

THE STATE HORSE RACING COMMISSION MEETING MINUTES

July 25, 2023

A public business meeting of The State Horse Racing Commission was held at the following date, place and time: In-Person PDA Room 309 and Via Telephonic Conference Call on Tuesday, July 25, 2023, at 1:00 P.M.

Commissioners in attendance: Chairperson Cook, Darryl Breniser, Russell Jones, Ed Rogers, Michele Ruddy, Robert Lark, Thomas Ellis, also joining on Teams were Commissioners, Dr John Egloff and Salvatore DeBunda. Also present was Commission Counsel Jorge Augusto, Standardbred Bureau Director Anthony Salerno, and Thoroughbred Bureau Director Thomas Chuckas. Commissioner Sweeney was Absent.

ANNOUNCEMENTS

A quorum of the Commission being present, Chairperson Cook called the meeting to order. Chairperson Cook noted that the meeting was properly advertised in accordance with the Sunshine Law. By way of notice, the Commission conducted an executive session to engage in quasi-judicial deliberation to be adjudicated at the public meeting and engaged in attorney client privilege communication.

Chairperson Cook welcomed everyone to the meeting.

PUBLIC MEETING

1.) APPROVAL OF THE MAY 30, 2023, MEETING MINUTES:

Motion By: Commissioner Lark
Second By: Commissioner Ellis
Decision: Passed by unanimous vote.

2.) APPROVAL OF THE JUNE 27, 2023, MEETING MINUTES:

Motion By: Commissioner Lark to table the approval.
Second By: Commissioner Ellis
Decision: Tabled by unanimous vote.

PRESENTATIONS

3.) Racing Fund May Financial Report – Presented by Tracee Gotwalt. Ms. Gotwalt provided a detailed financial analysis of the State Racing Fund showing a starting cash balance of \$6,172,000. Revenue for June was \$2,175,000, expenditures were \$808,000 bringing the ending cash balance to \$7,539,000. The Horse Racing Commission revenue was \$1,273,000, Personnel expenses was \$422,000, Operating expenditures were \$73,000 bringing the total expenditures for the month to \$494,000. Shifting to Testing, Revenue was \$901,000. Personnel expenditures were \$368,000. Operating expenditures were a negative

\$380,000. That was due to an invoice being reversed for U-PENN due to the timing of an equipment purchase. There will be a re-submission of the invoice.

The Promotions account showed no Revenue for the month and expenditures of \$315,000.

Reviewing the comparative statement as of June 30, 2023, there was a 1 percent increase in revenue. Personnel had zero percentage increase. Operating reflected a 32 percent increase. That is largely, driven by the increase in the U-PENN contract. The Remaining financial statements represent the activities in Racing's other 3 Restricted Accounts.

The calculation for the Act 114 distribution for year ending June 30, 2023, shows an ending cash balance of \$7,538,869. There are outstanding commitments of \$1,381,625, which would bring the distribution amount to \$6,157,244. Per the Act 114 distribution calculation the Breeders would receive \$1,539,311 the Sires Stakes \$1,539,311 and Testing will receive \$3,078,622.

4.) HISA/HIWU Statues Report – Presented by Thoroughbred Bureau Director Tom Chuckas – Mr. Chuckas stated that there is one contract that has not been finalized, and that's the LOI which has been extended for 60 days. Commission Counsel has worked out the final issues and the document has been signed by the Secretary and Chief Counsel and has been sent to OGC and AG for final approval.

The Major Litigation out there right now is in the Fifth Circuit Court. Briefs are due at the beginning of August. Oral arguments are due the first week of October, and then we anticipate some sort of decision by the end of the year.

The Bureau Director advised that the Stewards, Investigators, Livestock Workers, and Track Managers have done a great job through some tumultuous and difficult situations. The Commission staff have kept their focus on integrity issues as well as the equine health and welfare of all the participants.

5.) FY 23/24 Proposed Marketing/Promotional Fund Allocation – Director Chuckas briefed the Commission on the proposed allocation of the Marketing Grants. The calculated percentage for the grantees is based on the gross terminal revenue. This has been the Commission agreed upon method for the last six or seven years. This year the one percent equated to \$1,982,000 which is down about \$100,000 from a year ago. The staff retained \$100,000 for the fairs. If you remember each fair can be reimbursed up to \$5,000 and there are 20 fairs this year that are eligible.

The Commission held back \$20,000 in the event the Commission wants to do something for the industry at Farm Show or other events. If that money isn't used at the end of the year, will reallocate it back to the industry.

As Tracee mentioned, until the budget issue is resolved, this money is not available for distribution. I'll talk to each of the stakeholders and go over the numbers, once the Commission approves the calculations. The Grantees can develop their business plans and budget and begin this process.

When we get to Administrative Actions, there will be motions to approve the proposed amounts and the Commission will do each motion individually.

ADMINISTRATIVE ACTIONS

6.) Motion to approve FY 23/24 Marketing/Promotional Fund Allocation and Distribution.

A.) PA Horse Breeders Association in the amount of \$88,827.

Motion By: Commissioner Lark
Second By: Commissioner Ruddy
Decision: Passed with Commissioner Jones abstaining.

B.) Standardbred Horse Breeders Association in the amount of \$66,438.

Motion By: Commissioner Lark
Second By: Commissioner Ruddy
Decision: Passed with Commissioner Egloff abstaining.

C.) PTHA (PARX) in the amount of \$271,494

Motion By: Commissioner Rogers
Second By: Commissioner Jones
Decision: Passed with Commissioner DeBunda abstaining.

D.) PA HBPA (Penn National & Presque Isle) in the amount of \$172,537

Motion By: Commissioner Ruddy
Second By: Commissioner Lark
Decision: Passed with Commissioner DeBunda abstaining.

E.) PHHA (Pocono and Harrah's) in the amount of \$219,880

Motion By: Commissioner Jones
Second By: Commissioner Ellis
Decision: Passed with Commissioners Breniser and Egloff abstaining.

F.) MSOA (Meadows) in the amount of \$112,230

Motion By: Commissioner Lark
Second By: Commissioner Ruddy
Decision: Passed with Commissioner Breniser abstaining.

G.) PHRA (Statewide Branding Campaign) in the amount of \$931,406

Motion By: Commissioner Ellis
Second By: Commissioner Rogers
Decision: Passed by unanimous vote.

7.) Motion to approve Simulcast Calendars for August 2023, for Harrah's Philadelphia, Mohegan Sun at Pocono Downs, and the Meadows.

Motion By: Commissioner Lark
Second By: Commissioner Breniser
Decision: Passed by unanimous vote

8.) Motion to approve the Simulcast Calendars for August 2023 for PARX, Penn National and Presque Isle Downs.

Motion By: Commissioner DeBunda
Second By: Commissioner Ruddy
Decision: Passed by unanimous vote

9.) Motion to ratify the Thoroughbred Bureau Director's approval for Penn National to modify post time on August 25, and September 15, 2023, to 4:00 p.m. and change the wagering format for the seven race cards and move the HI 5 to race 3 and the Penn Pick 5 to race 2.

Motion By: Commissioner DeBunda
Second By: Commissioner Jones
Decision: Passed by unanimous vote

10.) Motion to ratify the Thoroughbred Bureau Director's approval for Parx to export their signal to Betmakers in New Jersey for fixed odds wagering.

Motion By: Commissioner Jones
Second By: Commissioner Lark
Decision: Passed by unanimous vote

11.) Motion to ratify the Thoroughbred Bureau Director's approval for Penn National to export their signal to Betmakers in New Jersey for fixed odds wagering.

Motion By: Commissioner Lark
Second By: Commissioner Ruddy
Decision: Passed by unanimous vote.

AJUDICATION

12.) Joseph J. Holloway, (Appeal of ruling No. 21118M) Docket No. RACINGME-2022-M-5

Attorney Augusto read the following order which was taken as a motion:

And now, this 25th day of July 2023 upon consideration of the testimony and exhibits of record, including the briefs of the parties, ruling number 21118M dated December 29, 2021, issued by the Meadows Board of Judges imposing sanctions on Mr. Holloway is hereby affirmed in all respects.

Motion By: Commissioner Lark
Second By: Commissioner Ellis
Decision: Motion passed with Commissioner Egloff abstaining.

INDUSTRY REPORTS

13.) General Reports

Prior to the Industry reports Russell Williams, President of Hanover Shoe Farms addressed the Commission on the recent farmland preservation action of nearly 1800 acres. Mr. Williams stated that after 2 years of negotiations with the Commonwealth that Hanover was able to place 11 farms and 1785 acres into the Preservation plan. These are farms that have been owned by Hanover for almost 100 years. We have an average horse population of 900, which includes over 100 retired brood mares. This was all brought about through the cooperation of not just the landowner, but also federal, state county and township authorities who were able to organize the funding and coordinate the legal work to get this done.

We are 8 miles from the Maryland border, we're an hour from Baltimore and an hour and three quarters from Washington DC. So, we are under constant development pressure in our area. It was very rewarding for me personally to place this much acreage into the program.

Mr. Williams also addressed the ongoing HISA Litigation, which Hanover is a party too. Mr. Williams and Hanover Shoe farms are preparing a petition to the Supreme Court. It's a parallel case to the one that's in the Fifth circuit. He believes that if HISA moves into the Standardbred business, it will put large breeding farms like Hanover out of business. We have another 1800 acres available to us if that should happen if we need an exit strategy, but my hope is for Hanover to continue to strive and grow. But getting back to a happier topic, you often hear, and the legislature as well, members of the racing industry extolling the virtues of our protection of green space. And when you have a preservation event like this, it demonstrates our commitment to that. We're not just giving lip service to our position in Agriculture and our preservation of green space. We're willing to commit to keeping it that way forever.

Commissioner's Debunda and Breniser thanked Mr. Williams for his commitment to racing and agriculture in the Commonwealth. Chairperson Cook also complimented Mr. Williams for all his efforts and she also mentioned that nearly 10 percent of farmland in Pennsylvania is under preservation. The Chairperson stated that now we need the next generation to continue the hard work of farming to keep that going. Mr. Sanfratello also thanked Mr. Williams for all his contributions to racing and Agriculture.

Director Salerno recognized the following Industry participants:

- Scott Lishia, Director of Racing at the Meadows, updated the Commission on the crossbreed pick 4. While it is very early to get a good read on it, there were some timing issues the first week which we have worked out. In addition, the next week mother nature knocked the turf races off the turf at Penn National, so we are tweaking things as we go. The Meadows had some great eliminations for the Adios and everyone is working hard to make the day a great success.
- Mike Zullinger, Director of Racing Mohegan Sun Pocono Downs, reported that Pocono is getting ready for their big Sun Stakes Day on August 19, with over 2.3 million in purses. Pocono will have numerous activities on the apron and I would like to invite everyone to come out for a great day of racing.
- Barry Brown, Director of Racing Harrah's Philadelphia, reported that they recently had a million-dollar day on Friday June 30th. Harrah's is currently racing 4 days a week until the fall when our schedule will change to 3 days a week.
- Joe Wilson, Director of Racing for Parx, reported that Parx races today and tomorrow and then they go on their 3 ½ week break. Parx will be doing a

mandatory payout on our big Five pool tomorrow. When we come back on the 21st, it's PA Day at the races and the next day is the Smarty Jones Stakes, along with the Catherine Sophia, the Park Stash, and the Salvatore M. DeBunda.

- Eric Johnston, Director of Racing for Penn National, thanked the Commission for the approval of the tracks request. Penn had its ostrich and camel races on Friday July 7th and the crowd was great. August 18th is fan Appreciation Day and we will have a hat giveaway as well food specials and many activities for kids and families.
- Mike Harant, Executive Director PHHA, had no report this month.
- Jeff Matty, Executive Director PTHA, thanked the Commission for the Grant Fund Allocation. Yesterday, the PTHA met with Jockey Cam, and they will be out in full force on Pennsylvania Derby Day. We are very much looking forward to giving our fans an opportunity to see the glimpse of two great ones from a different perspective, that being on the back of a horse.
- Kim Hankins, Executive Director of MSOA, reported that the MSOA was working hard to get ready for the Adios. On Friday night prior to the Adios, MSOA will have our VIP tent set up for Owners Appreciation Night and I want to invite all the Commissioners to come on out to the Meadows this weekend. Also, I just want to announce that we have a newspaper here in Washington County, and it is owned by one of the harness owners that's been an owner for over 40 years, Darryl Price. I'm going to send a digital copy to Tony, and he can get it out to all of you, he did a phenomenal job with is coverage leading up to the Adios.
- Matt Ennis, Director of Racing Presque Isle Downs, reported that export handle through our first 30 days is up 5.6 million, approximately 37 percent. Our number of starters are up 11 percent. Our average number of starters per race is up a horse and onsite attendance is up 50 percent, so we are off to a good start here at Presque Isle.
- Todd Mostoller, Executive Director of HBPA, had no report this month.
- Mike Simpson, Standardbred Breeders, had no report this month.

Brian Sanfratello, President PHBA reported that Presque Isle Downs held two \$100,000 Stakes for Pennsylvania Breds. He also reported that transfers into the Racehorse Breeders Fund was down about \$158,000 year to date. Our PA Day at the Races is coming up on August 21, at Parx. We have a million dollars in purses, including seven \$100,000 races. Our first Two-Year-Old PA Sired and PA Bred will run that day as well. I'd like to thank Jeff Matty, Bob Hutt, Joe Wilson and David for all their efforts to make these events such a success.

Commissioner DeBunda asked if nominations for the Pa Races are up, down or steady. Mr. Sanfratello stated that he thought the numbers were about the same as last year.

PUBLIC COMMENT – No Public Comment

NOTICE-INTERVENTION

- New SPMO Application: 1st Technology LLC, (“1st”) –
- Change of Ownership: Fanatics Holding INC. to purchase existing SPMO license Point Bet Racing (d/b/a Premier Turf Club, LLC).

Attorney Augusto reminded the Commission that when the Commission receives certain applications or petitions seeking authorization or permission to engage in certain license racing activities, the Commission can publish notice of these matters either in the Bulletin or provide notice in the Commission Meeting.

In accordance with that, we have received an SPMO application from First Technology, LLC. The Commission Docket number is 2023-10. This notice is also published in the PA Bulletin. The Commission also received a change in Ownership petition from FBG Enterprises Opco Inc. also know as Fanatics Holdings Inc. They seek to purchase the SPMO presently being held by PointsBet Racing, LLC, which does business as Premier Turf Club, LLC.

Under 7 Pa Code §179.17(b) and (e) of the Commission’s regulatory procedures, persons interested intervening in the previously listed matters may file a petition to intervene with the Commission within 30 days of the publication of this notice.

ANNOUNCEMENTS

Chairperson Cook announced that the next meeting will be held on Tuesday August 29, 2023, at 1:00 pm. The Meeting location will be Room 309 and on Teams.

- Executive Session 11:00 a.m.
- Regular Session 1:00 P.M.

ADJOURNMENT

MOTION BY: Commissioner Ellis
SECOND BY: Commissioner rogers
DECISION: Passed by Unanimous vote

The meeting was adjourned at 1:49 P.M.

Respectfully submitted,

Thomas F. Chuckas Jr.
 Bureau Director
 Bureau of Thoroughbred Horse Racing

Anthony Salerno
 Bureau Director
 Bureau of Standardbred Racing