

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, February 12, 2019 in the Red Rocks Conference Room Suite 300 at 1707 Cole Blvd Lakewood, Colorado 80401. Chairwoman Inmann called the meeting to order at 9:34 AM.

Members Present

Pam Inmann, Chairwoman
Tina Estes (by phone), Vice-Chairwoman
Sandra Bowen, Member
David Lynn Hoffman, Member
Lori Scott DVM, Member

Staff Present

Cory Amend, Senior Director of Enforcement Division
Daniel Hartman, Director of Division of Racing Events
Ed Kulp, Agent in Charge
Greg Lamb, Division Auditor
Zach Ceriani, Legal Assistant
Bradford Jones, Assistant Attorney General representing the Division of Racing Events
Suzanne Karrer, Communications Manager
Kathleen Apodaca, Licensing Supervisor
Debbie Allen, Business Analyst
Breanne Rodlin, Assistant to Division Director

Also Present

An attendance sheet is attached hereto and made a part of these minutes.

Approval of Minutes of October 9, 2018

After establishing that a quorum of Commission members was present, a motion was made by Commissioner Hoffman, Seconded by Commissioner Scott and unanimously carried to approve the minutes of October 9, 2018.

Scheduled Rule-Making Hearing

Pursuant to the published Notice of Rule-Making Hearing issued on and dated January 10, 2019, Chairwoman Inmann convened the scheduled Rule-Making hearing at 9:40 a.m. Mr. Bradford Jones, Assistant Attorney General serving on behalf of the Colorado Racing Commission and the Division of Racing Events, as well as Mr. Dan Hartman, Director of the Division of Racing Events, provided guidance and advice to the commission during the Rule-Making Hearing.

As a preliminary matter, Commissioner Inmann provided instructions in relation to the conduct of the Rule-Making Hearing based upon guidance from Assistant Attorney

General, Bradford Jones. Commissioner Inmann advised that in order to streamline the Rule-Making Hearing process, the Commission would address each rule separately and, if it desired to adopt the rule either as proposed or with additional amendments, it could collect in an “adoption group” and move its intention to adopt the rule after consideration had been given to all rule proposals. Notice was taken that, in the event that an action on any rule(s) was/were held in abeyance and the Rule-Making Hearing was continued until the Commission’s next meeting, the Commission could defer taking final action to adopt the rules until that time.

Mr. Dan Hartman, Director of the Division of Racing Events, explained that in accordance with the Governor’s directive to all State agencies, the Division had reviewed its rules and processes in order to determine whether certain rules had become outdated and/or no longer conformed to existing practices. He noted that, pursuant to Executive Order #2, each State agency was charged by the Governor with the responsibility for evaluating 20% of its rules on an annual basis for the aforementioned purpose. He stated that a rule review workshop open to all interested parties had been conducted to allow industry participation in the initial phase of the rule consideration process and that rule proposals and recommendations had been solicited and accepted from industry representatives for presentation during this Hearing. Further, he informed the Commission and attendees that the Division of Racing Events had complied with all preliminary rule-filing requirements, including submission of all rule proposals to the Office of the Secretary of State and the Department of Regulatory Agencies and Publication of the Notice of Rule-Making Hearing in the Colorado Registry whereupon he presented the packet of rules for Commission review. Mr. Hartman apprised attendees that copies of the rules had been made available in print form at the meeting and electronically on the Division’s website. Additionally, he stated that certain rule proposals endorsed by the Association of Racing Commissioners International Model Rules Committee had been included for consideration at this time.

Acknowledgement was then made by both the Commission and the Division that an annual review of its entire rulebook is undertaken in order to 1) ensure that its existing rules meet all statutory requirements; 2) determine whether the rules presently in effect accord with current industry practices; 3) correct any errors or deficiencies in the rules; and 4) consider new rule proposals as well as proposals to amend or repeal certain rules. Mr. Hartman explained that any published rule proposal brought forward for consideration may be modified during this Rule-Making Hearing.

During the course of this Rule-Making Hearing, the Commission entertained views and opinions from industry representatives and other interested parties. All attendees were afforded an opportunity to present arguments for and against adoption of each rule under consideration.

Chairwoman Inmann inquired whether the Commission desired to combine its review of the rules in question or address them separately. Mr. Hartman advised to adhere to past years rulings and address each rule separately. Mr. Bradford Jones, Assistant Attorney General, then confirmed that each rule could be reviewed individually and then

adopted as a whole after moving to accept rules from the rule adoption group after hearing/discussing each rule individually. Commissioner Inmann explained that Mr. Hartman would give a brief explanation of each rule change proposal and/or amendment and then the floor would be opened for discussion amongst the public as well as the commission.

Thereupon, Mr. Hartman presented each of the following rules for individual consideration:

- Consideration of Proposed New Rule 3.601: Mr. Hartman advised that the purpose for proposing to implement this rule was to improve the health and wellbeing of Jockeys while participating in Colorado horse racing events. This rule was implemented by the ARCI after being introduced by the Jockey's Guild to put into place a baseline standard and protocol procedure for identifying/treating/clearing concussions in Jockeys. During the discussion, Commissioner David Lynn Hoffman commented asking what precedent sets a baseline for concussion cases. Mr. Hartman and Commissioner Scott responded that physicians have a protocol based on research from professional sports that sets procedures for evaluation and treatment of concussions, as well as sets a timeline for the jockey/athlete to return back to competition. A motion was made by Commissioner Hoffman, seconded by Commissioner Scott, and unanimously carried to approve the intention to adopt proposed new rule 3.601 of the Colorado Racing Commission Rules as presented and to move it into the adoption group.
- Consideration of Proposed New Rule 4.713: Mr. Hartman explained that the purpose for implementing this new rule would be to conform to the Jockey Club's digital records transition process. He stated that beginning with the foal crop of 2018, the American Jockey Club mandated insertion of digital microchips into all Thoroughbred foals. The digital microchip number matches the registration number placed on the registration paper of the animal. Said registration papers would be computerized, equipped with not only digital identification numbers but also with digital photographs of each specified horse. Mr. Hartman affirmed that this policy was implemented as an ARCI model rule and was additionally allowing the American Jockey Club to transition to a paperless system, conforming to the digital age. No comments were made and no objections were raised to proposed new rule 4.713. A motion was thereupon made by Commissioner Hoffman, seconded by Commissioner Bowen, and unanimously carried to approve the intention to adopt proposed new rule 4.713 of the Colorado Racing Commission Rules as presented and to move it into the adoption group.
- Consideration of Proposed New Rule 5.314: Mr. Hartman identified that the purpose for proposing new rule 5.314 was to integrate a policy generated by discussions with the American Quarter Horse Association and ARCI, prohibiting

concurrent use (stacking) of medications or unauthorized substances bearing similar pharmacological properties and/or physiological effects—namely Clenbuterol and Albuterol. These unauthorized substances may be found in either blood or urine and if found shall be deemed to have similar properties or effects, they would be classified under the same subsection of rule 5.300.

Mr. Hartman concluded that overall, this rule would aid in the elimination of medication “masking” within drug tests. This rule would also exclude the combination or stacking of Non-Steroidal Anti-Inflammatory Drugs. Commissioner Inmann began discussion by asking how detection of multiple, same-acting drugs was determined. Mr. Hartman replied by confirming that the laboratory scientists notify the association of drug compounding and the laboratory would also classify the penalty of the infraction. Following discussion, a motion was thereupon made by Commissioner Hoffman, seconded by Commissioner Scott, and unanimously carried to approve the intention to adopt proposed new rule 5.314 of the Colorado Racing Commission Rules as presented and to move it into the adoption group.

- Consideration of Proposed Modification of Rule 6.114: Mr. Hartman described that in 2017, Legislative Senate Bill 118-182 passed an amendment to the Racing Division’s source market fee guidelines. He explained that the Division was reaching the threshold dollar amount of source market fees where money kept was only enough to meet appropriation. New legislation states that excess funds are automatically placed into the Horse Purse Trust Account. Mr. Hartman stated that this new legislation would also allow the Association (Racing Division/ Arapahoe Park) to request that money also be used for capital improvements. Mr. Hartman stated that the proposed new rule will put into place a process and/or procedure in which the director must go through to allocate funds to capital improvements. He also suggested that the new rule be accepted with the amended sentence “All requests shall contain (*begin amendment*) a **statement that the Horseman’s Association has been consulted and has approved of the release of funds to the Racing Association** (*end amendment*), a brief statement of the issue for which the funds are requested, and shall be accompanied by documentation evidencing the cost incurred for resolving the issue or proposed cost of the improvement.”

Following Mr. Hartman’s description and suggestions, Commissioner Inmann opened the floor for discussion. An individual from the public asked for a definition of the identified Association. Mr. Hartman responded that the Association refers to the licensed racetrack which owns the Horse Purse Trust Account. Assistant Attorney General, Bradford Jones, explained that if the source fees are not requested by the racetrack or racing Director for capital improvement, then excess funds stay in the Horse Trust Purse Account based on language of the new legislative statute. Following a question asking if the Horseman’s Association may allocate funds on their own accord to racetrack, Shannon Rushton addressed that the excess source market funds may be

immediately and directly applied to capital improvements when there are events such as emergency situations—including inclement weather—or when facilities need immediate fixes for the betterment of the meet for horsemen. He explained that these events are the reason for the amended language requiring approval from the Horseman’s Association upon fund requests of the Director and Association (Racetrack). After discussion from Commissioners as well as the public, a motion was thereupon made by Commissioner Hoffman, Seconded by Commissioner Bowen, and unanimously carried to approve the intention to adopt proposed modified rule 6.114 of the Colorado Racing Commission Rules as presented with suggested amendments and to move it into the adoption group.

- Consideration of Proposed New Rule 11.110: Mr. Hartman stated that proposed new rule 11.110 would put into place a protocol for diagnosing, treating, and clearing concussions of jockeys at Arapahoe Park by working Emergency Medical Technicians and other hired medical professionals on the racetrack. Through deliberations with the ARCI and the Jockey’s Guild at the November 2018 rule-making workshop, it was decided that the proposed concussion protocol would apply to all participants in contact with horses while at Arapahoe Park. Mr. Hartman explained that the assessment protocol shall include the most current Sport Concussion Assessment Tool Examination, when necessary, and be performed by a medical professional authorized in that jurisdiction to perform such evaluations. He stated that there would be a concussion protocol baseline to be established used as a comparative tool for the diagnosis and return-to-ride/work procedures. These procedures would educate other racetrack participants and staff to look out for the safety of all riders and other horse-involved participants.

Discussion was then opened by Commissioner Inmann where she asked how these protocols and procedures would be enforced and who would enforce them. Mr. Hartman responded that EMT’s during the Races and medical professionals during work and exercise times would enforce these procedures. Commissioner Hoffman then asked if the language stating “all persons” pertained to pony riders, exercise riders, and trainers—to which Mr. Hartman confirmed with a yes answer. Following discussion, a motion was thereupon made by Commissioner Bowen, seconded by Commissioner Hoffman, and unanimously carried to approve the intention to adopt proposed new rule 11.110 of the Colorado Racing Commission Rules as presented and to move it into the adoption group.

- Consideration of Proposed Modification of Rule 11.404: Mr. Hartman identified that this rule needed updated, as it was written to apply to landline phone booths that required shut-down after post of the first race, as to prohibit race information from being transmitted unlawfully via telephone. He explained that the rule is still necessary; however, it should be updated to strike the sentence “Associations may allow telephones in their respective racetrack or simulcast

facilities during their meet for the benefit of the public and press for transacting ordinary business during a race program.” Commissioner Inmann commented that this rule would be hard to enforce. Mr. Hartman replied informing the Commission that if federal investigations caught phone transmissions during the racing program or if staff identified individuals participating in phone activity while at simulcasting tables, then the rule would be heavily enforced. Following discussion, a motion was thereupon made by Commissioner Bowen, seconded by Commissioner Hoffman, and unanimously carried to approve the intention to adopt proposed modified rule 11.404 of the Colorado Racing Commission Rules as presented and to move it into the adoption group.

- Consideration of Proposed New Rule 11.465: Mr. Hartman explained that an early warning detection system protocol for racetracks was passed as an ARCI national model rule in November 2018 and was forwarded by the Jockey’s Guild in an effort to keep athletes safer. He indicated that the proposed new rule 11.465 would be effective during lightning or other inclement weather to which spectators and/or participants could be injured or in danger. Mr. Hartman described that an emergency alert system would be constructed to notify stewards to cancel/pause a race after lightning is detected within an 8 mile radius of the racetrack which shall remain in effect until a minimum of 30 minutes has passed since the last strike is observed within that 8 mile radius. He also stated that there would be a person designated to the emergency alert position who shall be responsible for monitoring the system and who shall notify the stewards if conditions exist that warrant delay or cancellation of a performance. This designated individual would also be tasked with issuing an emergency warning to notify the public of threatening weather conditions.

There was a brief discussion about public safety at the track during such inclement weather conditions as tornadoes. Following discussion, a motion was made by Commissioner Bowen, seconded by Commissioner Scott, and unanimously carried to approve the intention to adopt proposed new rule 11.465 of the Colorado Racing Commission Rules as presented and to move it into the adoption group.

- Consideration of Proposed New Rule 12.127: Mr. Hartman explained that proposed new rule 12.127 developed after patrons filed an official complaint claiming that after betting at designated Off-Track Betting (OTBs) facilities, they were then sent to a different location to cash betting tickets, causing major inconvenience. He stated that the proposed new rule aimed to direct OTBs to have minimum cash reserves defined as “adequate resources” which is 50% of daily average wagering handle or \$5,000, whichever is greater. He suggested that the proposed new rule would ensure business are able to accommodate customers by having adequate monetary resources on hand to pay all tickets as well as give the option of issuing a check if the winning ticket exceeds a certain value. No comments were offered and no objections were raised to allowing the

subject rule to be moved into the adoption group. A motion was thereupon made by Commissioner Scott, seconded by Commissioner Hoffman, and unanimously carried to approve the intention to adopt proposed new rule 12.127 of the Colorado Racing Commission Rules as presented and to move it into the adoption group.

- Consideration of Proposed Modification of Rule 12.178: Mr. Hartman stated that the modification of proposed rule 12.178 was to adhere to the new piece of legislation which changed deadlines for cash out vouchers from a non-existent limit, to requiring ticket cash-out within one year of receipt. He explained that due to the new law, any voucher over 1 year old that had not been cashed, reverted back to association [Racetrack] that issued them. No comments were made and no objections were raised to proposed modification of Rule 12.178. A motion was thereupon made by Commissioner Scott, seconded by Commissioner Bowen, and unanimously carried to approve the intention to adopt proposed modified rule 12.178 of the Colorado Racing Commission Rules as presented and to move it into the adoption group.
- Consideration of Proposed Modification of Rule 12.400: Mr. Hartman referred to the proposed modification of Rule 12.400 as a “clean-up rule.” He explained that in the past, simulcasting facilities required participants to complete and return a large contract. He stated that as of now, facilities only require participants to complete and return a single sheet of paper. The required document would request the place of simulcast betting, the date the contract was read, and the date the contract was signed in order to ensure that the division auditor may track all incoming and outgoing funds. No comments were made and no objections were raised to proposed modification of Rule 12.400. A motion was thereupon made by Commissioner Scott, seconded by Commissioner Hoffman, and unanimously carried to approve the intention to adopt proposed modified rule 12.400 of the Colorado Racing Commission Rules as presented and to move it into the adoption group.

There being no further rules to consider, a motion was made by Commissioner Bowen, seconded by Commissioner Hoffman, and unanimously carried to consider to adopt all proposed modifications of rules: 6.114, 11.404, 12.178, 12.400 and to consider to adopt all proposed new rules: 3.601, 4.713, 5.314, 11.110, 11.465, 12.127. A copy of the rules will be attached to and made apart of the March 12, 2019 Minutes.

There being no further rules to consider, a motion was made by Commissioner Bowen, seconded by Commissioner Hoffman, and unanimously carried to close the rule making hearing. Notice was taken that the Commission would convene a new Rule-Making Hearing at the March 12, 2019 meeting of the Colorado Racing Commission at which time the Commission will consider and discuss Proposed Modified Rule 5.441.

Following the acceptance of the aforementioned proposed modified and new rules and the motion to accept continuance of the Rule-Making Hearing, Mr. Hartman invited meeting attendees to call-in for the Colorado Horseman's Association (CHA) meeting to be held at 2 p.m. that day of February 12, 2019 where the callers and CHA board members would discuss the revision of Proposed Rule 5.441. The Rule-Making hearing was concluded at 10:50 a.m.

Acknowledgement of Property Acquisition by Twin Rivers Holdings- Bruce Seymore

A representative from Twin Rivers Holdings, Inc was invited to take the floor, by Commission Chairwoman Inmann, to discuss property acquisitions in Colorado, Rhode Island, Tennessee, and Delaware that have the potential to positively impact Colorado Horse Racing.

Recess

At 10:55 a.m. Chairwoman Inmann accepted Director Mr. Dan Hartman's request for a brief recess.

Reconvening of Regular Commission Meeting

At 11:02 a.m. Chairwoman Inmann reconvened the regular Commission meeting.

Presentation Regarding Distribution of Owners/Breeders Awards and Supplemental Purse Fund Monies for Calendar Year 2018—Greg Lamb

Mr. Greg Lamb, Auditor for the Division of Racing Events, presented a final accounting of the Owners/Breeders Awards and Supplemental Purse Fund monies for distribution to the various breed organizations for calendar year 2018. Mr. Lamb apprised the commission that, pursuant to the Racing Statute, no breed organization may receive more than eighty percent (80%) of the total accrual of fund monies. Mr. Lamb advised the Commission that, since the Thoroughbred accrual exceeded the 80% allowable distribution limit, it had been necessary to modify the percentage to be distributed to the Thoroughbred organization to comply with the statutory mandate. Additionally, he stated that no funds had been accrued in 2018 for distribution to the Appaloosa or Paint Horse breed organizations and, further, that there is no active Harness racing organization in Colorado for receipt of funds or any existing organization to which funds derived from Mule racing could be disbursed.

Mr. Lamb advised that the Owners and Breeders Awards and Supplemental Purse Fund accruals are calculated in the following manner: 1) by using the current year's percentages from wagering on live races applied to the funds accumulated from all wagering on live and simulcast races during the year (specified in rule #9.316); 2) by using the prior year's percentages from wagering on all live and simulcast races during that year

applied to the uncashed simulcast ticket proceeds from that same prior year (specified in rule #9.318) (for calendar year 2018, these uncashed tickets in the total of \$244,995.49 are from the 2018 live and simulcast meet held by Arapahoe Park); and 3) by using the applicable live and simulcast wagering percentages for any association's uncashed ticket proceeds from the prior year's live racing meet (specified in Rule #9.318) (for calendar year 2018, these uncashed tickets in the amount of \$220,124.79 are from the uncashed simulcast 2017 race meet held at Arapahoe Park and the uncashed tickets in the amount of \$24,870.79 are from the 2017 Arapahoe Park live meet). He noted that in the event that a three-year period elapses during which no distribution is made to a given breed, that breed's fund accrual may be applied to purses by the racing association.

Mr. Lamb reported that: 1) the total earnings from wagering in 2018 amounted to \$891,016.95; 2) and that the total earned from 2017 uncashed tickets on both live and simulcast races was \$244,995.49; 3) that the interest earned in 2018 was \$1,376.45 after subtracting the bank fee of \$4,235.00, resulting in a total Owners'/Breeders' Awards and Supplemental Purse Fund accrual for 2018 of \$1,133,153.89.

Mr. Lamb observed that the difference between the total amount of the accrual and the total amount to be distributed/retained in escrow (\$986,353.89) reflects the \$146,800 advance granted by the Commission in May 2018 for release to the Colorado Thoroughbred Breeders Association in July 2018.

Mr. Lamb read into the record the following individual totals to be disbursed to each breed organization:

Colorado Thoroughbred Breeders Association	\$759,723.11
Rocky Mountain Quarter Horse Association	\$190,731.21
Colorado Owners and Breeders of Racing Arabians	\$24.50
Rocky Mountain Paint Racing Club	\$00.00
Colorado Appaloosa Racing Association	\$00.00
Mule Award	\$00.00

The Commission took notice that a balance of \$35,875.07 remains from the escrowed harness purse monies. Notice was taken that, in 2009, distribution of \$172,000 was made by Arapahoe Park pursuant to 12-60-705(5) of the Colorado Revised Statutes relating to the escrowed harness purse funds. Notice was also taken that in 2008, 2009, 2010, 2014, 2015, and 2016 but not in 2011, 2012, 2013, 2017, or 2018 Arapahoe Park accepted Mule races from California. In 2008, an escrow account was established for that breed until such time as a Mule Breed organization in Colorado is recognized by the Commission to receive those funds. Such recognition would also be subject to notification that such an organization has by-laws in effect for the purpose of distributing funds.

Mr. Lamb recommended that the Commission accept the subject report and authorize the Division to distribute to each specified breed organization their reported Awards and Supplemental Purse Fund monies for distribution to the various breed organizations for calendar year 2018, a motion was made by Commissioner Hoffman,

seconded by Commissioner Bowen, and unanimously carried to adopt the recommendations made by Mr. Lamb and to grant approval to the Division to release the fund monies specified in today's agenda packet and request issuance of State warrants for disbursement of the reported fund accruals pursuant to statute.

Scheduled Hearings in the matter of Licensed Trainer Jose Moreno and in the matter of Licensed Owner/Trainer Manuel Almanza

Chairwoman Inmann advised the Commission that Director Mr. Dan Hartman would discuss the continuance of the previously scheduled hearings to the March and/or April Commission meetings. Mr. Hartman explained that both veterinarians, who were required to testify, were both out of the country; therefore, the proposed hearings would have to be continued at the March and/or April Commission meetings.

After mentioning the possibility of hearings at future meeting dates, Commissioner Inmann requested the official dates for the future Commission meetings. Mr. Hartman confirmed that future Commission meetings would be held on March 12, 2019; April 9, 2019; and May 14, 2019. He also mentioned that at the March 12th meeting, the Commission would hold a continued Rule-Making hearing for Proposed Modified Rule 5.441 as well as a potential hearing in the matter of one of the aforementioned trainers. He also stated that the May 14th meeting will include completion of the application for the pending race meet.

Public Comment Before the Commission- Kathy Stoker-Hill

Following discussion of future meeting dates, Chairwomen Inmann invited Kathy Stoker-Hill, Racing Director/Representative for the Rocky Mountain Quarter Horse Association, to speak before the commission. She explained to the Commission that at the end of the 2018 race meet, Quarter Horse owners failed to receive their winnings/funds as they were unaware of the December 30, 2018 deadline to email and/or mail the division a formal funds request along with a W-9 form. Mr. Hartman addressed that the issue had been filed as a formal complaint to the division and was being handled. He also explained the reason for funds being reverted back to the Arapahoe Park purses after December 30th, was due large amounts of purse winnings sitting untouched in years past; therefore, the race track decided to utilize untouched funds to benefit horsemen for the upcoming year.

Mr. Bruce Seymore, Executive Director of Colorado Operations for Mile High Racing and Entertainment, also addressed the complaint by giving descriptions of signage within the Horseman's Office at Arapahoe Park and explained that, the December 30th deadline Ms. Stokerhill was referring to, was also listed on all over-night sheets distributed at the racetrack throughout the entire meet. He then discussed how the race track was going to work with the division to correct the issue.

Chairwoman Commissioner Inmann ended the discussion by referring to the formal complaint filed with the Division and she suggested letting the situation resolve itself through the complaint process within the Division of Racing Events.

Approval of Adoption of Hearing Conditions in the Matter of Jessica Oscroft- Zach Ceriani

Mr. Zach Ceriani, Legal Assistant for the Division of Racing Events, addressed the Commission asking for the approval of the hearing conditions to be adopted, updated, and then sent to Ms. Oscroft. Chairwoman Inmann commented that in the future, she would like to see investigative practices on the backside improved. Following the discussion, a motion was made by Commissioner Estes, seconded by Commissioner Bowen, and unanimously carried to approve the adoption of the Hearing Conditions in the matter of Jessica Oscroft.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Tuesday March 12, 2019** in the Red Rocks Conference Room in Suite 300 at 1707 Cole Boulevard, Lakewood, Colorado 80401.

Adjournment

There being no further business to consider, a motion was made by Commissioner Estes, seconded by Commissioner Hoffman, and unanimously carried to adjourn the Rule-Making and regular meeting of the Colorado Racing Commission at 11:28 AM.

The undersigned hereby approve the foregoing Minutes:

PAM INMANN, CHAIRWOMAN

TINA ESTES, VICE-CHAIRWOMAN

D. LYNN HOFFMAN, MEMBER

LORI SCOTT, DVM, MEMBER

SANDRA BOWEN, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, March 12, 2019 in the Red Rocks Conference Room Suite 300 at 1707 Cole Blvd Lakewood, Colorado 80401. Chairwoman Inmann called the meeting to order at 10:03 AM.

Members Present

Pam Inmann, Chairwoman (by phone)
Tina Estes, Vice-Chairwoman (by phone)
Sandra Bowen, Member
David Lynn Hoffman, Member
Lori Scott DVM, Member (by phone)

Staff Present

Cory Amend, Senior Director of Enforcement Division
Ed Kulp, Agent in Charge
Zach Ceriani, Legal Assistant
Bradford Jones, Assistant Attorney General representing the Division of Racing Events
Suzanne Karrer, Communications Manager
Kathleen Apodaca, Licensing Supervisor
Breanne Rodlin, Assistant to Division Director

Also Present

An attendance sheet is attached hereto and made a part of these minutes.

Approval of Minutes of February 12, 2019

After establishing that a quorum of Commission members was present, a motion was made by Commissioner Estes, Seconded by Commissioner Hoffman and unanimously carried to approve the minutes of February 12, 2019.

Scheduled Rule-Making Hearing

Pursuant to the published Notice of Rule-Making Hearing issued on and dated February 12, 2019, Chairwoman Inmann convened the scheduled Rule-Making hearing at 10:05 a.m. following a motion made by Commissioner Hoffman and seconded by Commissioner Scott. Mr. Bradford Jones, Assistant Attorney General serving on behalf of the Colorado Racing Commission and the Division of Racing Events, as well as Zach Ceriani, Legal Assistant to the Division of Racing Events, provided guidance and advice to the commission during the Rule-Making Hearing.

As a preliminary matter, Commissioner Inmann provided instructions in relation to the conduct of the Rule-Making Hearing based upon guidance from Assistant Attorney General, Bradford Jones. Due to a single rule consideration, Mr. Jones advised the commission that the rule could either be passed or denied, immediately following comments and discussion, rather than moving the rule to an adoption group before its acceptance.

In the absence of Director Dan Hartman, Zach Ceriani—Legal Assistant to the Division—explained that in accordance with the Governor’s directive to all State agencies, the Division had reviewed its rules and processes in order to determine whether certain rules had become outdated and/or no longer conformed to existing practices. He noted that, pursuant to Executive Order #2, each State agency was charged by the Governor with the responsibility for evaluating 20% of its rules on an annual basis for the aforementioned purpose. He stated that a rule review workshop open to all interested parties had been conducted to allow industry participation in the initial phase of the rule consideration process and that rule proposals and recommendations had been solicited and accepted from industry representatives for presentation during this Hearing. Further, he informed the Commission and attendees that the Division of Racing Events had complied with all preliminary rule-filing requirements, including submission of all rule proposals to the Office of the Secretary of State and the Department of Regulatory Agencies and Publication of the Notice of Rule-Making Hearing in the Colorado Registry whereupon he presented the packet of rules for Commission review. Mr. Hartman apprised attendees that copies of the rules had been made available in print form at the meeting and electronically on the Division’s website. Additionally, he stated that certain rule proposals endorsed by the Association of Racing Commissioners International Model Rules Committee had been included for consideration at this time.

Acknowledgement was then made by both the Commission and the Division that an annual review of its entire rulebook is undertaken in order to 1) ensure that its existing rules meet all statutory requirements; 2) determine whether the rules presently in effect accord with current industry practices; 3) correct any errors or deficiencies in the rules; and 4) consider new rule proposals as well as proposals to amend or repeal certain rules.

During the course of this Rule-Making Hearing, the Commission entertained views and opinions from industry representatives and other interested parties. All attendees were afforded an opportunity to present arguments for and against adoption of each rule under consideration. Chairwoman Inmann explained that Mr. Ceriani would give a brief explanation of the proposed rule change and then the floor would be opened for discussion amongst the public as well as the commission.

Thereupon, Mr. Ceriani presented the following rule for consideration:

- Consideration of proposed modification of Rule #5.441: Mr. Ceriani explained that consideration of this rule was made following the rule making hearing held on February 12, 2019, as it was proposed after filing of the model ARCI rules made in early January. Prior to the rule-making hearing in February, Proposed Modified Rule #5.441 was discussed immediately after in a workshop with stakeholders and Colorado Horseman’s Association members during the CHA board meeting. In order for the rule to go into effect for the 2019 racing season, modifications to the rule would have to be discussed, accepted, and submitted to the Secretary of State’s office prior to May, or otherwise during the March Commission meeting.

Commissioner Inmann then requested that Mr. Ceriani proceed with a description of the proposed modifications to be made to Rule 5.441. Mr. Ceriani demonstrated that there were two (2) major changes on the table pertaining to prohibited substances and medications. He advised the Commissioners and meeting attendees to turn to page twenty one (21) of the rule-making packet. He explained that a small modification was made to strike version 13.4 and replace it with 14.0 regarding the Uniform Classification Guidelines for Foreign Substances and Recommended Penalties Model Rule issued by the Association of Racing Commissioners International. He described that version 14.0 pertained to updating the drug list and penalty scheduling used by the Commission and Division to designate prohibited substances.

Mr. Ceriani then suggested that a larger rule change was located on page fourteen (14) of the rule making packet. He explained that in the past two to three years, there was a large push within multiple associations including the ARCI and American Quarter Horse Association (AQHA) to combat the usage and over-usage of Clenbuterol. He stated that in 2017, the Colorado Racing Commission (CRC) adopted a stronger penalty for Clenbuterol, making it a Class B substance. This classification put Clenbuterol within the same category as nerve-blocking agents, which the CRC placed a larger penalty on. He described that after placing a larger penalty on Clenbuterol, the Commission did not anticipate that if after a trainer was fined two thousand-five hundred dollars (\$2,500.00) and was suspended for one hundred eighty (180) days, said trainer would return back to Arapahoe Park for the rest of the season. However, there were multiple trainers who did return. To combat the infractions involved with Clenbuterol, the Commission then agreed to increase the fine for a second offense to five thousand dollars (\$5,000.00) and the third offense to a ten thousand dollars (\$10,000.00).

Legal Assistant Ceriani mentioned that per a push by the AQHA, Albuterol another steroid bronchodilator, was included in the same penalty structure as Clenbuterol in the ARCI model rules. He stated that the model rule change confirmed an absolute prohibition on Albuterol and Clenbuterol in racing Quarter Horses. Mr. Ceriani declared that this prohibition also included mixed races involving Quarter Horses and Thoroughbreds. He also explained that as of 2019, the ARCI model rules committee moved Clenbuterol to a Category "A" penalty in an attempt to reduce the amount of positive tests and trainers using the drug outside of its therapeutic use. He then described the reasoning behind the stricter rules and prohibitions on Clenbuterol as it pertained to the Colorado Racing Commission.

Mr. Ceriani explained that the reason for changing the penalty structure and modifying rule #5.441 was to eliminate the trend of "stacking" Clenbuterol and Albuterol in a fifty-fifty mixture. This idea of stacking would allow trainers to use both bronchodilators comingled in order to produce a

negative test that falls under the threshold for any one of the drugs presented in the horse's system. He also made a reference to the creation and passing of rule #5.314 during the February rule-making hearing which was created to eliminate stacking of ANY substance carrying the same pharmacological and physiological effects within race horses.

Following the description of Proposed Modified Rule #5.441, Chairwoman Inmann inquired whether there were any questions or comments from the public. Mr. Bruce Seymore, President of Arapahoe Park and Mile Hi Racing and Entertainment, stated that all members of the Association were in support of the proposed rule change. He explained that there was an appreciation for the accountability held over not only the trainer but also over the horse owner and practicing veterinarian.

After Mr. Seymore was finished with his comment and no other members of the public wished to speak, Chairwoman Inmann asked if any members of the commission had comments or questions about proposed modified rule #5.441. Commissioner Hoffman inquired whether this rule change stemmed from the AQHA. Mr. Ceriani answered yes and that the proposal was made by the AQHA and accepted by the ARCI model rules committee. Commissioner Hoffman then asked why the AQHA was pushing and in favor of the change. Mr. Ceriani responded that the rule was pushed through due to the high potential for abuse of Clenbuterol and Albuterol usage above the therapeutic threshold, which ultimately would produce secondary steroidal and performance enhancing effects. He also stated that the AQHA had the highest interest because the infractions were most commonly seen in racing Quarter Horses, as opposed to other breeds. Commissioner Hoffman then asked why the rule was not considered for Thoroughbreds. Mr. Ceriani replied that Clenbuterol and Albuterol were much less abused in Thoroughbred racing. He also said to note that the way the new rule was to be structured, Clenbuterol and Albuterol would stay in the Class B penalty with fines and suspensions equating to the same amounts for Quarter Horse racing if found in Thoroughbred racing. Commissioner Hoffman inquired if any amount, no matter how trace, of Clenbuterol or Albuterol would trigger a positive test and be structured under a Class B penalty. Mr. Ceriani responded that any level of detection would result in an automatic positive, as the new rule structure called for an absolute prohibition of both drugs. Commissioner Hoffman asked if rule #5.441 was adopted and approved with modifications on the day of the rule-making hearing, would it go into effect for the 2019 raacemeet and be retroactive for the end of the 2018 race meet. Mr. Ceriani stated that yes the rule would be in effect for 2019, but would not be retroactive for 2018.

Chairwoman Inmann asked if any other Commissioners had questions or comments about the proposed modification of rule #5.441. Since no further questions were asked and no comments were made, she then opened up the floor for deliberation. Again, there were no statements made. Chairwoman Inmann stated that she was comfortable with this rule change, as it was already implemented by the ARCI and had gained the approval of the AQHA. A motion was thereupon made by Commissioner Bowen, seconded by Commissioner Scott, and unanimously carried to accept proposed modified rule #5.441 into the Official Rulebook of the Colorado Racing Commission for the 2019 racing season.

With the passing of Proposed Modified Rule 5.441, Chairwoman Inmann called for the conclusion of the Rule-Making Hearing. A motion was thereupon made by Commissioner Bowen, seconded by Commissioner Hoffman, and unanimously carried to close the Rule-Making hearing at 10:33AM.

Reconvening of Regular Commission Meeting

Following the conclusion of the rule-making hearing, Mr. Bradford Jones, Assistant to the Attorney General, wanted to give the Commission an update. He informed the Commissioners that during the next scheduled meeting of the Colorado Racing Commission, a policy of best practices was to be created in order to abide by the guidelines set in a recently passed senate bill. Chairwoman Inmann then thanked Mr. Bruce Seymore and Mr. Billy Byers, representatives from Arapahoe Park, for their attendance to and input during the meeting.

Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Tuesday April 9, 2019** in the Red Rocks Conference Room in Suite 300 at 1707 Cole Boulevard, Lakewood, Colorado 80401.

Adjournment

There being no further business to consider, a motion was made by Commissioner Bowen, seconded by Commissioner Hoffman, and unanimously carried to adjourn the rule-making hearing and regular meeting of the Colorado Racing Commission at 10:35 AM.

The undersigned hereby approve the foregoing Minutes:

PAM INMANN, CHAIRWOMAN

TINA ESTES, VICE-CHAIRWOMAN

D. LYNN HOFFMAN, MEMBER

LORI SCOTT, DVM, MEMBER

SANDRA BOWEN, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, April 9, 2019 in the Red Rocks Conference Room Suite 300 at 1707 Cole Blvd Lakewood, Colorado 80401. Chairwoman Inmann called the meeting to order at 9:30 AM.

Members Present

Pam Inmann, Chairwoman
Tina Estes, Vice-Chairwoman (by phone)
Sandra Bowen, Member
David Lynn Hoffman, Member
Lori Scott DVM, Member (by phone)

Staff Present

Cory Amend, Senior Director of Enforcement Division
Dan Hartman, Director of the Division of Racing Events
Ed Kulp, Agent in Charge
Zach Ceriani, Legal Assistant
Bradford Jones, Assistant Attorney General representing the Division of Racing Events
Gregory Lamb, Racing Division Auditor
Suzanne Karrer, Communications Manager for Enforcement Division
Breanne Rodlin, Assistant to Division Director

Also Present

Bruce Seymore, Executive Director of Colorado Operations for Mile Hi Racing and Entertainment
Shannon Rushton, Representative of the CHA

Approval of Minutes of March 12, 2019

After establishing that a quorum of Commission members was present, a motion was made by Commissioner Bowen, Seconded by Commissioner Hoffman and unanimously carried to approve the minutes of March 12, 2019.

Consideration of Request for Early Distribution of Portion of Owners/Breeders Awards Funds and Supplemental Purse Monies—Greg Lamb/Colorado Thoroughbred Breeders' Association

Mr. Dan Hartman, Director of the Division of Racing Events, referred the consideration of request of funds for early release to Gregory Lamb, Auditor for the Division of Racing Events.

Mr. Lamb informed the Commission that in accordance with and as permitted by statute, the Colorado Thoroughbred Breeders' Association (CTBBA) had submitted a formal written request for early release of \$135,000, a portion of their Owners/Breeders Awards and Supplemental Purse Fund accrual for the purpose of supplementing their Colorado

Bred Stakes Schedule at Arapahoe Park in 2019. He explained that, by rule, no breed organization may request more than 80% (eighty percent) of its total accrual.

Mr. Lamb recommended the Commission approve the early release of the CTBBA funds prior to the Division's July audit, which would mark the beginning of a new fiscal year, in order to ensure that the funds would be available for usage.

There being no comments made by the Commission, or the public, a motion was thereupon made by Commissioner Hoffman, Seconded by Commissioner Scott, and unanimously carried to approve the early distribution of the \$135,000 portion of the Owners/Breeders Awards Funds and Supplemental Purse Monies.

Consideration of application for release of monies from the Greyhound Adoption Fund—
Greg Lamb

Mr. Greg Lamb, reported to the Commission, that the Division received four applications for the release of money from the Greyhound Welfare and Adoption Fund. He observed that the requesting organizations were: 1) Greyhound Connection, Inc; 2) Colorado Greyhound Adoption; 3) Rocky Mountain Greyhound Adoption, Inc; and 4) Friends of Retired Greyhounds. Mr. Lamb stated that he, along with Director to the Division of Racing Events—Dan Hartman—had reviewed each of the subject applications. He also informed the Commission that, currently, \$40,000.00 resides in the Fund account and of those monies, \$30,000.00 would be distributed.

Mr. Lamb explained that, based upon the distribution methodology discussed and adopted by the Commission in May 2013, each organization is reimbursed based upon the number of greyhounds that it has placed during the six-month application period divided in to the available amount of fund money. Mr. Lamb stated that, during the subject six-month period, a total of 267 greyhounds were placed by the applicants. This would mean that the organizations would receive \$112.36 per placed greyhound ($\$30,000/267 = \112.36).

Mr. Lamb advised that, before distribution of funds would be made, the Division would again review the paperwork from the requesting organizations to ensure that accurate numbers had been reported and used in all calculations. Further, he stated that, since the Division is no longer requiring the requesting organizations to submit receipts as part of their application documentation, Division investigators have been granted authorization to conduct on-site inspections and verifications of each organization's adoption reports and records.

The Commission took notice of Mr. Lamb's confirmation that all of the subject applications met the criteria set forth in the Commission's rules. In the applications, Rocky Mountain Greyhound Adoption, Inc. had requested \$6,000.00. It was noted that none of the other three organizations requested specific amounts within their applications. Notice was also taken that, all of the requesting organizations had previously received fund money. Further, the Commission observed that each of the organizations is currently licensed by the Division of Racing Events.

Mr. Lamb stated that the Division of Racing Events would recommend that the Commission approve the following disbursements, totaling \$30,000.00, from the Greyhound Welfare and Adoption Fund:

• To Greyhound Connection:	\$ 15,280.00
• To Colorado Greyhound Adoption:	\$ 7,416.00
• To Rocky Mountain Greyhound Adoption, Inc:	\$ 2,230.00
• To Friends of Retired Greyhounds:	\$ 6,691.00
	<hr/>
TOTAL	\$ 30,000.00

In accordance with existing protocols, the Commission emphasized that all fund recipients would be required to submit the following information/documentation to the offices of the Division of Racing Events for subsequent Commission review: 1) a preliminary report specifying how the organization intends to utilize the subject funds; and 2) subsequent to expending the funds, a follow-up accounting that reflects how the money allotted to the organization was used.

After Mr. Lamb's presentation, Chairwoman Inmann opened the floor for discussion. Commissioner Hoffman asked Mr. Lamb why the whole \$40,000.00 of fund money was not released to the greyhound organizations. Mr. Lamb explained that the it would not be in the Division's, nor the organizations' best interest to release all of the funds, as most of the money generated for the Fund comes from wagering at tracks in Florida. Due to recently passed legislation in Florida, ending greyhound racing within the next few years, it would be safer for the Greyhound Welfare and Adoption Fund to keep the extra \$10,000.00 as "cushion" in the event that the ending of racing in Florida negatively impacts and decreases future funding.

Commissioner Hoffman then asked how the money was generated for the Fund. Mr. Lamb responded that a majority of the money comes from betting in Colorado for out of state racing, thus why the recent legislature in Florida would cause grounds for concern. Chairwoman Inmann inquired a clarification whether the money comes from Off-Track Betting locations, to which Mr. Lamb responded, yes. Mr. Lamb then also explained that the funds would not be released to the organizations until Division of Racing Investigators had visited, audited, and confirmed adoption numbers of the subject applications.

Chairwoman Inmann, seeing as there were no further comments to be made, closed the floor for discussion. A motion was thereupon made by Commissioner Hoffman, seconded by Commissioner Scott, and unanimously carried to release \$15,280.00 to Greyhound Connection; \$7,416.00 to Colorado Greyhound Adoption; \$2,230.00 to Rocky Mountain Greyhound Adoption, Inc.; and \$6,691.00 to Friends of Retired Greyhounds, which totaled approximately \$30,000.00. These funds are to be released with the proviso that each organization is to provide preliminary and follow-up reports relating to the use of the subject funds and, further, that, for the purpose of verifying the accuracy of its reported adoption totals, each organization is required to undergo an inspection of its adoption reports/records by Division investigators prior to the release of funds from the Greyhound Welfare and Adoption Fund.

The Commission and Director Hartman commended the greyhound welfare and adoption organizations and acknowledged that they deserve to receive compensation for their outstanding work and service. No further action was taken at this time.

Consideration of approval of 2019-2020 simulcast schedule for Arapahoe Park—Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, presented his report concerning Arapahoe Park's proposed 2019-2020 simulcast schedule. Mr. Bruce Seymore, Executive Director of Colorado Operations for Mile Hi Racing and Entertainment, appeared on behalf of the racing Association.

Mr. Hartman advised the Commission that, on March 26, 2019, the Colorado Division of Racing Events had received a letter from Mr. Bill Powers, Director of Racing at Arapahoe Park, requesting approval for the sending/receiving of interstate wagers and simulcasts on horses and greyhounds for 2019 and 2020. The letter requested permission to commence simulcast wagering on April 21, 2019 and concluding it on April 20, 2020. Mr. Hartman observed that Arapahoe Park's request for approval of its simulcast schedule included an open letter asking for blanket approval to send and receive interstate wagers and simulcasts from the following sources subject to contract and Division approval, excluding specific listing of racecourses and simulcast dates:

- All racetracks representing the United States and Canada;
- All racetracks in the International Jurisdiction;
- All affiliated off-track wagering venues; and
- Nevada pari-mutuel books

Mr. Hartman assured the Commission that the Division would require Arapahoe Park submit all agreements and contracts with the specific state horsemen's associations and racetracks before being allowed to receive any out-of-state simulcasts. He noted that all agreements and contracts would be subject to review before simulcasting would be approved and that final approval for simulcasting from any racecourse would not be given unless the Division had received both a racing schedule and a simulcast contract.

Additionally, Mr. Hartman stated that on March 1, 2019, the Colorado Division of Racing Events received a renewal application from Racing Associates of Colorado Ltd, doing business as Arapahoe Park to commence live racing on Saturday, May 25, 2019 through Sunday, August, 11 2019 for a total of thirty nine (39) live race days. He observed that Arapahoe Park intends to conduct live racing as well as greyhound and horse simulcasting throughout the entire year; and, in conjunction with its live meet, Arapahoe Park will provide horse simulcasting on its non-live race days. The Commission took notice that unforeseen circumstances might necessitate that modifications be made to prospective simulcast dates and/or racing schedules, and therefore, the Division Director or his designee has been delegated authority to approve such changes.

Chairwoman Inmann, after hearing the details of the simulcast schedule approval, then opened the floor for discussion. Commissioner Hoffman inquired whether this approval was just for simulcasting, or if the approval of race dates for the 2020 racing season was also being considered. Mr. Hartman responded that this motion would be regarding the simulcast schedule only. He stated that he race dates for 2020 were on file but that they would be approved at the May 14, 2019 meeting of the Commission.

Following its review and after acknowledging that the Division of Racing Events recommended acceptance of Arapahoe Park's 2019-2020 proposed simulcast wagering schedule, a motion was made by Commissioner Bowen, Seconded by Commissioner Estes, and unanimously carried to approve Arapahoe Park's request to commence simulcast wagering on April 21, 2019 ad to continue simulcast wagering through April 20, 2020 subject to the following terms and conditions:

- 1) That Arapahoe Park will submit its proposed Simulcast Calendar reflecting the simulcast race days, including the live racing days, to the Division of Racing Events as soon as possible;
- 2) That Arapahoe Park will inform the Division at least ten (10) days prior to adding a anew track to its schedule. This will be followed by all required contracts;
- 3) That fully executed signed contracts and agreements for each racetrack from which broadcasts are to be received are provided to the Division no later than forty-eight (48) hours prior to the commencement of simulcasting from that site;
- 4) That adequate advanced notice of the actual dates and simulcasting schedules for any and all venues be made part of Arapahoe Park's 2019-2020 roster be provided to the division of racing Events prior to the start of racing from that site;
- 5) That the Division of Racing Events may, in its discretion, 1) require any totalisator link that has not been tested to be tested prior to the date of operation; and 2) approve the telephone lines to be used;
- 6) That Arapahoe Park comply with all terms and conditions contained in the Interstate Horse Racing Act with regard to receipt of simulcast signals, presentation of approved simulcasts, and broadcasting of its races to out-of-state venues; and
- 7) That the Commission delegate authority to the Director or his designee to approve schedules for pre-approved tracks when a specified envelope is determined and to approve any adjustments or amendments to the simulcast schedules as needed.

The Commission directed that the Division monitor compliance with these requirements and ensure receipt of all necessary contracts prior to commencement of simulcasting from any racetrack. (Subsequently, an Order with Conditions signed by Director Hartman was issued to Arapahoe Park reflecting the Commission's action).

ARCI Conference Discussion—Chairwoman Inmann, Commissioner Bowen, Commissioner Scott, and Dan Hartman

Following all discussions of business matters, Chairwoman Inmann requested that the attendees of the annual ARCI conference, held on April 2-6 in Arcadia, California, discuss their experiences and give examples of some things they learned while there.

Before discussion began, it was noted that Director Hartman received an award for his tremendous work on an updated penalty schedule to be used by the RCI.

Commissioner Scott began commenting on the conference as she discussed the breadth of information provided by the scientific research and presentations done on the increase of breakdowns, skeletal and muscular maturity of horses, pathology of diseases and breakdowns, and management of new drugs. She stated that the ARCI has a great model for rules and drug protocol as well as reliable experts.

Commissioner Bowen stated that she learned a lot from the conference as a new Commissioner, and that all of the information was helpful to her learning of the interworking of racing Commissions.

Commissioner Hoffman asked Commissioner Scott which new drugs were impacting the racing industry and inquired about the many breakdowns during the spring racing meets. Commissioner Scott responded that the largest problem facing the industry pertained to mismanagement of off-label drug usage in young horses before they are even raced or trained to race. She discussed that limitations on these drugs, among others, was the reasoning behind Director Hartman's restructured penalty schedule presentation he made at the conference. Mr. Hartman then added that the ARCI maintained that as an organization, it desired to limit bisphosphonates (a class of drugs that prevent the loss of bone density; used to treat diseases like osteoporosis) in horses under the age of 4. He stated that as an industry, regulation of these horses and the drugs they are given do not begin until the horses are trained and raced on the track; therefore, there will have to be a shift in the breeding and sales of these horses to uphold the new drug policies. He mentioned that if a horse under the age of four (4) tests positive for bisphosphonates, said horse would instantly be prohibited from competing within any race in North America.

After discussing new drug regulations, Mr. Hartman stated that there was great representation from the Colorado racing industry, as Shannon Rushton and Bruce Seymore were both in attendance at the ARCI conference. He declared that a presence from so many different members of Colorado racing from Commissioners to Directors, as well as Horsemen to Racetrack Executives, showed a cohesiveness and cognizance within the State's Industry.

Adjournment

There being no further business to consider, a motion was made by Commissioner Bowen, seconded by Commissioner Hoffman, and unanimously carried to adjourn the regularly scheduled meeting of the Colorado Racing Commission at 9:51 AM.

Next Regularly Scheduled Meeting

The next regularly meeting for the Colorado Racing Commission will be held on **Tuesday, May 14, 2019**, at 9:00 AM in the Red Rocks Conference Room, Suite 300 located at 1707 Cole Blvd, Lakewood, CO 80401.

PAM INMANN, CHAIRWOMAN

TINA ESTES, VICE-CHAIRWOMAN

D. LYNN HOFFMAN, MEMBER

LORI SCOTT, DVM, MEMBER

SANDRA BOWEN, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, May 14, 2019 in the Red Rocks Conference Room Suite 300 at 1707 Cole Blvd Lakewood, Colorado 80401. Chairwoman Inmann called the meeting to order at 9:39 AM.

Members Present

Pam Inmann, Chairwoman
Tina Estes, Vice-Chairwoman
Sandra Bowen, Member
David Lynn Hoffman, Member
Lori Scott DVM, Member

Staff Present

Cory Amend, Senior Director of Enforcement Division
Dan Hartman, Director of the Division of Racing Events
Ed Kulp, Agent in Charge
Zach Ceriani, Legal Assistant
Bradford Jones, Assistant Attorney General representing the Division of Racing Events
Gregory Lamb, Racing Division Auditor
Suzanne Karrer, Communications Manager for Enforcement Division
Breanne Rodlin, Assistant to Division Director

Also Present

An attendance sheet is attached hereto and made apart of these minutes.

Approval of Minutes of April 9, 2019

After establishing that a quorum of Commission members was present, a motion was made by Commissioner Estes, Seconded by Commissioner Scott and unanimously carried to approve the minutes of April 9, 2019.

Consideration of 2019-2020 Renewal Application at Arapahoe Park—Ed Kulp

Mr. Ed Kulp, Agent-In-Charge for the Division of Racing Events, presented the report regarding Arapahoe Park's 2019-2020 renewal application. Mr. Bruce Seymore, Executive Director of Colorado Operations for Mile High Entertainment, and Mr. Bill Powers, serving in the capacities of Plant Manager, Director of Racing and Racing Secretary, appeared on behalf of the Racing Association.

Mr. Kulp stated that, in March 30, 2019, the Division of Racing Events received a Class B Horse Racing renewal license application for the 2019 live race meet at Arapahoe Park signed by the Director of Racing Operations—Colorado, Bruce Seymore, representing Racing-Associates of Colorado, Ltd., doing business as Arapahoe Park. Mr. Kulp reported that he had reviewed the application and had found that the required information and

exhibits requested in the application had either been received by the Division or would be submitted as mandated. Further, Mr. Kulp stated that any inspections required by regulation or statute have already been conducted or are in the process of being scheduled.

Mr. Kulp indicated that Arapahoe Park intends to conduct a thirty-nine (39) day live race meet beginning on Saturday, May 25, 2019, and concluding on Sunday, August 11, 2019, with live performances to be offered on Saturday, Sunday, and Monday throughout the season with racing to be conducted on four (4) Fridays during the meet. Additionally, the Commission noted that Arapahoe Park intends to offer at least eight races per day with a 1:00 p.m. post time on all race live race days as well as full simulcast race cards from numerous venues throughout the season. Mr. Kulp observed that Arapahoe Park is proposing to offer varied racing programs composed of Thoroughbred, Quarterhorse, and Arabian races.

The Commission took notice that Arapahoe Park would be sending its live signal to the eleven (11) in-state simulcast facilities, including one new facility, the Mirage Sports Bar located in Littleton, a suburban metropolitan Denver Area, as well as numerous out of state venues. Additionally, the Commission took notice that Division representatives had inspected and approved each of the in-state simulcast facilities listed on the renewal application. Mr. Kulp added that the simulcast facility, Pick Six at Fox and Hound, was scheduled to finish its inspection on May 15th. It was noted that certain contracts with out of state associations and simulcast providers are still in the process of being negotiated. It was acknowledged by the Commission that Arapahoe Park would need to notify the Division and seek approval of any future export contracts and agreements with out of state associations and simulcast providers forty-eight (48) hours prior to sending/receiving simulcast signal. Notice was taken that Arapahoe Park intends to simulcast out of state horse races in Colorado seven (7) days a week on both its live and non-live race days and that a copy of the agreement between the Colorado Horse Racing Association and Arapahoe Park giving approval of and support of Arapahoe Park's intention to send its signal to out of state locations had been provided to the Division.

Mr. Kulp reviewed the list of racing officials, most of whom had previously served in the positions that they be holding this season. Notice was taken that Ms. Kathy Passey would serve as the placing judge and Shania Ehret would be serving as an Outrider. Mr. Kulp also noted that the positions of Handicapper and Announcer were still being interviewed for.

Mr. Kulp also mentioned that for the 2019 race meet, there would be continued maintenance and training of security staff; involving signature and incident reporting to Division Investigators. He also stated that Gary Riggs would be returning as the Head of Security. He informed the Commission that there will be an off-duty sheriff employed to conduct patrolling during the evening hours on the backside following races on race days. He also stated that the gates to the backside would again be closing at 10:00 p.m. every day during the meet.

The Commission took notice that the consolidated financial statements for Mile High USA, Inc, doing business as Racing Associated of Colorado Ltd., had been submitted to the Division of Racing Events with Arapahoe Park's 2019 renewal license application and that Division Auditor Greg Lamb, along with Commissioners Pam Inmann and D. Lynn Hoffman had reviewed the subject documents and had found them to be complete, in order, and prepared in accordance with generally accepted accounting principles.

Notice was taken by the Commission that the following required exhibits had either been submitted with the renewal application or would be provided in a timely manner:

- An insurance binder for on-track accident coverage for the jockeys has been submitted;
- A copy of the current proof of adequate public liability insurance coverage to protect the public was also provided;
- A current fire inspection report was submitted and no major issues were reported. It was indicated by Mr. Kulp that the fire department servicing Arapahoe Park had changed. Any subsequent fire inspection reports must be provided to the Division when issued;
- Current certified health/sanitation inspection reports for Arapahoe Park and each of its in-state simulcast facilities have been received by the Division. Any changes to these reports for Arapahoe Park and all affiliated in-state off-track wagering facilities must be submitted to the Division;
- Copies of the most recent contracts between the Association and its service providers for video patrol, photo finish and totalisator services, products, and materials have been provided for the upcoming race meet; and
- A copy of the Horsmen's Contract between the Colorado Horse Racing Association and Arapahoe Park, effective through April 20, 2021, was submitted with the application. (This contract went into effect on April 21, 2019 and shall remain in effect through and including April 20, 2021.

The Commission took notice that the proposed purse structure, wagering format, and takeout rates would remain unchanged from last year.

A surety bond to cover the Horsemen's Bookkeeper will not be required for the 2019 race meet. Mr. Kulp advised that the Division would release purse funds from the Escrow Trust Account, as requested by the Association, throughout the race meet to satisfy purse money owed. Further, he stated that in the event that any derogatory actions are subsequently brought against the Horsemen's Bookkeeper, the Commission would have the ability to reinstate the bond requirement on the Horsemen's Bookkeeper Account.

Mr. Kulp informed the Commission that Arapahoe Park had complied with all recommendations and conditions for relicensure included in the 2018 Arapahoe Park End of Meet Report.

Mr. Seymore reported that, during the off-season, the Association had made investments in order to improve the facilities at Arapahoe Park. He informed the

Commission that the Test Barn had been lengthened and a hot-walker was added to improve the safety and increase the space available to cool horses down before drug testing.

Notice was taken that the following requirements would remain in effect during the 2019 live race meet:

REQUIREMENTS REGARDING THE RACTRACK SURFACE:

- That the Track Superintendent position would be the only racing official position held by the licensee.
- Notice was taken that Waypoint Analytical performed a favorable soil analysis on January 14, 2019. It was mentioned that the track surface was well maintained during the 2018 live race meet.
- The track scale was recalibrated and certified. It will be placed outside.

Chairwoman Inmann inquired why the track soil analysis was performed during January and not during the live race meet. Mr. Dan Hartman, Director of the Division of Racing Events, responded that the soil testing is performed early enough in the year to ensure if additional materials needed to be added to the track surface, there would be adequate time before racing begins to allow the dirt and soil to settle.

REQUIREMENTS FOR THE RACING OFFICE:

- That the Racing Office will ensure that only authorized persons be allowed behind the counter during entries. All access(es) to the Racing Office's restricted areas will have locking device(s) in place during entries. The Racing Secretary will ensure that all visitors to his or her office be escorted.
- That the Racing Office will maintain and post to the licensees the written schooling lists for the Starter, Paddock, Stewards, and Veterinarian.
- That the Racing Secretary will continue to train and supervise Racing Office staff in the proofing of the entries, especially entries made by Jockey Agents.

REQUIREMENTS CONCERNING THE SECURITY DEPARTMENT:

- That Arapahoe Park's Security Director, Gary Riggs, will be responsible for supervising and managing the security staff of the stable gate, the stable/barn area backside, the Division's test barn, and the Grandstand. The Security Director will instruct all security staff to attend training from the Division enforcement personnel and other sources that management deems necessary to enforce Colorado Racing Commission Rules and policies for the admittance of horses into the Stable area and to provide a safe environment for the licensees and patrons.
- That the Division of Racing will provide a Compliance Investigator to assist with the intake of horses, the preparation of associated paperwork and the facilitation of access to the restricted stable area;

- That Arapahoe Park will continue to employ an off-duty sheriff's deputy on live race days; and
- That Arapahoe Park will provide a radio for the Stewards' office during training hours in order to help them monitor the training activities on the racetrack that include workouts, removal of horses from the Stewards' list, and the qualifying of licensees for exercising and ponying horses.

Mr. Kulp stated that the application of Racing Associates of Colorado, Ltd. (Arapahoe Park) 2019 Live Race Meet Renewal Application appears to comply with the Colorado Revised Statutes and the Colorado Racing Commission Rules and; therefore, the Colorado Division of Racing Events would recommend approval of a Class B license for Arapahoe Park subject to the following additional conditions:

1. Successful completion and compliance with a comprehensive pre-meet facility inspection by the Division of Racing Events;
2. That in the event that a vacancy occurs among the Racing Officials for longer than one racing day, the Association shall fill the vacancy with an official approved by the Division and shall notify the Division in writing of the substitution prior to making the change;
3. That Arapahoe Park will continue to ensure that its public liability insurance policy is in effect and will provide a copy of the renewed Certificate of Insurance to the Division on or before its expiration date;
4. That Arapahoe Park will submit copies of all intrastate simulcast contracts and/or agreements entered into by the applicant to the Division no later than five (5) days prior to receipt of the simulcast signal;
5. That any additional certified health/sanitation reports received for Arapahoe Park and its in-state simulcasting facilities will be provided to the Division when completed;
6. That the Association shall provide copies of all new service contracts, which are not presently on file with the Division, no later than five (5) days prior to the commencement of the meet; and
7. That the Commission may determine, in its discretion, that additional conditions need to be imposed at this time or at any time during the live meet.

Following review and discussion, a motion was made by Commissioner Bowen, seconded by Commissioner Estes and unanimously carried to approve Arapahoe Park's 2019 renewal application to operate as a Class B racetrack during the period specified on the application; to approve the retention and hiring of all race officials noted in the renewal license application; to approve the take-out rates as specified in Arapahoe Park's renewal application; and to make this approval contingent upon satisfaction of the conditions set forth in this report and included in the following Notice of Issuance of Meet License with Conditions.

Subsequent to the meeting, the Notice of Issuance of Meet License with Conditions was issued and provided to Arapahoe Park's management in accordance with the Commission's motion:

STATE OF COLORADO

NOTICE OF ISSUANCE OF MEET LICENSE WITH CONDITIONS

IN THE MATTER OF THE ISSUANCE OF A MEET LICENSE FOR:

RACING ASSOCIATES OF COLORADO, LTD. DBA ARAPAHOE PARK
26000 EAST QUINCY AVENUE
AURORA, COLORADO 80016

Pursuant to Colorado Revised Statute 12-60-505, the Colorado Racing Commission has reviewed and conducted a public meeting concerning the application for a race meet license.

The Colorado Racing Commission finds the application to be acceptable and orders said meet license to be issued to:

Racing Associates of Colorado, Ltd. d.b.a. Arapahoe Park
26000 East Quincy Avenue
Aurora, Colorado 80016

with the following conditions:

1. This approval is granted from the opening day of the live race meet, which is May 25, 2019 through the closing day of the meet, which is August 11, 2019 for an envelope of thirty-nine days. The following racing schedule was requested by the Association and approved by the Commission: Saturday, Sunday and Monday (including the Memorial Day observance on May 27, 2019): with four (4) Fridays and at least eight (8)-race matinee performances per day. The meet shall be a mixed meet consisting of Thoroughbreds, Quarterhorses, and Arabians. This approval is granted subject to successful completion of and compliance with a Division pre-meet inspection of the facility.

That, prior to any modification being made to Arapahoe Park's approved eight-race program schedule a request must be submitted in writing to the Director of the Division of Racing Events or his designee for his consideration.

2. The Association shall keep in force a public liability insurance policy. Further, the Association shall provide copies of all required insurance and bond document exhibits to the Division no later than five (5) days prior to the opening of the meet.
3. The Association shall keep in force adequate insurance coverage for the protection of Jockeys. A copy of the insurance binder for on-track accident coverage for the jockeys was submitted with the application. (NOTE: it is essential that the Association provide appropriate notice to all Exercise Riders and Pony Persons, because they are considered independent contractors, that they must obtain their own insurance coverage).
4. All employees shall be properly licensed prior to conducting any activities. In addition, all Association Racing Officials, including replacement officials, must be approved by the Division of Racing Events prior to conducting any activities. Their names are to be submitted for approval no less than three (3) days before the commencement of the race submitted meet. Any currently vacant racing official positions shall be filled no later than five (5) days prior to the commencement of the meet. (If a vacancy occurs among the Racing Officials for a period of longer than one racing day, the Association shall fill the vacancy with an official approved by the Division and shall notify the Division, in writing, of the substitution prior to the change). Additionally, the Division, Arapahoe Park management, and the Board of Stewards will be working with the Racing Officials to ensure that their duties are performed in a professional and safe manner. The Division will monitor the performance of employees new to their positions throughout the 2019 live race meet.

5. A list of all Association employees not listed as Racing Officials shall be submitted to the Division no later than ten (10) days after the opening of the meet. A list of all security staff, including copies of their qualifications and firearm certificates, shall be kept on file in the Division of Racing Events office at Arapahoe Park.
6. All monies derived from live race monies due for horse purses shall be deposited by the licensee directly into the horsemen's purse account. All horsemen's nominations and sustaining fees shall be handled through the Horsemen's Bookkeeper account.

All monies due from simulcast races due for horse purses shall be deposited by the licensee in a "Colorado Racing Association Escrow" trust account in a commercial bank located in Colorado until such date as the purse funds are paid to the horse owners or to the host track for payment to the horse owners. The moneys deposited in any such trust account shall be invested in a fund that invests in obligations of the United States Government with maturities of less than one year or that is account insured in full by an agency of the Federal Government. All trust accounts shall be interest-bearing accounts with the interest payable as horse purses.

The Association shall make a full accounting to the Department of Revenue through the Division each week of all amounts due purse funds from simulcast and live races and paid out from the purse funds as specified by Statute and contracts.

The Association shall also make a full accounting to the Department of Revenue through the Division each week of all amounts due purse to the Greyhound Welfare and Adoption Fund.

7. All funds due Colorado State University for allocation to its School of Veterinary Medicine shall be paid weekly with a full accounting to the Colorado Racing Commission yearly.
8. The facility shall meet the "Totalisator Standards" as adopted by the Commission.
9. All required facility improvements deemed necessary for the protection, health and safety of the public, the Division of Racing Events' employees and the race participants shall be completed prior to opening. Successful completion and compliance with a Division pre-meet inspection of the facility is required.
10. The Association shall have a fully operational totalisator system (tested and approved at least three (3) days prior to start of wagering on live races) capable of:
 - a. Handling pari-mutuel wagers on horse races;
 - b. Producing CRC reports on a timely basis; and
 - c. Common pool wagering on both an intrastate and interstate level.

Approved take-outs for Arapahoe Park are as follows:

Win, place, show—19%

Daily Double, Exacta, Quinella—24%

Trifecta, Superfecta, and Pick 3—25%

11. Any change from the approved simulcast schedule for each in-state and out-of-state simulcast facility, which the Association proposes to simulcast from or to, including its live races, shall be approved by the Division of Racing Events prior to any simulcasting activity at such simulcast facility. All simulcast contracts must specify how purse percentages are to be calculated. The Commission delegates to the Director or his designee to approve schedules for pre-approved tracks when a specified envelope is determined.

Copies of all intrastate simulcast contracts and/or agreements entered into by the applicant will be submitted no later than five (5) days prior to the beginning of the simulcast signal.
12. Current certified fire and health/sanitation inspection reports for Arapahoe park and all in-state simulcast facilities that have not already been received by the Division must be submitted to it no later than five (5) days prior to the commencement of Arapahoe Park's live meet. (In the event that additional wagering facilities are to be opened during Arapahoe Park's upcoming race meet, they are subject to this requirement no later than five ((5)) days prior to opening). Any additional health and sanitation reports received for Arapahoe Park and its in-state facilities will be provided to the Division when completed.
13. It is acknowledged that approval of the renewal application and simulcast race programs, even if the above conditions are met, shall be subject to the Colorado Legislature granting an appropriation for funding and spending authority to the Commission for its fiscal year 2006/2007 and subsequent budget years.
14. A list of all Association employees not listed as Racing Officials shall be submitted to the Division no later than ten (10) days after the opening of the meet.

A list of all security staff, including copies of their qualifications and firearm certificates, shall be kept on file in the Division of Racing office at Arapahoe Park.
15. To permit the Division to coordinate its staffing for simulcast programs, the applicant shall provide the Commission with all modifications to its simulcast program as approved by the Commission one week prior to the proposed modifications.
16. All racing official positions shall be filled no later than five days (5) prior to the commencement of the meet.

17. That copies of all service contracts that are not presently on file with the Division be submitted no later than five (5) days prior to the opening of the meet.
18. That Arapahoe Park and its facilities comply with the Division of Racing Events' Video Surveillance Policy throughout the 2019 Arapahoe Park race meet.
19. That the Stable Superintendent shall make every effort to ensure that all horses entering the grounds at Arapahoe Park shall have a current health certificate signed by an accredited Veterinarian.
20. The Racing Secretary shall require that all horses entering the grounds at Arapahoe Park, whether from within or outside of Colorado, have a current Coggins Test (within the previous twelve (12) months).

The racing Secretary will continue to train and supervise racing office personnel in the proofreading of the entries.

Racing Office personnel will maintain and post to the licensees the written schooling lists for the Starter, Paddock, Stewards, and Veterinarian.
21. The Association will oversee and ensure that the mandated times of closure of the Stable Gate entrance to vehicle traffic are maintained. However, certain limited exceptions, such as emergency call by veterinarian, will be allowed. Exceptions will only be permitted on a case-by-case basis.
22. The Racing Secretary and/or Stable Superintendent shall be responsible for the arrival and departure of all horses from the premises and maintain records for the Division's inspection.
23. Arapahoe Park will make arrangements to satisfy the Colorado Racing Commission and the Division in providing an adequate water supply to the racetrack, stable area, and grandstands at all times.
24. That the walking surface must be completed with the installation of new dirt and ground rubber to repair ruts and soften the walking surface for the horses and their handlers. Further, as part of its required test barn maintenance, Arapahoe Park is to continue to monitor the performance of the misting system to ensure that it is effective in cooling the testing stalls and to continue to maintain proper water drainage behind the wash rack areas.
25. That when entries are being taken, only authorized persons are allowed to be behind the counter of the Racing Office. Further, all access to the Racing Office's restricted areas are to have locking devices in place during the taking of entries. The Racing Secretary is to ensure that all visitors to his/her office are escorted.

26. Notice was taken by the Commission that Waypoint Analytical performed a favorable soil analysis on January 14, 2019.
27. Notice was also taken that the track scale has been recalibrated, certified, and will be placed outside.
28. In accordance with the Commission's directive, a telephone was installed next to the track to assist with communication to the office of the Board of Stewards regarding complaints or disputes.
29. The Commission, in its discretion, may determine that additional conditions need to be imposed at this time or at any time during the live race meet.

Failure to comply with the application conditions prior to or during the 2019 meet may result in a fine, suspension, or revocation of the meet license for Racing Associates of Colorado, Ltd., d.b.a. Arapahoe Park.

DATED this 14th day of May 2019.

BY ORDER OF THE COLORADO RACING COMMISSION

s/_____

Dan Hartman, Director,
Division of Racing Events

Consideration of proposed human drug testing procedures—Dan Hartman and Zach Ceriani

Dan Hartman deferred the topic of Human Drug Testing Procedures to Zach Ceriani, Legal Assistant for the Division of Racing Events. Mr. Ceriani began and explained that a hearing from the 2018 race meet prompted drafting of a new Human Drug Testing (HDT) procedure which he mentioned could be found in the Horsemen's Information packet and would be integrated into CRC policy. Mr. Ceriani stated that per, the rules in the CRC rulebook, human drug testing may be conducted allowing for cause and random categories were assigned based on the work and hazard of each job as it pertains to work on the race track.

Mr. Ceriani detailed that HDT procedures would be remodeled based on two subjects: 1) define categories in the new policy detailing the structure of each job and how those jobs may be subject, weekly, to random testing; 2) a more detailed explanation of the protocol involved in HDT and how it will be better randomized to improve and expedite the procedure, while also maintaining blind testing. He went on to describe the proposed new procedure.

Mr. Ceriani explained that to improve the testing procedure, the Division would employ the use of a computerized random number generator. He noted that other jurisdictions in the United States used random number generators and that this allowed for

the removal of the “human element” during the subject selection. He stated that a division employee (most likely an investigator) would compile a list of all licensees at Arapahoe Park and categorize them based on license and job type. The list would be constantly updated to include new licensees throughout the season. Once the Division employee finished compiling the licensee list, they would then take the list to an Arapahoe Park employee who would use the random number generator to select individuals from the aforementioned licensee list.

Chairwoman Inmann asked who would observe the process. Mr. Ceriani responded that the first check would be the random list compiled by the Division Employee, the second check would be the conduction of a random number generator selection by an Arapahoe Park employee, and that the third check would be by horsemen who may observe the procedure. Chairwoman Inmann then asked what chemicals or drugs the testing targeted. Mr. Ceriani replied that there are eight (8) groups including barbiturates and amphetamines among other drugs. Chairwoman Inmann inquired the time period of the results. Mr. Dan Hartman reported that the results were almost instantly, happening on-site, and visible immediately on the sample cup used.

Commissioner Hoffman asked why the method would be designated explicitly in the Horsemen’s Packet. Mr. Ceriani replied that although, the Division is not required to display testing methods, it would increase transparency and decrease the challenge of seeming bias during testing. Mr. Hartman also noted that last year’s concerns from the Commission addressing lack of transparency and detail, prompted the Division to display all possible elements of testing that may be brought into question.

Chairwoman Inmann requested to know what happens after a positive test is confirmed. Mr. Hartman responded that the licensee would go into an immediate fourteen (14) day suspension. He noted that the licensee may go in front of the Board of Stewards to contest but if they choose not to, their suspension would not be lifted until a negative test is obtained. The first offense would be taken as a warning (with the suspension) encouraging the licensee to test negative until they may return to the racetrack as an effort to alleviate any addiction or personal issues. If a licensee obtains a second positive drug test offense, they are automatically suspended for thirty (30) days and required to undergo addiction classes and obtain a negative test sample before the suspension is lifted. The third offense would be an automatic sixty (60) day suspension with the requirement of completing an addiction treatment program and producing a negative drug test before the suspension is lifted. Mr. Hartman explained that the system employed by the Division is designed to help licensees break addiction and return to work.

Chairwoman Inmann asked whether the licensee would know their results immediately. Mr. Hartman responded that the individual being tested may not leave the testing facility until their test results have been confirmed. Chairwoman Inmann also asked if the contact numbers for the investigators would be posted or available to individuals called to complete random drug testing. Mr. Hartman replied that the phone numbers will be provided to the licensee and that the numbers will be posted in the contact section of the Horsemen’s Packet.

Commissioner Hoffman asked Mr. Ceriani to clarify the final paragraph in the proposed Human Drug Testing procedure. This paragraph referred to the protocol that would take place on a drawing day for HDT. Mr. Ceriani explained that a list of all licensees, categorized by each license type, would be constructed at the beginning of the week. Then, on the drawing day, three (3) individuals would be called/contacted and they are only required to test if they are scheduled to work that day and if they are on grounds, per the CRC rulebook. If the first person, of three, is not available to test that day because they are not scheduled to work that day and is off grounds, then the next person drawn from the list is contacted. In the instance that all three (3) individuals are unavailable, the drug testing would not be conducted for that week. Mr. Dan Hartman reiterated that the individual called must report to the racing license office for testing and they may not simply avoid testing. He stated that if the individual is on premise and scheduled to work that day, they must report for testing to avoid any fines or citations.

Commissioner Hoffman requested that there be clarification on Human Drug Testing that may be conducted other than random testing. Mr. Ceriani replied that in addition to random testing, investigators may perform “for cause” testing if they suspect that a licensee is inebriated or under the influence of alcohol or drugs. Mr. Hartman that random testing may also be defined as “suspicious-less testing.” Chairwoman Inmann inquired whether there would be an increase in out of competition testing conducted on horses. Mr. Hartman replied that there would be an increase of out of competition equine testing. Chairwoman Inmann asked if humans would also receive an increase in the amount of testing done during the meet to which Mr. Hartman responded that the testing amount would not increase, only the information and clarity provided for HDT would increase.

Mr. Shannon Rushton, representative of the Colorado Horseracing Association, inquired whether or not a random number generator may be used when selecting horses for random drug testing. Mr. Ceriani replied that the method could be easily transferrable to horses and Mr. Hartman responded that because a random number generator was okayed for HDT, it could also be used to select horses at random from each race to be drug tested. Chairwoman Inmann opened the floor to the public and Commission members for further questions. Seeing that there were none, a motion was made by Commissioner Hoffman, Seconded by Commissioner Bowen, and unanimously carried to approve of the inclusion of a new Human Drug Testing procedure in the Horsemen’s Information Packet to be instituted during the 2019 live race meet.

Introduction of new Racing Stewards for the Division of Racing—Ed Kulp

Agent-In-Charge Mr. Ed Kulp introduced Tyra Barnett and Michael McMullen as the new Racing Stewards for the Division. Commissioner Hoffman asked the stewards to introduce themselves. Ms. Barnett noted that she had 25 years of experience in the racing industry and that she had worked as a Steward at Lonestar, Hawthorne, and the Wyoming Downs. She explained that she hoped her position as Steward would aid in the improvement of the racing industry in Colorado. Mr. McMullen described his array of experiences in the racing industry as a jockey, trainer, and owner over the last 45 years. He identified that as a steward, his experiences could bring new perspectives to the role.

Consideration of approval of the proposed citation schedule—Ed Kulp

Mr. Ed Kulp began discussion of the proposed citation schedule by explaining its purpose. He stated that the citation schedule would allow investigators to streamline small infractions that do not need to be heard by the Commission or Board of Stewards by allowing investigators to simply write a designated citation with its fee to resolve minor issues. He stated that the citation schedule included small, common infractions that may be appealed. Commissioner Inmann asked for clarification of small violations. Mr. Hartman, Director of the Division of Racing, stated that the citation schedule has existed for many years and it allows for due process without writing of case files, allowing for investigator time to be spent more diligently on larger, more involved cases. He noted that the only changes would involve language. Mr. Ceriani, Legal Assistant to the Division, added that the changes included changing the statute numbers, as the Division of Racing is a title 44 entity, as opposed to a title 12. He also stated that included with the language changes, is one new citation. The new citation involved a fine for failing to receive approval for an equipment change before a race.

Chairwoman Inmann opened the floor for questions. Since no questions were asked, a motion was made by Commissioner Estes, Seconded by Commissioner Scott, and unanimously carried to approve of and initiate use of the proposed citation schedule for the 2019 live race meet.

Consideration of Contents of Horsemen's Information Packet—Dan Hartman

Director of the Division of Racing Events, Dan Hartman, explained that every year the Horsemen's Information packet is provided to horsemen at Arapahoe Park as a medium to disburse all of the most accurate and up to date procedures, rules, and requirements for the race meet. He stated that the changes to the 2019 Horsemen's Packed included the addition of the Concussion Protocol, addition of new rules from the February rule-making hearing, and the inclusion of a sample medication chart to be used by trainers and veterinarians. He also noted that there would need to be a separate approval of page forty-nine (49), which included an updated estimated therapeutic drug withdrawal times schedule changing Albuterol and Clenbuterol to Class 1 and A drugs, as well as the inclusion of the absolute abolition of anabolic steroids. He noted the withdrawal times on the schedule were modeled after the ARCI withdrawals.

Commissioner Hoffman inquired whether the Horsemen had seen and approved of the estimated withdrawal schedule. Mr. Shannon Rushton, Colorado Horseracing Association (CHA) representative, responded that the schedule was both seen and approved by the CHA board. Commissioner Scott offered an edit to the withdrawal schedule by correcting spelling of Dormosedan. Chairwoman Inmann stated that at this time, since no more questions were asked, there would be a separate motion to approve of page 49 of the Horsemen's Packet. A motion was thereupon made by Commissioner Hoffman, Seconded by Commissioner Scott, and unanimously carried to approve page 49 of

the Horsemen's Packet. Chairwoman Inmann then opened the floor for general questions regarding contents of the Horsemen's Information Packet.

Commissioner Scott asked if there was a delay caused by Colorado State University on Piroplasmosis and Equine Infectious Anemia testing, as the CSU lab did not increase the number of days per week that samples would be accepted/tested. Mr. Rushton responded that the horsemen had not noticed any delays or encountered any issues.

Chairwoman Inmann asked for an average turnaround time regarding out of competition equine testing. Mr. Dan Hartman replied that the average number of days before a test result is received, falls anywhere between eight (8) and ten (10) days. He stated that once the test result is received by the Division, the trainer is immediately notified. If the out of competition test comes back negative, the trainer will not be notified and they are to know that a positive test was not received. Mr. Shannon Rushton clarified that this process is the same for in competition, or race day testing. If a test comes back negative, the trainer will collect purse money upon no receipt of a positive test notification. If a test comes back positive, the trainer is immediately notified. He mentioned that this procedure will be discussed at the upcoming CHA meeting.

Since no further questions were made, nor comments were asked, a motion was thereupon made by Commissioner Estes, Seconded by Commissioner Scott, and unanimously carried to approve of the contents of the Horsemen's Information Packet for the 2019 race meet.

Consideration of proposed racetrack and horsemen rules/conditions—Bruce Seymore '

Bruce Seymore, Executive Director of Mile High Racing and Entertainment, presented the proposed racetrack and horsemen rules as written by Arapahoe Park. He explained that in a letter written to Mr. Dan Hartman and per an agreement with the Colorado Horseracing Association, the proposed racetrack and horsemen rules for the 2019 race meet would be brought to and discussed by the Colorado Racing Commission. He detailed that some proposed rules were taken from the annual ARCI conference held in April 2019 and that regardless of where the rules were taken from, they must all be voted on and unanimously passed by the CHA.

The first condition Mr. Seymore discussed was Arapahoe Park's social media presence. He stated that for the 2019 race meet, it was proposed that the total number of equine and human drug tests be posted to Arapahoe Park's Facebook page. He ensured these numbers would be totals, not compliance numbers. He also explained that advertisements for backside tours on Saturday mornings after training would be posted in addition to daily track reports to include depth and surface data. Mr. Seymore explained that all of these efforts were being made in order to increase the transparency of Colorado Horse Racing to the public.

Other proposed rules/conditions laid out by Mr. Seymore included Arapahoe Park's goal of having fifty percent (50%) of horses undergo a pre-race examination by a Division Veterinarian, constructing a more humane area to euthanize and hold horses, and extensions of track services. He also explained that for the 2019 race meet, workout times would be first thing in the morning and right after training breaks. Additionally, he said galloping on the rail would be watched and monitored by an outrider. Mr. Seymore noted that the use of bisphosphonates is absolutely banned and prohibited at Arapahoe Park. He also explained that the placement of the starting gate would be at the half mile (1/2 mile) pole for young horses and instituting a new crop rule that would require only newly designed crops with foam-filled leather poppers to be used. A new first-time starter medication rule was also mentioned by Mr. Seymore. This rule stated that first-time starters are only allowed 2.5cc of Lasix for their first outing and if the horse bleeds through the 2.5cc limit, it must then be scoped by a veterinarian, and then Lasix usage may increase to 5cc. Mr. Seymore stated that due to the new concussion protocols put in place by the Commission, Mr. Dan Hartman would be bringing out EMTs to teach classes identifying symptoms, diagnosis, and treatment of concussions, pending approval from the CHA.

Commissioner Hoffman commented that three areas of concern posed by the Wall Street Journal about horse racing—injuries, drugs, and track conditions—were all addressed. However, he asked Mr. Seymore how the addressing of these issues would be conveyed to the public. Mr. Seymore stated that the best way to convey messages of proactivity and welfare to the public is to address them by informing the public about horses while answering questions they may have. Commissioners Inmann and Hoffman inquired whether any of the information mentioned by Mr. Seymore would be posted in the grandstands. Mr. Seymore responded that all of the information would be made public via social media.

Mr. Dan Hartman, Director of the Division of Racing Events, stated that in the past, a rule was put into place allowing house rules to be made outside of the Commission for racing and track specific rulings. He explained that this year, the Commission and Division are trying to take similar actions to Arapahoe Park in order to ensure the welfare and transparency of racing by hiring two (2) full-time veterinarians to perform test barn duties and conduct pre-race examinations, as well as hiring new Stewards who are well embedded within the industry. He also mentioned that the Division is committed to providing numbers and statistics for testing and veterinary exams to Arapahoe Park for posting. He also noted that emergency services staff would hopefully be available to give demonstrations to jockeys and staff regarding concussion protocol. Mr. Hartman reiterated the coalition of the Division and Arapahoe Park staff working together to help the industry make positive changes.

Chairwoman Inmann asked if any of the testing data could be posted on the Division website, to which Mr. Hartman replied he would have to discuss the option with the Division's Communication's Manager. Chairwoman Inmann asked Mr. Shannon Rushton if there were any concerns for the CHA regarding the proposed track rules and conditions. Mr. Rushton responded that the only concern of the CHA was the handling of Lasix regulations and the future of the drug's usage in race horses.

Mr. Shannon Rushton commented that any information horsemen can translate to the public to provide transparency of horse racing operations and procedures may improve public perception of the industry. He stated that the CHA has a goal to educate the public on the different breeds used in racing, the processes of racing and training operations for these different horses, and how they are treated. He explained that the CHA has a Facebook page in which they will post stories about specific horses and trainers to shed light on the care, passion, and welfare involved in raising and training race horses.

Ms. Sandy Miller, a trainer at Arapahoe Park and member of the CHA, asked how the commission is handling the banning of bisphosphonates. Mr. Dan Hartman responded that bisphosphonates are already prohibited, Class I drugs. He stated that not only are they banned but if a horse tests positive for bisphosphonates, under any circumstance, that horse will be ejected and prohibited from ever racing at Arapahoe Park and the trainer will receive prosecution as designated in the CRC drug penalty schedule.

Commissioner Hoffman thanked the CHA, Arapahoe Park, and the Division for their efforts towards taking an initiative to show positivity towards horse racing. Mr. Shannon Rushton replied that taking a look at the inner workings of the system and associations involved will keep positive change moving forward in the future. Chairwoman Inmann commented that she was anxious to see the improvements made to the test barn.

Consideration of new concussion protocol guidelines—Dan Hartman

Mr. Dan Hartman, Director of the Division, explained that Colorado is attempting to be at the forefront of the Industry when it comes to new and improved concussion protocol guidelines. He detailed that a representative from the Jockey's guild would be coming to Arapahoe Park to conduct classes on concussion protocol and treatment. He also noted that the new concussion rules in the CRC rulebook apply to any persons involved in handling or riding horses, not just Jockey's. Mr. Hartman stated that the new ambulance contract with Falck EMS would give Arapahoe Park access to EMTs who are extremely capable of concussion diagnosis and testing. He addressed that the Division is hopeful a concussion protocol would be set into motion for the 2019 racing season. He explained that the protocol involves many education pieces and follows a strict "see something, say something" policy. Mr. Hartman stated that the concussion protocol is a long overdue rule and it puts every participant "on notice" to follow-up after a fall, or head injury. He expressed that handouts and posters would be created to address the proposed protocol, pending its approval. The documentation, forms, and posters being created to address, identify, and treat concussions would be based on the Delaware jurisdiction's protocol and tailored to fit the Colorado Racing Commission's protocol.

Commissioner Hoffman asked that if this concussion protocol were to be passed, if it would have to go through a rule-making process again. Mr. Hartman responded that there is already a concussion diagnosis and treatment rule in place for the 2019 season (CRC Rule 3.601); however, this motion would be implementing the actual protocol required by

rule 3.601. Chairwoman Inmann inquired whether there were any further questions and seeing there were none, a motion was thereupon made by Commissioner Bowen, Seconded by Commissioner Estes, and unanimously carried to approve of the implementation of new concussion protocol guidelines for the 2019 live race meet.

Consideration of recognition of Colorado Arabian Breeder's Alliance as a new breed registration and association—Dan Hartman

Mr. Dan Hartman explained that the Colorado Racing Commission Rulebook recognizes registration associations for each breed and currently, the breed association recognized for Arabian horses is COBRA. However, since COBRA has been dissolved, Mr. Hartman stated that a newly formed breed registration—Colorado Arabian Breeders Alliance (CABA)—has absorbed all of the racing Arabians that belonged to COBRA. He stated that the Division recommended that the Commission recognize CABA as the registrant for Colorado bred Arabians. He explained that this recognition of CABA as the registrant for Arabians would allow Colorado-bred Arabian race horses access to Colorado-bred race purses instead of the money from the purses being differed into escrow. He also mentioned that in the fall of 2019, it should be put into the rule-making process and hearings that CABA is to be recognized as the breed registrant for Colorado-bred Arabians. Mr. Bradford Jones, Assistant Attorney General representing the Division of Racing, recognized that per CRC rule 6.114, it should be recommended to make a determination that recognizing CABA as an official breed association would be in the best interest of the state and the racing industry.

Commissioner Hoffman requested that the process of recognizing CABA be explained. Mr. Zach Ceriani, Legal Assistant for the Division of Racing, stated that the proposal go into regular rule-making in the fall, to be voted on February 2020, modifying the recognition of CABA instead of COBRA. Chairwoman Inmann asked what the projected number of Arabian races would be. Mr. Bill Powers, Director of Racing for Arapahoe Park, stated that there would be 24 total Arabian races. Mr. Hartman stated that there would have to be a two-part motion, as the breed has been inactive and the Colorado bred program is scattered. Mr. Ceriani stated that CABA representatives requested that the definition of "Colorado Bred" be lenient, as COBRA had not been tracking the state in which broodmares and their foals were born in towards the end of the association's reign. He explained that, this consideration would be giving CABA a one (1) year exemption from the official "Colorado-bred" definition in order to allow Colorado born and owned Arabians to be put within the registry. He further detailed that Arabians foaled after 2011 would be allowed to be registered as Colorado-bred in order to fulfill Colorado-bred standards. He stated that the two-part motion Mr. Hartman had mentioned would be: 1) recognize CABA as the Colorado-bred Arabian association; 2) one (1) year exemption of the Colorado-bred definition to allow horses foaled after 2011 to be identified as Colorado-bred horses to meet policy standards.

Chairwoman Inmann asked if there were any questions or comments from the public or Commission. Ms. Valerie Danyluk, representative of CABA, stated that the association is requesting the 1 year exemption from the Colorado-bred definition, as Arabian breeders in Colorado asked for COBRA to recognize them while but COBRA responded saying the association no longer tracked foaling state information. She stated that this exemption would allow breeders to reintroduce and regain momentum for entries into the Arabian Colorado-bred racing program. Commissioner Scott asked Mr. Rushton how the horsemen and the CHA representing other breeds felt about allowing the exemption for Arabians. Mr. Rushton responded that as long as the purse money and percentages remained untouched and exactly the same, the other horsemen would most likely be okay with the exemption. Mr. Howie Chavers, representative for the Rocky Mountain Quarter Horse Association (RMQHA), asked if the exemption would be based on an honor system and how the Arabian owners would prove that their horses were in fact bred and foaled in Colorado. Ms. Danyluk replied that CABA would reinstate validations of registration papers and that Colorado-bred horses would only be recognized if their papers indicated the horses were born in Colorado.

Following questions and comments, Commissioner Inmann turned the motion and floor over to Mr. Bradford Jones. Mr. Jones explained that the motion would be two parts. He recommended that the first motion be in pursuant to Commission rule 6.102; the Commission believes it is in best interest of the State of Colorado and the sport of racing Colorado Horse Racing Industry to modify Colorado Racing Commission rule 9.202, which lists Colorado Owners of Breeding and Racing Arabians (COBRA) as the entity which overrules Colorado-bred Racing Arabians and replace it with the entity known as the Colorado Arabian Breeders Alliance (CABA). This motion was made with the understanding that it be formally submitted into the rule-making hearings held in the fall of 2019 and spring of 2020. A motion was thereupon made by Commissioner Hoffman, Seconded by Commissioner Estes, and unanimously carried to recognize CABA as the entity to rule Colorado-bred Arabian racing for the 2019 live race season.

The second motion regarding Colorado-bred Arabians was recommended by Mr. Zach Ceriani. He stated that this motion was regarding the one year exemption period to modify the Colorado-bred definition. Mr. Bruce Seymore, Executive Director of Mile High Racing and Entertainment, asked what the period of the one year exemption would be. Mr. Dan Hartman responded that the year period would be from January 1, 2019 to December 31, 2019. Following this discussion, Mr. Ceriani recommended a motion be made to grant CABA a one (1) year exemption from January 1, 2019- December 31, 2019, to modify the Colorado-bred definition of Arabians to recognize Arabian horses foaled in Colorado after 2011. A motion was thereupon made by Commissioner Estes, Seconded by Commissioner Hoffman, and Unanimously carried to grant CABA a one year exemption from January 1, 2019- December 31, 2019, to modify the Colorado-bred definition of racing Arabians to allow recognition of Arabians foaled in Colorado after 2011.

Mr. Bradford Jones reiterated that pursuant to Commission Rule 6.102, the Commission has the absolute right to modify CRC rule 9.202. Commissioner Tina Estes noted that CABA is not comparable to other associations like the Jockey Club, or the

American Quarter Horse Association, as neither of these organizations had a void of registration or recognition in their background.

Consideration of transfer of Harness Racing Funds to Horsemen’s Bookkeeper account to be used for purse money—Greg Lamb

Mr. Greg Lamb, Auditor for the Division of Racing Events, stated that the Division had received a letter from Arapahoe Park requesting that the \$27,305.88 of Harness Racing funds be transferred from the Racing Associates of Colorado banking account and into the Horsemen’s Bookkeeper account. He informed the Commission that this letter stated the funds from Harness Racing would be used as purse money for the 2019 live race meet once transferred to the Horsemen’s Bookkeeper. Chairwoman Inmann opened the floor for questions. Since no questions were asked, a motion was thereupon made by Commissioner Estes, Seconded by Commissioner Scott, and unanimously carried to approve the transfer of Harness Racing Funds into the Horsemen’s Bookkeeper account.

Adjournment

There being no further business to consider, a motion was made by Commissioner Scott, seconded by Commissioner Hoffman, and unanimously carried to adjourn the regularly scheduled meeting of the Colorado Racing Commission at 11:23 AM.

Next Regularly Scheduled Meeting

The next regularly meeting of the Colorado Racing Commission will be held on **Tuesday, July 9, 2019**, at 9:30 AM at Arapahoe Park 26000 E. Quincy Ave, Aurora, CO 80016.

PAM INMANN, CHAIRWOMAN

TINA ESTES, VICE-CHAIRWOMAN

D. LYNN HOFFMAN, MEMBER

LORI SCOTT, DVM, MEMBER

SANDRA BOWEN, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, July 9, 2019 in the Director's Room at Arapahoe Park Race Track 26000 E. Quincy Ave Aurora, CO 80016. Chairwoman Inmann called the meeting to order at 10:03AM.

Members Present

Pam Inmann, Chairwoman
Tina Estes, Vice-Chairwoman
Sandra Bowen, Member
David Lynn Hoffman, Member
Lori Scott DVM, Member

Staff Present

Cory Amend, Senior Director of Enforcement Division
Dan Hartman, Director of the Division of Racing Events
Ed Kulp, Agent in Charge
Zach Ceriani, Legal Assistant
Bradford Jones, Assistant Attorney General representing the Division of Racing Events
Gregory Lamb, Racing Division Auditor
Suzanne Karrer, Communications Manager for Enforcement Division
Deborah Allen, Racing Division Business Analyst
Breanne Rodlin, Assistant to Division Director

Also Present

An attendance sheet is attached hereto and made apart of these minutes.

Approval of Minutes of May 14, 2019

After establishing that a quorum of Commission members was present, discussion began regarding edits that needed to be made to the minutes from the May 14th Commission meeting. Commissioner Hoffman explained that on page sixteen, paragraph one "2cc should be changed to 2.5cc." He also mentioned that on page sixteen in paragraph two, the word 'crops' should be changed to 'injuries' in the sentence: "Commissioner Hoffman commented that three areas of concern posed by the Wall Street Journal about horse racing—crops, drugs, and track conditions—were all addressed."

Assistant to the Attorney General, Mr. Bradford Jones, also had revisions to be made to the May 14th minutes. He began by referring to page one, paragraph five where he explained the word "direc5tor" should have the 5 omitted and the word should read "director." He also referred to page 2, within the first sentence, where the word "stature" should be replaced with "statute." He stated that on page 3, third bullet point within the last sentence, the word "fir" should be replaced with "fire."

Following the suggested edits, a motion was thereupon made by Commissioner Hoffman, seconded by Commissioner Scott, and passed unanimously to approve the minutes of May 14, 2019 with edits mentioned by Commissioner Hoffman and Mr. Bradford Jones.

Election of Officers—Bradford Jones

Chairwoman Inmann turned the floor over to Assistant Attorney General, Mr. Bradford Jones. He stated that in an attempt to provide transparency and information to the State of Colorado about boards and commissions, there would be a script that he would follow to elect officers of the Commission. He stated that by the order of statute 44-32-302, subsection 1 of the CRS, members of the Commission were to vote on officers of the board at the beginning of a new fiscal year—which began on July 1, 2019. Mr. Jones explained that each Commissioner may nominate any number of individuals from the Commission to be vice-chairperson and/or chairperson. He stated that nominations do not require a second, more than one nomination per commissioner may be made, and that each Commissioner had the ability to nominate oneself.

Mr. Jones began taking nominations for Chairperson of the Colorado Racing Commission (CRC) for fiscal year 2020. Commissioner Hoffman nominated current Chairwoman, Pamela Inmann, to serve as the Chairwoman again in Fiscal Year 2020. There were no further nominations made and no discussion was had. Seeing as there was no further discussion Mr. Jones asked if there was a motion to close nominations for Chairperson of the Colorado Racing Commission. A motion was thereupon made by Commissioner Hoffman, seconded by Commissioner Scott, and unanimously carried to close nominations for the 2020 Fiscal Year Chairperson of the Commission. A motion was then made by Commissioner Hoffman, Seconded by Commissioner Scott, and unanimously carried to elect Commissioner Pam Inmann as the Chairwoman of the CRC for the 2020 Fiscal year. Mr. Jones then thanked Chairwoman Inmann and asked if she would like to speak.

Chairwoman Inmann thanked her fellow Commission members and stated that it was wonderful to work with people who cared deeply about horses and the racing industry as a whole. She also spoke to Mr. Shannon Rushton, representative of the Colorado Horseracing Association (CHA), and Mr. Bruce Seymore, Executive Director of Mile Hi Racing, and said she was looking forward to the next year.

Mr. Bradford Jones then opened the floor for nominations for vice chairperson of the Colorado Racing Commission. Commissioner Hoffman nominated Commissioner Tina Estes for vice chair. Seeing as no further nominations were made and no discussion was had, Mr. Jones asked if there was a motion to close the floor for nominations. A motion was thereupon made by Commissioner Hoffman, seconded by Commissioner Scott, and unanimously carried to close the floor for nominations for Vice Chair. No further discussion was had following the close of nominations. A motion was thereupon made by Commissioner Hoffman, seconded by Commissioner Scott, and unanimously carried to

elect Commissioner Tina Estes vice chair of the Colorado Racing Commission during the 2020 fiscal year. Mr. Jones asked if Commissioner Estes had any comments and she declined.

Following the nominations for chair and vice chair, Chairwoman Inmann asked for a motion to temporarily close the business meeting of the CRC and open the hearing for race dates for the 2020 live meet season. A motion was thereupon made by Commissioner Estes, seconded by Commissioner Hoffman, and unanimously carried to temporarily adjourn the business meeting of the Colorado Racing Commission and convene the 2020 Race Dates Hearing.

2020 Live Race Dates Hearing—Dan Hartman

Chairwoman Inmann turned the floor over to Dan Hartman to discuss the race dates hearing process. Mr. Hartman, Director of the Division of Racing Events, explained that the race dates hearing is a fiscal process that ensures there are live racing dates in place before the beginning of the next year's race meet, at the beginning of the fiscal year—July 1 of every year. He stated that Arapahoe Park sent a letter to the Division on July 2, 2019 requesting an envelope of 39 race days of racing, over a 13 week period, from May through August 2020.

There being no discussion, a motion was thereupon made by Commissioner Estes, seconded by Commissioner Hoffman, and unanimously carried to approve 39 unspecified race dates within the months of May through August for the 2020 live race meet.

Following the approval of the 2020 race dates, Chairwoman Inmann asked for a motion to close the race dates hearing and re-convene the regular business meeting. Commissioner Hoffman made a motion, seconded by Commissioner Scott, and unanimously carried to close the 2020 race dates hearing and re-open the regular business meeting of the Colorado Racing Commission.

Live Race Meet Report—Ed Kulp

Agent-in-Charge, Ed Kulp, began the report for the live race meet by discussing the test barn. He stated that one thousand fourteen (1014) equine pre-race exams had been performed out of one thousand one-hundred fifteen (1115) starts. Mr. Kulp explained that the number of pre-race exams performed during the current race meet were significantly higher than the number of pre-race exams completed during the 2018 live race meet. He insisted that the large increase of these exams aided in removing horses that were unfit, sore, or otherwise ineligible to race from competition, resulting in only one breakdown during the 2019 race meet. Commissioner Hoffman inquired whether this breakdown was catastrophic to which Mr. Kulp responded that the breakdown resulted in euthanasia.

Mr. Kulp then described that three hundred thirty blood (330) samples and two hundred thirty-seven (237) urine samples were collected in the test barn. He also stated that the time period in which the horses spent in the test barn during collection was reasonable. Commissioner Hoffman asked what the average amount of time a horse would spend in the test barn was and Mr. Kulp replied that horses typically spent one (1) hour in the test barn. He explained that the time interval was dependent on the horse, how quickly they cool down, if they urinate immediately, etc. He also stated that the “turnaround” time for horses spent in the test barn was quicker than that during the 2018 race meet.

Mr. Ed Kulp then began to expand upon the licensing numbers and statistics for the race meet. He detailed that the total number of key, minor business, and support licenses was three hundred eighty-three (383) and that among these different license types, there were also one hundred ninety (190) validations completed. He stated that due to the quick nature of the racing season, April through August, training temporary staff was difficult. However, Mr. Kulp explained that the temporary licensing staff had done well processing and validating licenses within a reasonable timeframe. Chairwoman Inmann asked what the average amount of time it takes for a licensee to receive a completed license was. Mr. Kulp replied stating that the licensees were able to immediately start work with a temporary license, given they completed and passed background check. He stated that, on average, licensees receive their official credentials within two weeks of beginning the application process.

Commissioner Hoffman asked whether there were more or less injuries when comparing the 2019 race meet to the previous year’s meet. Mr. Kulp answered stating that there were less equine injuries during the 2019 race meet when compared to the 2018 meet. He reiterated that there was only one catastrophic injury and fifteen (15) total scratches due to horses being placed on the vet’s list during pre-race exams. Ultimately, Mr. Kulp explained that the pre-race exams proved to be beneficial by taking horses at risk of injury, out of competition. Mr. Dan Hartman, Director of the Division of Racing Events, described that during the 2018 race meet, only thirty percent (30%) of horses that raced underwent pre-race exams; whereas, during the 2019 race meet, ninety point nine percent (90.9%) of horses that raced completed a pre-race exam, resulting in fewer breakdowns as of July 2019. Mr. Kulp turned the floor over to Bruce Seymour, Executive Director of Mile High Entertainment, to discuss statistics such as wagering and attendance at Arapahoe Park.

Mr. Bruce Seymore stated that the numbers he would be describing were current through July 8, 2019. He presented that public attendance for the 2019 race meet at Arapahoe Park was up by nine thousand (9000) spectators. He also described that there had been one thousand two hundred starts (1200) with an average of six point nine (6.9) horses per race. Mr. Seymore also detailed that the handle for the meet was increased from 2018 by \$123,888.33. Bill Powers, Director of Racing at Arapahoe Park, stated that there was a \$215,000 improvement to the purses when compared to the 2018 race meet. Mr. Seymore explained that due to a water well malfunction on July 1 and a major lightning storm in June, twelve (12) races had been cancelled and would be rescheduled and made-up. These races were to be scheduled following a recommendation from the horsemen

during the Colorado Horseracing Association meeting to be held after the Colorado Racing Commission meeting on July 9, 2019.

Mr. Bruce Seymore directed the meeting's attention to the television operated by Billy Beyers, Operations and Facilities Manager of Arapahoe Park. Mr. Seymore stated that Arapahoe Park had put in effort to be more transparent with the public in order to improve public perception of horse racing. He stated that one of the strategies employed by Arapahoe Park was to institute barn tours on Saturday mornings that were free to the public before racing began. He explained that in the beginning of the season, few people attended the tours but by the past weekend, on July 6, the tour had fifteen (15) people and was split into two groups. Mr. Seymore detailed that these tours helped the public experience one-on-one time with trainers and their horses, asking questions and learning about the care and racing of equine athletes. He believed that these barn tours were helpful to battle misconceptions and welcome outsiders to an industry that they may not have previously understood. Another outlet of transparency that was considered by Arapahoe Park was the use of social media to post stories and statistics for the public to see. Mr. Seymore stated that videos of trainers and horses were posted on the Colorado Horseracing Association's Facebook page along with statistics like track depths, number of equine and human drug tests performed, and an equine injury list posted on the Arapahoe Park Facebook page.

Chairwoman Inmann asked Mr. Seymore how many trainers participated in the barn tours during the race meet. He replied that at least two trainers per barn were visited and he tried to have at least four to five trainers answer public questions during each tour. Chairwoman Inmann then thanked Mr. Seymore for all of his efforts and also thanked all of the trainers for their diligence and participation during the tours and other activities at Arapahoe Park. She then thanked Mr. Kulp for giving the mid-meet report and asked if the Commissioners had any other questions. As there were no questions from Commissioners, she then asked if the public had any questions. Since no public questions were asked, Chairwoman Inmann thanked all members of the public, including horsemen, and turned the floor over to Mr. Dan Hartman for public comments regarding the live race meet.

Mr. O.A. Martinez, horse trainer, was the first to offer public comment. He stated that as a trainer at Arapahoe Park since 2010, any horses who received a positive drug test were placed on an automatic forty-five (45) day suspension. He then explained that he had a horse test positive for an allergy medication (albuterol) as a result of his usage of an inhaler, causing contamination in the horse. He declared that although the levels were mere picograms (0.00000000001 grams), the horse was placed on the vet's list and was given a 45 day suspension. He then explained that four weeks prior to the Commission meeting, a horse tested positive for methamphetamine and did not receive a 45 day suspension. He inquired as to why the horse, who tested positive for such a serious drug, did not receive the same suspension as horses which test positive for other various medications.

Mr. Dan Hartman, Director of the Division of Racing Events, replied stating that the horse in question did not test positive for methamphetamine, rather it was a suspect. He explained that the trace amounts of amphetamines found in the horse's system were so microscopic, that Industrial Laboratories could not confirm a positive test; therefore

making the horse suspect to environmental contamination and permitting the Division to perform “for cause” drug testing on individuals who had contact with the horse, including the entire barn crew as well as the entire gate crew. Mr. Hartman confirmed that seventeen (17) total people were expected to take a drug test. Two (2) of the 17 individuals refused to take a drug test, resulting in automatic positives, and three (3) individuals tested had positive results for Methamphetamine. He reaffirmed that the testing was warranted and the individuals who tested positive underwent an automatic fourteen (14) day suspension. The individuals who tested positive would not be allowed to return to work until they could produce a negative drug test, after their 14 day suspension. He then reaffirmed that the horse’s test came back as “suspect” and that the lab could not confirm calculable, numeric levels to label the test a “positive,” even after further testing.

Chairwoman Inmann asked if Mr. O.A. Martinez would like to provide a response. Mr. Martinez stated that the trainers on the backside had heard that the test on the horse was a confirmed positive and that regardless of the result; any suspect is a trainer’s responsibility. He explained that if the horse tested positive, then the trainer needed to take responsibility for the test and take the required actions and consequences.

Mr. Hartman then replied that again, the horse did not receive a positive test, the test was suspect with extremely trace amounts of methamphetamine which levels could not even be determined because they were so low.

Veronica Chavez, support license holder and exercise rider, asked whether or not the horse should have been prohibited from racing even if the test was only “suspect.” Ms. Chavez also mentioned that she had brought a complaint regarding agents with too many jockeys to the stewards and she stated that the complaint was never followed through. She wanted to know how the process could be expedited and/or who she needed to go to in order to file a formal complaint.

Mr. Dan Hartman stated horse suspensions from racing only applied to those animals that had a positive drug test. He also answered Ms. Chavez’s question about complaints by explaining that if a written complaint was made, the investigators at Arapahoe Park would be the ones to see the complaint through. Chairwoman Inmann inquired whether or not the complaint had to be written and Mr. Hartman responded yes. Chairwoman Inmann also asked where an individual should go in order to file a formal complaint. Mr. Hartman explained that an individual should find agent-in-charge Ed Kulp in the Racing Commission Office and make a written complaint to him to be seen out by the Division.

Chairwoman Inmann asked if there were further public comments or if Mr. Dan Hartman would like to make any further comments. Mr. Hartman responded by saying that he thought the meet was going well and that the ARCI model rules adopted by the Commission were aiding in the success of the meet. He also stated that the race track had been extremely safe, with careful attention paid to the footing as well as inclement weather safety precautions taken throughout the season. He mentioned that the Colorado Horseracing Association (CHA) had a Facebook page that included videos of interviews with owners and trainers that he would like Mr. Shannon Rushton to discuss. He stated the

increased pre-race examinations by the Division veterinarians had eliminated many issues such as lameness and breakdowns by scratching those horses who had lameness, fitness, or other inherent issues. Mr. Hartman then invited Mr. Shannon Rushton, representative of the CHA, forward to discuss efforts by the CHA.

Mr. Rushton explained that after the ARCI Conference held in April, members of the Association and CHA knew they needed to increase transparency of the track and horsemen to the public. He described that the barn tours at Arapahoe Park helped answer many public questions and increased understanding of training and operations on the backside. He then elucidated on this transparency process by addressing the issue regarding the horse with a suspect methamphetamine test. Mr. Rushton stated that on the Monday morning after the suspect test result was found by the lab and translated to the Division, Mr. Bruce Seymore informed him there would be a conference call. On the aforementioned conference call, Mr. Rushton confirmed that Mr. Dan Hartman declared that the horse in question had a suspect environmental methamphetamine contamination and he explained that all members of the trainer's barn would be drug tested. Mr. Rushton stated that agent-in-charge, Ed Kulp, informed him of the process to test the entire gate crew and then disclosed that the barn crew to be tested was his son, Stetson Rushton's barn crew. Mr. Rushton explained that he wanted no issues; therefore, he let the investigators conduct all the testing without any of his oversight. He confirmed that two members of the barn crew left and refused testing. Mr. Rushton explained that he was giving his account and experience of the events to the Commission, as he did not want any of the trainers to assume special treatment or privileges were given to Mr. Stetson Rushton and his barn crew. After this statement from Mr. Shannon Rushton, Mr. Dan Hartman again reaffirmed that the lab (Industrial Labs) could not confirm high enough levels of methamphetamine in the horse's system to justify a positive drug test. He also mentioned that he would be happy to answer any further questions.

Chairwoman Inmann asked a question directed towards Commissioner Lori Scott, DVM. Chairwoman Inmann asked how environmental contamination would occur in a horse and how the drug would be transferred from human to animal. Commissioner Scott responded by saying if the drugs were present on a human's skin or clothing, they could be transferred to the horse through oral administration, or skin-to-skin contact. She stated that this issue had happened at a greyhound track in Colorado many years ago with a different substance. Mr. Rushton interjected stating that Mr. Dan Hartman mentioned if there would have been a positive drug test on a horse for a substance such as methamphetamine; the trainer would have absolutely been prosecuted to the fullest extent of the law. Commissioner Scott informed the Commission and members of the public, that when levels are found at such trace amounts in an animal's system, the laboratory and veterinarians attempt to find environmental contaminations as the source. Mr. Dan Hartman explained that the Division was not trying to "write-off" the test as environmental; it just wanted to alleviate the problem and get rid of the issues caused by unsafe activities like illicit drug usage on the backside. He asserted that this elimination of drug users prompted the 'for cause' testing done on the barn and gate crews who were in contact with the suspect horse. Chairwoman Inmann thanked all members for their contributions to the discussion.

Mr. Rushton asked Mr. Hartman if the lab was under suspicion that a substance was present, how would it determine if the level was high or low enough to be considered a positive test versus environmental contamination. Mr. Hartman stated that the Division moved forward with for cause testing even though no positive was found. Mr. Rushton repeated his question asking at what level or amount of a drug the lab determines a positive test. Mr. Hartman responded that if the level or amount of the drug found was even identifiable, or able to be given a numeric value, the Division would have prosecuted.

Chairwoman Inmann asked the public if any other individuals wanted to come forward with questions or comments and Mr. Juan Chavez Ortega was asked to present his comments to the Commission. Mr. Chavez asked whether or not a trainer and horse would be immediately removed from the meet and Arapahoe Park if the horse received a bad test for a banned substance. Mr. Hartman stated that if a horse was presented with a positive test, all trainers—no matter who they were—would get the right to due process and would not immediately be removed from Arapahoe Park. Mr. Chavez then asked why some trainers received barn searches for small drug violations, while others do not, even for more serious violations. Mr. Hartman replied stating that due to issues in past years, barn searches were no longer automatically performed on trainers who received low-level drug violations. Mr. Chavez stated that no matter the violation, the trainer should still be held accountable for all violations they receive and appropriate measures should be taken to ensure that horses and trainers with positive tests should endure the designated consequences. Assistant Attorney General, Mr. Bradford Jones, explained the due process system that all trainers receive. He described that all trainers get the opportunity to have their case heard by the Board of Stewards and/or the Racing Commission. He confirmed that trainers have the ability to send split samples to any lab they would like and that they have the right to present their case before any action would be taken against them.

Chairwoman Inmann asked if there were any other questions. Commissioner Hoffman then asked Mr. Jones to describe the difference between the role of the Commission versus the role of the Board of Stewards. Mr. Jones explained that the Commission is classified as a type II board by Colorado Legislature, meaning the Commission has the ability to take action on and promulgate rules. He then described that the Board of Stewards falls under the Division of Racing. They have the ability to conduct hearings based on rules enacted by the Division. He continued saying that most hearings are held during the racing season in front of the Board of Stewards. The Commission conducts de novo hearings, meaning that although the stewards may have already heard the case, the hearing in question may have both sides presented, witnesses called, and closing arguments conducted. Mr. Jones stated that if the Board of Stewards has been disbanded before a hearing takes place, the hearing customarily goes to the Commission. He confirmed that all hearings held in front of the Stewards may be appealed and heard by the Commission. He continued by saying that the Commission may accept or deny the findings of the Board of Stewards.

Adjournment—Chairwoman Inmann

Chairwoman Inmann thanked all meeting attendees for participating in the discussions held. She informed the attendees to ensure that any and all issues they face during the season are brought to light and resolved by either the Division or Arapahoe Park. Seeing as there was no further discussion, a motion was thereupon made by Commissioner Estes, seconded by Commissioner Hoffman, and unanimously carried to adjourn the meeting of the Colorado Racing Commission at 11:15 AM.

The next regularly meeting of the Colorado Racing Commission will be held on **Tuesday, September 10, 2019**, at 9:30 AM in the Red Rocks Conference Room, Suite 300 located at 1707 Cole Blvd, Lakewood, CO 80401.

PAM INMANN, CHAIRWOMAN

TINA ESTES, VICE-CHAIRWOMAN

D. LYNN HOFFMAN, MEMBER

LORI SCOTT, DVM, MEMBER

SANDRA BOWEN, MEMBER

RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Tuesday, September 10, 2019 in the Red Rocks Conference Room at 1707 Cole Blvd. Suite 300. The meeting was called to order at 9:39AM.

Members Present

Pam Inmann, Chairwoman
Tina Estes, Vice-Chairwoman
Sandra Bowen, Member
David Lynn Hoffman, Member
Lori Scott DVM, Member

Staff Present

Cory Amend, Senior Director of Enforcement Division
Donia Amick, Director of the Division of Racing Events
Ed Kulp, Agent in Charge
Zach Ceriani, Legal Assistant
Bradford Jones, Assistant Attorney General representing the Division of Racing Events
Suzanne Karrer, Communications Manager for Enforcement Division
Ashley Leary, Criminal Investigator for the Division of Racing
Breanne Rodlin, Assistant to Division Director

Also Present

Johnny Mac Hayes, Legal Counsel for Mr. Manuel Almanza Jr.

Approval of Minutes of July 9, 2019

After establishing that a quorum of Commission members was present, discussion began regarding edits that needed to be made to the minutes from the July 9th Commission meeting. Mr. Bradford Jones, Assistant Attorney General, stated that on page 6, in the second full paragraph, there should be a change. This change was to remove the word 'the' between 'that' and 'again' the sentence "Mr. Hartman then replied that the again, the horse did not receive a positive test, the test was suspect with extremely trace amounts of methamphetamine which levels could not even be determined because they were so low." Chairwoman Pam Inmann stated that on page 7, second paragraph, line 9, the statement "Mr. Rushton certained" should be edited to "Mr. Rushton confirmed." Seeing as no further edits needed to be made, a motion was thereupon made by Commissioner Bowen, seconded by Commissioner Estes, and unanimously carried to approve of the minutes from July 9, 2019 with the suggested edits from Mr. Jones and Chairwoman Inmann.

Following the minutes approval, Chairwoman Inmann asked for a motion to temporarily adjourn the public session and open the appeals hearing in the matter of Mr. Manuel Almanza Jr. A motion was made by Commissioner Estes, seconded by Commissioner Scott, and unanimously carried to temporarily adjourn the meeting and open the hearing for Mr. Almanza Jr.

Hearing in the Matter of Mr. Manuel Almanza Jr

Chairwoman Inmann turned the floor over to Mr. Bradford Jones to discuss the consideration of continuance for Mr. Almanza. Mr. Jones took the floor and introduced Mr. Skip Spear, Conflicts Council for the Attorney General's Office, as aid to the Commission during the appeal hearing. He also introduced Mr. Johnny Mac Hayes, attorney representing licensee Mr. Manuel Almanza Jr., and explained that Mr. Hayes would be representing his client pro hac vice in front of the Commission.

Mr. Jones invited Mr. Spear to speak to the Commission. Mr. Spear explained that he was the Conflicts Council with the Attorney General's (AG) office and his role was to give the Commission separate legal advice from Mr. Jones, who prosecuted the case. He also detailed that he and Mr. Jones had not discussed the case and that a physical separation by means of office location had also limited their contact with one another.

Commissioner Hoffman asked Mr. Skip Spear to explain the process of the hearing. Mr. Spear responded stating that the hearing presented was an appeals hearing. He explained that each side was permitted ten minutes to present their legal arguments. He stated that representation of Mr. Almanza, as the individual who filed exception, would go first. Mr. Spear explained that Mr. Johnny Mac Hayes would begin by giving a ten minute argument. Mr. Spear stated that if the Commission required any legal advice from him, they were permitted to go into executive session. He then handed Chairwoman Inmann an executive session script to use if the need arose.

Commissioner Hoffman clarified whether questions were permitted during either side's presentations. Mr. Spear responded stating that no questions were to be asked during presentations unless they were process related. He stated that if a Commissioner is not specifically seeking legal advice, then a question may not be asked during open session. He explained that if a question other than legal advice is asked during open session, then the privilege between himself and the Commission was therefore waived. Mr. Spear stated that to preserve privilege, questions should be asked during executive session. Chairwoman Inmann then turned the floor over to Mr. Hayes, legal representative for Mr. Manuel Almanza Jr.

Mr. Johnny Mac Hayes began by introducing himself to the Commission. He stated that he had represented individuals in Colorado in the past and that his primary practice involved representing horse trainers and jockeys in Oklahoma, Colorado, and New Mexico. He then explained that the Colorado Racing Commission (CRC) Rules stated that licensees are entitled to legal counsel. Mr. Hayes declared that he took Mr. Almanza's case at a discounted fee, as he looked at the facts and he felt that for the benefit of the racing

industry, Mr. Almanza needed a lawyer to take his case. He explained that the CRC rules required that in order for the Commission to hear the appeal, the licensee was required to pay for half of the transcript from the initial hearing in front of the Board of Stewards. Mr. Hayes detailed that the fee for the transcript to be paid by licensee Manuel Almanza Jr was \$900.00. Mr. Hayes explained that he would have been willing to pay the transcript fee for his client but to be compliant with the state, he did not pay, and left the fee at the responsibility of the licensee. He then stated that he walked his client, Mr. Almanza through the payment making process but the payment was never made. Mr. Hayes described that when he filed for continuance, he was under the impression that the payment had been made; however, when he was informed the payment was still unaccounted for; the briefing deadline had already passed. He apologized to the Commission for being unable to collect the money from Mr. Almanza in a timely manner. He also apologized for being unable to have the Commission hear his brief which included an explanation of conflicting business he had in August, which was the main reason for the continuance filing.

Mr. Hayes continued by stating if the transcript had been paid for in a timely manner, a brief would have been available to read and would have provided mitigating circumstances. He stated that this was “not a straight doping case” and that there were circumstances of the case that the Commission would want to hear. He began by describing that a year of the 3 year suspension given to Mr. Almanza was due to multiple undisclosed names on his licensing application. He explained that this was due to “Hispanic Americans dropping their surname” and that this did not suggest that he was hiding his past violations on his licensing application, rather he was just using a different version of his legal name. Mr. Hayes then referred to the medication violation stating that the drug found—Modifiinal Acid—would have no therapeutic effect on the horse. He explained that per the State’s evidence, the horse in question had received negative tests through Industrial Laboratories four times prior to current Class II violation. Mr. Hayes went on to explain that nine years ago, Mr. Almanza received a serious medication violation in Iowa and was suspended for one year. He then stated that for the past nine years, Mr. Almanza had not had any violations and had developed his program to serve outside clients. He stated that he brought up the prior violations in order to “[ask the] Commission to not amplify the prior violation because it is not necessary based on the mitigating evidence.”

Mr. Hayes stated that his client was compromised on the \$900.00 and that the state had objected his motion for continuance. He suggested to the Commission that if the members were to hear the case in October there would be no prejudice and that the board granted a stay based on the evidence of the case. He explained that in his motion, he suggested the circumstances of the case had not changed from the time the stay was granted to the present hearing. Mr. Hayes stated that it was in the best interest of the sport of racing, the Commission, and the licensee that he had a chance to receive and review the transcript and prepare a concise brief explaining why the 3 year suspension should be reduced based on mitigating evidence. He repeated that even if the transcript had been properly paid for and received, a heavy work load from the All-American Futurity would not have allowed him to see to Mr. Almanza’s case properly and preparedly. Chairwoman

Inmann thanked Mr. Hayes for his statement and turned the floor over to Mr. Bradford Jones, Assistant Attorney General representing the Division of Racing.

Mr. Jones began his response to Mr. Hayes' motion for continuance by stating that the standard in Colorado to grant or deny a continuance was that there must be exceptional or unforeseen circumstances. He explained that according to Mr. Hayes' motion he was unable to review Mr. Almanza's case due to his large August case load and that the case at hand had been pending an appeal and penalty review in front of the Commission since August 1, 2019. He described that in the August 1, 2019 notice of hearing and penalty review signed by Chairwoman Inmann, all requirements, processes, and applicable rules had been laid out under the CRC rules. He stated that the notice of hearing indicated that the Commission would conduct the appeals hearing on September 10, 2019 at 9:30 AM and that the transcript would be released to Mr. Hayes upon payment per the party's agreement to split the cost. He confirmed that the deadline set for the party's brief was in accordance with CRC rule 6.632 and that both parties were granted ten minutes of oral arguments under CRC rule 6.610. He added that the notice also outlined the potential outcomes and provided that a continuance may be granted dependent upon whether good reason was provided.

Mr. Jones clarified that he understood Mr. Hayes' difficulty in taking on Mr. Almanza's case; however, the motion to continue was submitted after the deadline for his brief. He stated that the deadlines were clearly stated in the notice of hearing. Mr. Jones explained that the continuance could have been filed earlier in August had the conflict been brought to the attention of the Division. He stated that the circumstances of the continuance were ultimately foreseen and unexceptional, as Mr. Hayes was able to anticipate the conflicting workload and could have made arrangements with the Division earlier in the month of August. He also described that in the matter of the transcript, Mr. Hayes' client had plenty of time to give payment as it was an issue Mr. Jones and Mr. Hayes had communicated about back in July of 2019. He confirmed that the State was prepared to present their oral argument for ten minutes. He also understood that they paid for transcript and received it prior to the present hearing. Mr. Jones declared that it had been very clear what Mr. Hayes' and Mr. Almanza's expectations were as stated in the notice of hearing and laid in the CRC rules. He then again explained that the expectations of the notice of hearing were not met and that there were not sufficient circumstances that could establish good cause for a continuance and the state would request that the commission move forward with the hearing and not grant continuance.

Mr. Jones stated that if the continuance was granted, the state would request not moving the briefing date. He confirmed that Mr. Almanza missed the first deadline as laid out in the notice of hearing which would unduly prejudice the Division, as it would not be fair to give him another chance when his circumstances were unjustified. He then repeated that the state would recommend the Commission deny the motion for continuance and move forward with the proceedings.

Chairwoman Inmann asked when the transcript payment was made by Mr. Almanza and when he received the copy. Mr. Jones responded stating that he would have to refer to the division; however he believed the payment was made on Thursday September 5th.

Chairwoman Inmann then wanted clarification about whether or not the transcript was released to Mr. Almanza and Mr. Hayes upon payment. Mr. Jones replied stating that he had no authority over the transcript and that the Division would be the body who was aware of the release. Mr. Zach Ceriani, Legal Assistant for the Division of Racing, stated that according to Calderwood Mackelprang—the company which produced the transcript—it had been released immediately after payment was received. Chairwoman Inmann asked if the Commission had any questions or comments. After none were had, Commissioner Hoffman asked if the floor could be opened for discussion.

Mr. Hayes began discussion stating that payment was in fact made on September 5; however, the transcript had not yet been received. He stated that if a sanction were placed on the brief, that “would destroy the idea of a meaningful appeal” because in order to produce a meaningful hearing, a small brief must be presented with evidence followed by ten minutes of argument. Chairwoman Inmann stated that this matter was serious and missing deadlines was a large error. Commissioner Hoffman commented that he understood Mr. Hayes’ client’s right to due process and he believed that Mr. Almanza was granted due process by the Division, as he had ample time to prepare. Commissioner Hoffman recommended that the Commission deny the continuance and move forward with the evidence for suspension. Seeing as no further discussion was made, a motion was thereupon made by Commissioner Hoffman to deny the motion for continuance and move forward with the evidentiary hearing for the case of suspension of Mr. Almanza. Before a second was made, Mr. Hayes asked if he could speak once again.

Mr. Hayes stated that he would like to discuss the economics of the situation at hand. He explained that a three year suspension caused Mr. Almanza to lose approximately eighty percent (80%) of his business, causing his client to suffer significant financial hardship. Mr. Hayes then stated that he was surprised the Commission would not take this into consideration and take the matter into the October meeting. He stated that neither the state, nor the board would be prejudiced by moving the matter to October and that the hearing would be more meaningful if a concise brief could be created by the defense and heard by the Commission. Chairwoman Inmann thanked Mr. Hayes for his statements and then confirmed that a motion to deny the motion for continuance was still on the table. The motion, which was previously made by Commissioner Hoffman, was seconded by Commissioner Estes and unanimously passed to deny the motion for continuance in the matter of Mr. Manuel Almanza Jr.

Chairwoman Inmann explained that after the continuance denial, the hearing had to be started. She stated that each party had ten minutes for their arguments. She then directed the floor to Mr. Hayes so that he may begin his argument.

Mr. Hayes initiated his ten minute argument by stating that he would not be able to refer to the transcript and that the Commission should consider his statements as fair representation of the record. Mr. Hayes stated that he wanted to begin by discussing the terms of Mr. Almanza’s 3 year suspension placed by the Board of Stewards at Arapahoe Park. He explained that it was a 2 year suspension for a Class II drug violation and a one year suspension for Mr. Almanza defrauding his licensing application by not disclosing all of his aliases.

Mr. Hayes started with the falsifying of the application and stated that Agent-in-Charge for the Division, Ed Kulp, testified that he was not familiar with the way in which Spanish surnames were used. Mr. Hayes described that in the transcript, the Commission would notice six or seven different names used by Mr. Almanza but that there was no evidence that he used those names to avoid disclosing charges from past violations at an Iowa racetrack. He contested that although there was a discrepancy in differences of names with or without hyphens, the lack of punctuation was most likely human error or forgetfulness rather than deception. He explained that some versions of the name were first then last, first, middle, then last or even first name, last name, and surname. He detailed that these different versions were just multiple ways the name could have been listed and not fraud; however, Mr. Almanza still received a year-long suspension. Mr. Hayes stated that the aforementioned suspension was well worth review.

Mr. Hayes then described the 2 year medication violation received by Mr. Manuel Almanza Jr. He explained that the drug found (Modafinil Acid) was a “poison” and not a drug used for any therapeutic effect. He stated that the initial claim would be the assumption that Mr. Almanza altered the horse with performance enhancing drugs to increase his chances of winning the contest and that he, Mr. Hayes, would now have to provide the mitigating evidence. He first detailed that Mr. Almanza had not had a violation in nine years. He then went on to discuss the horse in question. He stated that the horse which received the positive test had ran at Remington Park (Oklahoma) 3 previous times in the maiden, trials, and finals for the futurity and that the horse tested negative all three times at Mrs. Petra Hartmann’s test lab (Industrial Labs). He explained that Industrial Labs was also used by Arapahoe Park. He then explained that the horse ran in the trials at Arapahoe Park and made the finals, once again completing a negative drug test with Industrial Labs. He stated that it would “make no sense that a world class horse” would need drugged to win \$100,000 at Arapahoe Park when it just ran against horses competing for \$1,000,000 in Oklahoma.

Mr. Johnny Mac Hayes went on to describe that when he cross-examined Mrs. Petra Hartmann during the hearing in front of the Board of Stewards at Arapahoe Park, she could not determine a concrete withdrawal time for Modafinil Acid. He explained that due the incalculable withdrawal time, a trainer would not risk his reputation trying to take advantage of the system when they knew they could not “pass the state’s [drug] test.” Mr. Hayes then recalled the incident of the violation received by Mr. Almanza in 2010. He stated that the incident occurred due to Mr. Almanza allowing another trainer from a different track to send their horse to him and run said horse under Mr. Almanza’s name. He explained that Mr. Almanza did not pre-test the horse from the other trainer before entering and running it in a race and when the horse tested positive, he received the drug violation in 2010. He said as a combination of the collective mitigating evidence, this was not cheating. He reiterated that his own expert confirmed it was impossible to calculate a withdrawal time for the Modafinil Acid and that it would be “foolhardy” for a trainer to experiment or use the drug on any horse since there would be no guarantee it could pass a drug test. He repeated that the horse had been to Mrs. Petra Hartmann’s lab (Industrial labs) 4 previous times and collected 4 negative tests just prior to receiving the positive during the futurity finals at Arapahoe Park.

Mr. Hayes stated that the Board of Stewards ignored the mitigating evidence and applied excessive consequences and suspensions towards Mr. Almanza. He stated that the case needed review, as the Board's ruling suggested that the State proved presence of the drug and they decided to give Mr. Almanza a two year suspension regardless of Mr. Hayes' presentation of mitigating evidence. He declared that the Board of Steward's ruling presumed that Mr. Almanza was blatantly attempting to cheat the contest and was one hundred percent liable for the drug being found in his horse's system. Mr. Skip Spear, conflicts council, interrupted Mr. Hayes stating that his ten minutes of argument had expired and Mr. Hayes thanked the Commission for their time.

Chairwoman Inmann then turned the floor over to Mr. Bradford Jones for his ten minutes of argument. Mr. Jones explained that the standard of review involved reviewing the case to ensure that the evidence reported both the findings of fact and conclusions of law. He stated that the Commission should not set aside any agency decision on review unless the findings of evidentiary fact were contrary to the weight of the evidence, as laid out in the Administrative Procedure Act in Colorado under 24-4-105 (15) (b). He explained that with respect to the Conclusions of Law, the Commission may substitute its own judgment on ultimate Findings of Fact and Conclusions of Law only if: 1) there is reasonable basis in law and 2) there is support by substantial evidence in the record to do so, as supported by Case Law: State Board of Medical Examiners v. McCroskey 880 P.2d 1188 (Colorado Supreme Court, 1994).

Mr. Jones began by turning to the findings of fact and first establishing which pieces of evidence were supportive. He stated that it was clear that the findings of fact in the Board of Steward's ruling 19-01 were supported by the weight of evidence and record from the exhibits which were presented by both parties, as well as the testimonies of the witnesses. He described that the party stipulated to the authenticity and admissibility of the Division's exhibits 1-17, as well as Mr. Almanza's exhibits A and B. He stated that all exhibits mentioned were considered by the Board of Stewards and that they also may be considered by the Commission. He again stated that the findings of fact were supported by the evidence in the record, which he then detailed.

Mr. Jones stated that with respect to exhibit 1, Mr. Almanza's licensing application submitted July 22, 2018, in looking at the full application—Exhibit 2—on page 0068, Mr. Almanza only disclosed the name Manuel Almanza Jr. Mr. Jones stated that no other names or aliases for Mr. Almanza were listed and that he admitted as such in the transcript provided to the commission and Mr. Almanza by the Division. He continued that in exhibit 2, the subsections listed were indicative of other names or aliases used by Mr. Almanza. Mr. Jones confirmed that Mr. Almanza completed a name change in 2013, shown in Exhibits A and B; however, he failed to disclose that name on his licensing application. Additional names for Mr. Almanza were also declared by Mr. Jones as he referred to Oklahoma Racing license issued in 2018, as shown in exhibit 5 pages 0066-0067.

Mr. Jones continued by stating that exhibits 4 and 5 were in reference Mr. Almanza's responses to questions on Colorado Racing License Application page 2 in box 13. Mr. Jones directed the Commission to look at exhibit 2, page 0073, stating that Mr. Almanza failed to disclose his previous suspension from the Oklahoma Racing Commission for a period of 30

days, as shown in exhibit 17 on pages 280-281, as well as a 14 day suspension on December 15, 2018 from Oklahoma Racing, and the October 15, 2010 one year suspension by the Iowa Racing Commission. He repeated that all records of the suspensions were found in exhibit 17.

In reference to exhibits 6 and 7 of the findings of fact, Mr. Jones stated that Mr. Almanza certified and signed his Colorado Racing application when submitting it, confirming that no false information had been provided and that he understood he was making those representations under penalty of perjury—found in exhibit 2. He stated that Mr. Almanza admitted to signing and certifying his licensing application in his testimony found on page 215 of the provided transcript. Mr. Jones explained that Mr. Almanza also had multiple aliases which were found in exhibit 5 and exhibit 6.

Mr. Jones then moved to the medication violation, declaring that Mr. Almanza was the owner and trainer of the horse that received a positive drug test for Modafinil Acid, as was shown in the Industrial Labs report in exhibit 4. He stated that extensive testimony from Petra Hartmann and Dr. Mary McAllister confirmed that the Modafinil Acid was a Class II drug as found on transcript pages 84 and 66, respectively. He stated that both Mrs. Hartmann and Dr. McAllister also identified the drug as a stimulant. Mr. Jones then went on to explain that Mr. Almanza had the right to request a split sample; however, he failed to request the split, as found in paragraph 23 of the Findings of Fact. Mr. Jones described that Mr. Almanza admitted to failing to request a split sample on page 216 of the transcript. Mr. Jones confirmed that the aforementioned information demonstrated that there was significant evidence in the record to support the Findings of Fact and that there was nothing in the evidence that showed the Findings of Fact were contrary to the weight of the evidence.

Mr. Jones advised the Commission that he was going to turn to the Conclusions of Law. He stated that there was substantial evidence to support the Conclusions of Law which were found in the Board of Stewards ruling. He explained that the evidence to support the ruling began in paragraph 32 which provided that the drug violation was a second lifetime offense for Mr. Almanza. He stated that Mr. Hayes acknowledged there was a previous offense in Iowa, as shown in exhibit 17, and under promulgated CRC rule 5.441 concerning a second lifetime offense for a Class A violation. Mr. Jones reiterated that the Conclusions of Law were significantly supported by the record. He explained that no split sample was requested, as admitted by Mr. Almanza on page 216 of the transcript, and that Mr. Hayes admitted several times throughout the hearing in front of the Stewards that “he was unable to prove sabotage.” He also described that Mr. Almanza was the absolute insurer and that there was a presumption if a drug were found in a horse, as admitted by Mr. Almanza on page 217 of the transcript. Mr. Jones continued describing that the Board of Stewards found that Modafinil Acid was a stimulant as heard in testimony from Dr. McAllister as well as Dr. Rudy Garrison, expert witness for Mr. Almanza, shown on page 197 of the transcript.

Mr. Jones then moved on to the “name issue” regarding Mr. Almanza. He stated that in particular with paragraphs 38 and 39 of the Conclusions of Law, Mr. Almanza absolutely did not disclose any of his other aliases or names, nor did he reference his name change

made in 2013. He stated that the failure to disclose was the concern of the Division. Mr. Jones explained that Mr. Almanza also failed to disclose past suspensions, even though he acknowledged the suspension in Iowa during his hearing testimony found on page 208 of the transcript. He stated that with respect to the violations of the statutory provisions 12-60-507 (1)(d) & (1)(f), Mr. Almanza's actions were willful misrepresentations in connection with a racing matter because it was on an application for a Colorado Racing License. He described that the misrepresentations were shown in exhibits 2 and 17 and in Mr. Ed Kulp's testimony found on page 142.

Conflicts Council, Mr. Skip Spear, stated that Mr. Jones' time for arguments had run out and Chairwoman Inmann thanked him for his statements. Chairwoman Inmann then asked both attorneys whether or not a trainer would know the drug test panel included Modafinil Acid. Mr. Hayes answered stating that the trainer would not have been aware of the existence of the substance as a cheating mechanism or as a therapeutic drug. He explained that Mr. Almanza had not even heard of the drug until he received the notice. He stated simply that to answer Chairwoman Inmann's question, yes, a trainer would be conscious of the fact that the particular substance could possibly be tested for, as it would be listed in the ARCI penalty schedule.

Mr. Bradford Jones then added a response to Chairwoman Inmann's question. He stated that according to multiple witnesses, the Modafinil Acid was confirmed to be a Class II violation as listed in the ARCI penalty schedule. Chairwoman Inmann explained that she was under the impression that Petra Hartmann (Industrial Labs) changed the drug testing panel from time-to-time and she described that since the drug in question had not been popular for 30 years, she wanted to know if a horsemen would be aware that the drug would be included in a modern testing panel. Mr. Johnny Mac Hayes replied stating that during hearing, he asked Ms. Hartmann how long and how often she had been testing for Modafinil Acid. He described that during Ms. Hartmann's 30 year career as a chemist, the sample in question was the only instance in which she had ever had a positive test for Modafinil Acid and that she claimed Industrial Labs had also been testing for the drug for years—including the period of time in which Mr. Almanza's horse raced in Oklahoma.

Mr. Hayes continued by stating that he believed it would befit the Commission, in order to have a meaningful hearing, that the matter be tabled until the next meeting so he could create a detailed brief. He alleged that the State provided no mitigating evidence toward their claim that presence was found and admitted to. He stated that the key to the case was the identification and explanation of the mitigating evidence.

Chairwoman Inmann then referred to Mr. Jones for his argument. Mr. Jones explained that there was extensive consideration by the Board of Stewards regarding the mitigating evidence beginning in paragraph 43 and ending in paragraph 48 of the Stewards ruling. He stated that the Board considered 5 separate pieces of mitigating information presented by Mr. Hayes on behalf of Mr. Almanza. He asserted that the Board gave some weight to the mitigating evidence, which they noted in their decision taking the 3 year suspension down to a 2 year suspension. He explained that the medication suspension was separate from the name change issue and that it was completely inaccurate to claim that

the mitigating evidence had not been considered, as there was a full page dedicated to mitigation in the decision of the Board of Stewards.

Chairwoman Inmann thanked Mr. Jones and allowed Mr. Hayes to give his argument. Mr. Hayes stated that the Commission had preliminary review of the Stewards' decision and that the Commission members should look at the mitigating evidence separate from the Board in order to determine an appropriate sanction. Chairwoman Inmann asked if there were any questions or comments from the Commission. Commissioner Hoffman suggested that in order to sift through all of the presented information, the Commission look first at the Findings of Fact. Commissioner Hoffman then made a motion to accept the Findings of Fact as provided by the Board of Stewards due to the significant evidence in the record that the findings were accurate and sufficient and no evidence was provided by counsel that those findings were error. He also suggested a motion for the Commission to accept the Conclusions of Law seeing as there was no evidence in the record that the conclusions provided were inappropriate. He stated that if the Commission were to pass both motions, the next item to be considered would be mitigating circumstances to determine appropriateness of the suspension period. Seeing as there was no discussion, a motion was thereupon made by Commissioner Hoffman, seconded by Commissioner Estes, and unanimously carried to accept the Findings of Fact and Conclusions of Law provided by the Board of Stewards and supported by evidence from the State.

Commissioner Hoffman then asked Chairwoman Inmann if the Commission could focus on the mitigating circumstances. He referred to Exhibit A which stated that the Commission has the power to uphold the ruling, modify the ruling, and/or the power to vacate the ruling. Commissioner Hoffman asked both counsels to give their statements and reasoning as to why or why not the suspension ruling should stand. He stated that this would be the time where the mitigating circumstances were heard by the Commission. Mr. Jones then wanted to confirm that the Commission had approved the Findings of Fact and the Conclusions of Law and that the parties were then focused on the penalty. Commissioner Hoffman responded to Mr. Jones stating that he was correct and that the Commission wanted to hear arguments regarding the penalty issued to Mr. Almanza by the Board of Stewards. Mr. Jones then turned the floor over to Mr. Hayes.

Mr. Hayes began by declaring that if the horse had been intentionally drugged, the trainer would be the absolute insurer and that many animal cruelty laws would be breached by an individual who has the responsibility of caring for and looking out for the welfare of animals. He also again stated that the same horse in question passed four prior Industrial Labs drug tests before having a positive. He described that the question to be asked was whether or not Mr. Almanza deliberately used Modafinil Acid—a substance that he did not even know existed—in the \$100,000 futurity, yet not in the \$1,000,000 futurity, all the while risking a compromise of his license. Mr. Hayes also asserted that between Ms. Petra Hartmann and Dr. Garrison, an expected withdrawal time could not be calculated for the drug, further proving that a trainer would not risk using it because they would not be able to calculate a time period in which it would leave a horse's system before a race. He emphasized that the initial assumption would have to be that Mr. Almanza cheated; however after the presented evidence of an excellent record for nine years after a major

violation and an unknown, incalculable withdrawal time of an outdated drug, he claimed that it would not warrant the idea of deliberately cheating on Mr. Almanza's behalf. He again stressed that the Commission, independently, had the authority to determine a penalty for Mr. Almanza and in his opinion, the two year suspension given by the Board of Stewards was "way out of line." He explained that per the ARCI rules as well as the CRC rules, the mitigating evidence could allow the Commission to take the penalty from a two year suspension to no suspension at all. He also stated that the Board of Stewards placed a \$25,000 fine on Mr. Almanza, who couldn't even afford to pay a \$900 transcript fee due to loss of clients and business based on his suspension from Arapahoe Park. Mr. Hayes argued that he needed the ruling body to recognize the mitigating evidence and understand that the circumstances of the current case were different from evidence of a standard "doping case." Mr. Hayes explained that if more positives had been found in Mr. Almanza's barn, or anywhere else on grounds, then it would be evident that there was a Modafinil Acid epidemic; however, the single positive proved that was not the case. He asserted that this drug coming "out of nowhere" that had not ever been seen by himself, nor Ms. Hartmann, did not constitute a 2 year suspension.

Mr. Hayes then shifted to discussion regarding the different names and non-disclosure of said names by Mr. Almanza. He stated that the forgetting multiple spellings and hyphenations of his name did not mean Mr. Almanza was attempting to defraud his application or conceal past offenses. He claimed that Mr. Almanza had no education regarding legalities of documents or contracts; therefore, he was not intentionally concealing his names by forgetting to list them. Mr. Hayes declared that Mr. Almanza was not hiding prior suspensions from years past and that his intentions were not egregious. He explained that Mr. Almanza completed a legal name change in 2013 after completing his citizenship. Mr. Hayes stated that during the hearing in front of the Stewards, Mr. Almanza explained that the surname is typically dropped after citizenship change in order to align with more customary American last names. He again stated that the idea of Mr. Almanza concealing his names to deceive the state of Colorado was untrue and unjustified. Chairwoman Inmann thanked Mr. Hayes for his arguments and then referred to Mr. Bradford Jones.

Mr. Jones began his response to the arguments made by Mr. Hayes beginning with the mitigation evidence. He again explained that the mitigating evidence presented by Mr. Hayes was considered as a part of the Conclusions of Law and was outlined in paragraphs 43 through 48 of the Board of Stewards Ruling. He stated that Mr. Hayes referred to the test that Petra Hartmann (Industrial Labs) performed four times and that he was referring specifically to an item shown in exhibit 10 which was a program listing the previous races Mr. Almanza's horse had competed in. He explained that in the transcript, it showed that he (Mr. Jones) objected to this program evidence as it was subject to major speculation. He confirmed that the Modafinil Acid had no withdrawal time, meaning no one could determine when the drug would have been administered to the horse; however, he stated that it did not matter when it was administered, as it was still presented in the horse as a Class II drug and was not permitted whatsoever. He stated no evidence was presented by Mr. Almanza that mitigated the fact that the drug was absolutely present in the horse and no witnesses were brought forward explaining that the drug was prescribed to neither the

horse, nor humans handling the horse. He also explained that there was no challenge to the chain of custody. Additionally he described that the Board of Stewards did not find Mr. Almanza credible during their discussions and deliberations, as he did not take accountability for or explain why the drug was present and he did not take accountability for failing to list his multiple aliases. He also stated that credibility for Mr. Almanza was low because he appeared to the hearing by telephone, showing the Stewards that the matter was not taken as seriously as expected.

Mr. Jones explained that, considering the history, it was important to note that under CRC rule 5.441 it states that a minimum of a 3 year suspension—absent of mitigating circumstances—was recommended. He explained that the Board of Stewards lowered the recommended suspension from 3 to 2 years, as they gave credence to Mr. Almanza that he had no medication-related, serious violations over a 9 year period. He stated that the Stewards also gave consideration to the fact that the “Iowa decision” seemed somewhat mitigated based on the find, which was mentioned in paragraph 46 of the Steward’s ruling. Mr. Jones confirmed that Mr. Almanza did legally change his name in 2013, as shown in Exhibits A and B, but he failed to disclose that name. Mr. Jones stated that Mr. Almanza knew that he was applying for a racing license with a disciplinary history and he failed to disclose his name, as found in exhibit 17. Mr. Jones stated that his final point regarded the request for \$25,000 mentioned by Mr. Hayes. He described that yes, the Division requested that sum of money; however, the Board of Stewards reduced the fine down to \$10,000. He stated that these reductions presented by the Stewards clearly showed that they took the mitigating evidence into consideration.

Mr. Jones stated that the name change violation was a significant violation because Mr. Almanza signed the application and certified that he was not deceiving anyone, so his failure to disclose his additional aliases violated that certification and warranted a one year suspension. Mr. Jones stated that on behalf of the Division, he was requesting that the Commission uphold the decision made by the Board of Stewards following the six-hour evidentiary hearing.

Chairwoman Inmann thanked Mr. Jones and asked for discussion from the Commission members. Commissioner Hoffman commented that the Commission had accepted the Findings of Fact as well as the Conclusions of Law and that the current matter was whether or not the penalties assigned by the Board of Stewards were appropriate—2 years for the medication violation, 1 year for the name change, and \$10,000. He stated that he had heard both arguments and he found both counsels very persuasive and that Mr. Hayes could report back to his client [Mr. Almanza] that he was partially successful, as the Commission had initially been considering a very lengthy sentence but Mr. Hayes provided information to sway the opinion otherwise. Commissioner Hoffman stated that he wanted to hear from the other Commission members whether or not the penalties should stand. Chairwoman Inmann responded that she thought the penalties were appropriate as a Class II drug was found in Mr. Almanza’s horse and the trainer is responsible for their horse. She stated that Mr. Almanza falsified his licensing application in 2 manners: 1) he did not list all of his aliases and 2) he did not list his previous violations. She also “found it curious that he

[Mr. Almanza] did not ask for a split [sample] to have it tested in another lab.” She then confirmed that the Stewards’ ruling should stand.

Mr. Hayes requested that he address the matter of the split sample. Chairwoman Inmann stated that the Commission was finished with discussion regarding mitigation. Mr. Hayes asserted that she stated her interest in the split sample and that he would like to comment upon that interest. Mr. Hayes stated that Mr. Almanza did not request the split, as if the presence was admitted, then there would have been no difference made in sending a split sample to be tested. Chairwoman Inmann asked if any other comments were to be made by the Commission. Seeing as there was no further discussion, a motion was thereupon made by Commissioner Estes, seconded by Chairwoman Inmann, and unanimously carried to uphold the ruling put in place by the Board of Stewards in the matter of Mr. Manuel Almanza Jr. requiring he be suspended from racing at Arapahoe Park for 3 years and pay the Division of Racing a \$10,000 fine.

Chairwoman Inmann thanked Mr. Hayes, Mr. Jones, and Mr. Spear for their time and statements. A motion was then made by Commissioner Hoffman, seconded by Commissioner Bowen, and unanimously carried to close the hearing. Chairwoman Inmann called for a 2 minute break to clear the room for the Commissioner training session.

Commissioner Training Presentation—Zach Ceriani

Mr. Zach Ceriani, Legal Assistant for the Division of Racing, presented a power point with training materials for the Racing Commission members. He began by stating that approximately two legislative sessions prior to 2019, Colorado House Bill 18-1198 was passed, requiring all Boards and Commissions to complete a yearly training for educational purposes. He stated that there were nine bullet points in the statute, which was codified in Title 24 3.7102 to be covered by the training: 1) Understand and operate within the limits of statutory directives, and legislative intent; 2) Define the Board’s mission and role in oversight of projects or entities approved to receive public funding ; 3) Understand the goals of the program; 4) Identify and manage conflicts of interest ; 5) Understanding CORA: 6) Identify and secure sufficient data to make informed decisions; 7) Ensure appropriate involvement in reviewing key communications and policy-making activities; 8) Review management practices; 9) Coordinate with other boards or commissions where responsibilities and interests overlap.

Mr. Ceriani cited the mission statement of the Division of Racing, “To promote and foster public confidence in the pari-mutuel industry, protect the welfare of the participants through fair, consistent, proactive enforcement of appropriate policies, statutes, and Colorado Racing Commission rules.” He then explained that the Commission consisted of 5 members with requirements that 2 members have 5 years each of racing industry experience, 1 member who is a practicing veterinarian with at least 5 years of experience, 1 member who is a business representative with 5 years of experience in a management position, and a final member who is a registered elector of the state. He described that stipulations existed regarding the Conflicts of Interest statute. He explained that, simply

put, one cannot be an industry member while serving as a member of the Commission. He explained that the requirement for a Commission to hold a member from the Western Slope of Colorado had been eliminated from the statute. Commissioner Hoffman asked whether or not there was still a statute in place requiring the Commission to have members representative of different political parties. Mr. Ceriani responded stating that yes, Commission members must consist of representatives of different political parties and that they must reside in different political districts.

Mr. Ceriani then moved on to discuss Commissioner terms. He stated that a term was four years and a Commissioner may only serve two consecutive terms. It was explained that the Commission members must be US citizens and residents of Colorado for the past 5 years. Mr. Ceriani and Commissioner Hoffman described that after two consecutive terms were served by a Commissioner they were permitted to return, after a year off, to serve two more consecutive terms. Mr. Ceriani stated that the Commission was required to have one meeting per quarter with additional meetings such as rule-making and emergency meetings. He explained that typically, the Director and Division staff called/organized meetings; however, if the Commission wanted to call and organize its own meeting, it was allowed to do so. He stated that the only requirement for organizing a meeting was that a 72 hour notice must be given and that the meeting be announced to the public.

Commissioner removal was then discussed by Mr. Ceriani. He explained that Commissions are appointed by the Governor and that the Governor may remove Commissioners at his or her discretion. Mrs. Donia Amick, Director of the Division of Racing, pointed out that another reason for Commissioner removal was failure to attend meetings. She stated that it was important to mention meeting attendance because she wanted to ensure that all Commissioners were present; however, she explained that members were more than welcome to call in for meetings if they could not attend in person.

Mr. Ceriani stated that Commissioners received reimbursement for reasonable expenses and travel while on official Commission business. Mrs. Amick detailed that reimbursements were typically for mileage, hotel, and meals, for Commission business travel. Mr. Ceriani moved on to describe financial disclosure statements. He explained that the requirement in the statute was that the statements were filed with the Secretary of State and Commissioner Inmann stated that Breanne Rodlin, Assistant to the Director of Racing, was to prepare the documents. Mrs. Amick explained that the Division would follow up with the Secretary of State for more information regarding the requirements and details of the Financial Disclosure Statements for the Commissioners.

Conflicts of Interest were explained in more detail by Mr. Ceriani. He stated that an entire statute covered all situations which constituted a conflict of interest. Commissioner Estes asked whether she could own a race horse, as long as it didn't race in Colorado, while serving as a member of the Colorado Racing Commission. Mr. Ceriani responded that statute 42-32-401 subsection 1, explained that horse ownership would depend on financial interest percentages in the horse and/or in an out of state track. Director Amick stated that

if any Commissioners had direct questions, to send the facts to the Division to be presented to the Attorney General's office for guidance and clarification.

Mr. Ceriani explained that for the Racing Commission in particular, the Division acts to perform all administrative duties of the Commission. He explained that the Director was in charge of ensuring that the Division executed its functions faithfully and properly as well as usage of her staff to assist the Commission as much as possible. He then went through the titles and roles of each Division staff member: Licensing Supervisor-Kathleen Apodaca; Criminal Investigator-Ashley Leary; Business Analyst-Deb Allen; Agent-in-Charge Ed Kulp; Legal Assistant-Zach Ceriani; Auditor-Greg Lamb; Program Assistant-Breanne Rodlin; Director-Donia Amick. He explained that the Division employed 18 temporary staff throughout the racing season: 2 veterinarians, 8 veterinary assistants, 4 temporary licensing staff, up to 2 compliance investigators, and 2 Racing Stewards. He explained that the Stewards judge track rulings, check/approve programs, ensure all participants are licensed, and that they are the body which typically holds hearings for violations that occur at the racetrack.

Mr. Ceriani referred to Mr. Bradford Jones to describe Board of Stewards hearings in comparison to hearings in front of the Commission. Mr. Jones stated that there were two ways in which a hearing would be presented to the Commission: 1) An evidentiary hearing where witnesses are presented along with evidence, which he stated was easier to do in front of a small Board of Stewards as opposed to 5 Commissioners. He stated that the evidentiary hearing would be a standard process where both sides would present opening statements, arguments—the side with the burden of proof going first—witnesses would be brought forward, cross examinations would be performed, and then closing arguments would be made. He described that during those hearings, a decision would be promulgated. He also noted that the Board of Stewards was under the Division and a specific statute stated that the Board of Stewards operates by the rules set by the Commission and that the Stewards must abide by those Commission rules. He explained that the Commission was different in that it must abide by the Administrative Procedure Act (APA), which generalizes and standardizes the processes used by agencies. He stated that Findings of Fact as well as the Conclusions of Law and the evidence supporting both are laid out in the Administrative Procedure Act.

Mr. Jones explained that the second type of hearing that could be heard by the Commission would be an appeals hearing. He stated that in the appeal context, the Commission is strictly reviewing the already heard evidence and the decision of the Board of Stewards which would include the Findings of Fact, the Conclusions of Law, and the penalties. He described that the Findings of Fact and Conclusions of Law were defined in the APA and that the sanctions and penalty review were under the Commission's authority per the Racing Rules. Mr. Ceriani stated that by rule, the Board of Stewards was limited to the penalties it could cite including a maximum fine of \$2500 and 180 days of suspension. He explained that any penalties recommended above those aforementioned thresholds had to be determined and/or confirmed by the Commission—which is not limited by the amount of penalties to be assigned. He described that case law existed which typically put a maximum suspension of a licensee at 10 years. Commissioner Hoffman asked whether or

not a lifetime suspension could be issued. Mr. Ceriani explained that lifetime suspensions were typically rejected as an idea existed, that after a certain amount of time, individuals should have the opportunity to rehabilitate their character and get another chance at licensure. Mr. Jones explained that licenses may be revoked but individuals are allowed to apply again after 3 years.

Commissioner Bowen asked if there was a rule that existed which denied licensure if an assigned fine is not paid by a licensee. Mr. Ceriani responded that a statute existed stating if a licensee failed to pay a fine, then they would be suspended for 180 days and referred to the Commission to determine good standing and licensure. He explained that the licensee may also request to go in front of the Commission and ask if their license may be reinstated. He also described that if the Division denies an individual a license, they may make an appeal and have their case heard in front of the Commission as another form of appeals hearing.

After a discussion regarding license issuance, Mr. Ceriani moved on to the topic of Rulemaking. He explained that the Commission is ultimately in charge of promulgating the rules as it provided oversight for the industry. He described that it was the responsibility of the Division Staff to confer and bring rules to the Commission's attention. He stated that the Commission had the authority to vote and decide whether or not an item could become a rule. He detailed that the Division was required to communicate rulemaking procedures with stakeholders and the public to seek rule proposals. He then explained that after proposals were presented, stakeholder and industry workshops were held to gain insight and perspective towards the drafting of the rules for the Colorado Racing Commission. Director Amick added that the Department of Revenue and the Governor's office was attempting to increase transparency by reaching out to stakeholders more often in order to gain awareness and participation.

Mr. Ceriani explained that according to new statute, it was required for the CRC rulebook to be renewed every 10 years. He described that the rule filings were required to be filed with the Secretary of State's office and then the rules would be sent to the Attorney General's office where they would be reviewed. Once the proposed rules had been approved by the AG's office, he stated that the rules would then go in front of the Commission, during a public hearing, to be voted on and added to the rule book. Mr. Jones provided a correction that the Commission would first promulgate the rules and then the rules would go forward to the AG's office for review. Commissioner Hoffman asked why the rules were reviewed by the Attorney General's office. Mr. Jones responded stating that the AG's office ensured that the proposed rules did not impede upon any constitutional rights. He explained that the Office of Legislative Services would review the rules as representatives of the general assembly in order to ensure that the Commission, Board, and AG's office was not abusing authority given out via statute.

The Colorado Open Records Act (CORA) was then explained by Mr. Ceriani. He described that an important piece of information to remember was that when an individual was acting as a Commissioner, their statements were subject to public scrutiny. He explained that was why all meetings and interactions were recorded in order to provide

the recordings to the public. He detailed that CORA was a statute that provided records to be open for public review and disclosure. He stated that all business conducted—emails and Commissioner discussions regarding business—were subject to review, meaning that someone who filed a CORA request would have access to all business communications between Commissioners and/or the Division for review. He stated that all executive sessions were recorded, yet not available for disclosure unless mandated by a court. Director Amick added that discussions with Conflicts Council would not be subject to CORA due to attorney-client privilege.

Mr. Ceriani concluded his presentation and turned the floor over to Mr. Bradford Jones. Mr. Jones followed-up the CORA discussion by stating that CORA was not necessarily an issue Commissions or boards would have to worry about, as the Division and/or Department would have its own individual to deal with CORA items. He stated that 2 or more Commissioners discussing business would constitute a meeting under the Open Meetings Law. He explained that Executive Sessions fell under attorney-client privilege as advice was being sought from an attorney. His final addition was stating that Commissioners may participate in stakeholder meetings, as such that they would not be participating in their capacity as a Commissioner. He described that Commissioners may listen to stakeholder meetings but not engage in their role as a Commissioner. He stated that if there were ever a situation where a conflict of interest may arise for a Commissioner, they should immediately inform Donia or himself so that they may be recused from the issue.

Adjournment and Next Scheduled Meeting

A motion was made by Commissioner Estes, seconded by Commissioner Hoffman, and unanimously carried to adjourn the regularly scheduled business meeting of the Colorado Racing Commission at 12:13PM.

The next CRC meeting was scheduled for Tuesday October 8, 2019 at 9:30AM in the Red Rocks Conference Room at 1707 Cole Blvd Suite 300 Lakewood, CO 80401.