Meadowlands Racetrack reported a consolidated net loss of \$941,000 and Monmouth Park reported that 2022 “was nearly a wash” and noted continuing debt obligations to the Sports and Exposition Authority through 2024.

The Executive Director stated that as a result, the Committee recommends that the Commission determine that all three racetracks qualify to receive CSSF monies pursuant to N.J.S.A. 5:12-205(d)(1) and N.J.S.A. 5:12-205(d)(2). She explained that the Committee recommends, based upon what the Commission has done in prior years, that 80% (\$282,528.79) of the CSSF monies be distributed equally among the three racetracks. Executive Director Nason explained that 80% would result in \$94,176.26 being distributed to each of the three racetracks. There is an extra penny which would go to Monmouth Park.

Executive Director Nason explained that the Committee then considered the next priority category. N.J.S.A. 205(d)(3) is a horsemen’s organization which will use the money to fund a project that the Commission determines will be beneficial to the racing industry. The Executive Director pointed out that in its submission, the SBOA requested “a fair distribution” of the remaining funds, which will be used for the Health and Welfare Trust and to support the Backstretch Community Assistance Program. The SBOA indicated that it would be willing to distribute approximately 12% of the funds it receives to the Standardbred Retirement Foundation and approximately 3% to Horse Rescue United. The THA requested 5% of the CSSF monies, which will be used for health programs that include dental, prescription and eyeglasses as well as sponsoring weekly health clinics. The TBA requested \$35,316.10 that it will use for the distribution of its 2023 New Jersey-bred incentive program.

Executive Director Nason reported that the Committee found, and recommends that the Commission find, that all three horsemen’s organizations have identified projects that are beneficial to the horse racing industry. The Committee recommends that the remaining 20% (\$70,632.20) of the CSSF monies be divided equally by breed. The Executive Director stated that this distribution is consistent with what the Commission has done in prior years.

The Executive Director reported that the Committee recommends the Commission distribute \$35,316.10 to the SBOA; \$17,658.05 to the THA; and \$17,658.05 to the TBA. The Committee recommends that the Commission determine that the SBOA shall use \$30,018.68 for the health benefit programs, \$4,237.94 for the Standardbred Retirement Fund and \$1,059.48 for Horse Rescue United. The Committee recommends that the Commission direct that the monies distributed to the THA shall be used to fund the health, dental, prescription and eyeglass benefit programs identified in the THA’s submission

and direct that the monies distributed to the TBA shall be used for its 2023 New Jersey-bred incentive program.

Executive Director Nason stated if the Commission agrees with these recommendations, no monies would remain for distribution pursuant N.J.S.A. 5:12-205(d)(4), the last category, which is all racetracks on an equal basis.

Executive Director Nason asked Commissioner Tomaro and Commissioner Vetrano if she accurately summarized the Committee's determinations, findings and recommendations. Commissioner Tomaro and Commissioner Vetrano concurred that the Executive Director accurately summarized the committee's determinations, findings and recommendations.

Commissioner DeMarzo made a motion to adopt the findings of the CSSF Committee and to distribute the CSSF monies accumulated in 2022 as recommended by the Committee. Commissioner Tomaro seconded the motion and all Commissioners voted yes.

Executive Director Nason thanked Commissioner Tomaro and Commissioner Vetrano for serving on the Committee.

CONSIDER APPROVAL OF THE 2024 BACKSTRETCH ADVISORY COMMITTEE BUDGET

Executive Director Nason explained that N.J.S.A. 5:5-44.8 creates a Backstretch Benevolency Programs Fund, which is funded by designated charity race days and monetary penalties imposed by the Commission for statutory and regulatory violations. The Executive Director added that the THA and SBOA both provide financial assistance to this important program, which is used to advance the health, safety and welfare of backstretch employees.

The Executive Director stated that the Backstretch Advisory Committee met by telephone on October 24, 2023 and voted to approve a 2024 budget for submission to the Commission. She advised that the proposed budget is \$197,225, which remains unchanged from the budget the Commission approved for 2023.

Executive Director Nason explained that the Backstretch Advisory Committee, which is led by Dr. Chris Samaha, provides extremely worthwhile programs and services to backstretch employees that include counseling, health clinics, screenings, vaccinations and flu shots. The program also provides recreational and social activities and events.

Executive Director Nason stated that staff recommend approval of the 2024 budget totaling \$197,225 and recommend equal quarterly payments of \$49,306.25 be made starting on or about January 1, 2024.

Commissioner DeMarzo made a motion to approve the budget with equal quarterly payments starting on or about January 1st. Commissioner Vetrano seconded the motion and all Commissioners voted yes.

CONSIDER THE INITIAL DECISION IN RONALD J. BURKE V. NJRC, OAL DOCKET NO. RAC 01559-22

Executive Director Nason advised that on September 11, 2021, the horse “De Los Cielos Deo” trained by Ronald J. Burke (Petitioner) finished first in the second race at the Meadowlands Racetrack. She stated that the post-race blood sample tested positive for hydroxylidocaine, a metabolite of lidocaine, above the permitted threshold amount. Split sample testing confirmed the positive.

The Executive Director explained that the Commission’s Board of Judges conducted a hearing, found Petitioner violated N.J.A.C. 13:71-23.1, 23.6 and 23.7 and imposed a 15-day suspension, \$500 fine, disqualification of the horse, loss of purse and 2 MMV points. She stated that Petitioner appealed and the matter was transmitted to the Office of Administrative Law (“OAL”) as a contested case.

Executive Director Nason stated that on September 14, 2023, the Administrative Law Judge (“ALJ”) issued an initial decision which affirmed the Board of Judges’ findings of violations and the penalties imposed. She advised that at the OAL, Petitioner did not dispute that the horse tested above the threshold. Arguing that the penalties were excessive, Petitioner asserted that he should receive a lesser penalty because the suspension will have a substantial monetary impact on him due to the significant number of horses he races annually.

Executive Director Nason pointed out that the ALJ did not agree. Accepting Presiding Judge Salerno’s testimony that the Board of Judges treats all trainers equally and that the penalty is consistent with the ARCI Guidelines, the ALJ affirmed the penalties imposed. The ALJ also rejected several other arguments advanced on behalf of Petitioner, including the assertions that the positive could have been caused by human contamination or post-race exposure.

Executive Director Nason stated that no explanation or exceptions were filed and the record closed. As a result, the initial decision is before the Commission to adopt, reject or modify.

Commissioner DeMarzo made a motion to adopt the initial decision. Commissioner Perez seconded the motion and all Commissioners voted yes.

CONSIDER THE INITIAL DECISION IN MARK N. SHERIDAN V. NJRC, OAL DOCKET NO. RAC 03376-23

Executive Director Nason advised that on February 4, 2022, the Board of Judges conducted a hearing and determined that Mark N. Sheridan (Petitioner) violated the Commission's whipping rule at N.J.A.C. 13:71-20.15(c)(3) and (4) while driving "Dreamella" in the sixth race at Freehold Raceway on December 3, 2021. The Executive Director stated that the Judges found that Petitioner used the whip with other than wrist action, raised his whipping arm above his shoulder, and moved his arm in an exaggerated manner. As a result, they imposed a 5-day suspension and \$500 fine.

Executive Director Nason stated that Petitioner appealed and requested a stay. The stay was granted and the matter was transmitted to the OAL as a contested case on February 25, 2022. She explained that the OAL returned the case to the NJRC on February 13, 2023 because Petitioner failed to appear for several telephone conferences without sufficient explanation. By letter dated March 2, 2023, Petitioner asked the Commission to reinstate his appeal, explaining that his failure to appear was due to his misunderstanding of one of the scheduled dates. She stated that staff accepted the explanation and transmitted the matter back to the OAL on April 20, 2023.

Executive Director Nason explained that on September 25, 2023, the ALJ issued an initial decision which dismissed Petitioner's appeal for failure to appear at two scheduled telephone conferences on September 11 and 20, 2023 without explanation. The ALJ indicated that the OAL gave Petitioner notice of the scheduled calls by both email and first-class mail and none of the notices were returned as undeliverable. Citing Petitioner's failure to provide an explanation, the ALJ issued an initial decision which dismissed the case.

Executive Director Nason stated that no explanation or exceptions were filed and the record closed. As a result, the initial decision is before the Commission to adopt, reject or modify. Executive Director Nason pointed out that if adopted, staff will issue a ruling imposing a 5-day suspension and a \$500 fine for the violations found by the Board of Judges. Staff will also refer this matter to the Board of Judges to conduct a hearing to determine if the appeal was frivolous in accordance with N.J.A.C. 13:71-3.6.

Commissioner Tomaro made a motion to adopt the initial decision. Commissioner Perez seconded the motion and all Commissioners voted yes.

CONSIDER THE INITIAL DECISION IN MARTEN WOODHOUSE V. NJRC, OAL DOCKET NO. RAC 17893-19

Executive Director Nason explained that Petitioner, Marten Woodhouse, was the trainer of the horse “Kingslayer,” which won the second race at Monmouth Park on May 12, 2018. After the race, blood and urine samples were taken from the horse and sent to Truesdail Laboratories (“Truesdail”) for testing. The post-race blood sample tested positive for both Phenylbutazone and Flunixin, and the presence of two NSAIDs is known as a stacking violation. She stated that the Board of Stewards conducted a hearing and determined that the test results violated N.J.A.C. 13:70-14A.6, 14A.9 and 20.7. The stewards imposed a 15-day suspension, \$500 fine, disqualified the horse and ordered loss of purse.

The Executive Director advised that Petitioner appealed and the matter was transmitted to the OAL as a contested case.

Pointing out this case’s lengthy procedural history, Executive Director Nason explained that on September 5, 2019, the ALJ issued an initial decision which reversed the decision of the Board of Stewards and dismissed its determination of violations and the penalties imposed due to multiple typographical errors in Truesdail’s Data Packet.

Executive Director Nason stated that at its November 20, 2019 meeting, the Commission remanded this matter to the OAL to resume the hearing and accept additional testimony and evidence related to the testing of the duplicate blood sample, which was sealed and in storage at Truesdail. She advised that the Commission instructed Truesdail to test the duplicate blood sample, prepare a complete Data Packet and provide testimony to support the test results.

The Executive Director stated that on remand, the OAL hearing was continued on August 22 and 29, 2022. On September 25, 2023, the ALJ issued an initial decision which again reversed the decision of the Board of Stewards and dismissed its determination of violations and penalties imposed. The ALJ expressed both procedural and substantive concerns regarding the testing performed by Truesdail on the duplicate blood sample that prevented her from accepting the testing results as reliable.

Executive Director Nason pointed out that first, the ALJ faulted the laboratory because it did not perform complete testing on the duplicate sample. Instead of performing a screening test and then a confirmatory test, Truesdail only performed a confirmatory test, which the ALJ viewed as a reconfirmation of the findings that had previously been called into question.

Second, the ALJ could not accept the repeat test results for the Flunixin, which reported an increase in the level of Flunixin when compared to the level reported in the initial set of tests. Noting that blood samples may degrade with the passage of time, the ALJ could not accept the test results for the duplicate sample as accurate because the increase in the level of Flunixin could not be scientifically explained.

Executive Director Nason stated that the ALJ rejected testimony proffered by Truesdail explaining that the levels it reported were estimates and the levels are irrelevant because only the presence of the two drugs need be proven. Without accurate test results for the Flunixin, the ALJ could not conclude that the stacking violation occurred and, as a result, the ALJ reversed the decision of the Board of Stewards and dismissed its determination of violations and the penalties imposed.

Executive Director Nason indicated that counsel for the Commission filed exceptions, Petitioner filed a reply to the exceptions and the record closed. The initial decision is before the Commission to adopt, modify or reject.

Commissioner Vetrano made a motion to adopt the initial decision. Commissioner Tomaro seconded the motion and all Commissioners voted yes.

ITEMS FOR DISCUSSION AND INFORMATION

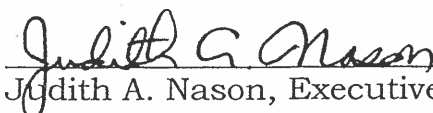
The Executive Director advised that copies were available of the 2024 Commission meeting dates. She also advised that copies of a breakdown of New Jersey wagering on the Far Hills Steeplechase Meet on October 21, as well as a breakdown of New Jersey wagering on the 2023 Breeders' Cup on November 3 and 4 were also available.

Finally, the Executive Director asked if anyone would like to comment or bring new business to the Commission's attention.

There were no additional comments or questions.

Commissioner Vetrano moved that the meeting be adjourned. Commissioner Perez seconded the motion and all of the Commissioners voted yes.

ATTEST:



Judith A. Nason, Executive Director