

LOUISIANA STATE RACING COMMISSION
MINUTES – December 14, 2015 Meeting
As transcribed by Barbara McGee, Certified Court Reporter

COMMISSIONERS IN ATTENDANCE

Bob F. Wright, *Chairman*
Judy W. Wagner, *First Vice Chairperson*
Dion Young, *Second Vice Chairman*
Keith W. Babb
R. Hamilton "Hammy" Davis
Thomas H. Grimstad, M.D.
Benjamin J. Guilbeau, Jr.
Mike R. McHalfey
Kenneth "Kenu" Romero
Delia A. Taylor

ABSENT

Kevin S. Delahoussaye
Richard M. "Dick" Hollier, Jr.
Luke Turner

The meeting of the Louisiana State Racing Commission (LSRC) was called to order by the Chairman on Monday, December 14, 2015 at 9:30 AM in the Queen Anne Ballroom of the Monteleone Hotel, 214 Royal Street, New Orleans, Louisiana. Roll call was taken; a quorum was present.

Commissioner Young motions to approve the meeting minutes from the October 26, 2015 meeting; Commissioner Wagner seconds; motion carries.

I. ASSOCIATION REQUESTS

A. BOYD RACING, LLC d/b/a DELTA DOWNS RACETRACK, CASINO & HOTEL

1. **PROGRESS REPORT**, *by Mr. Chris Warren*. Mr. Warren informs that Delta Downs completed 32 out of 86 days of racing for its 2015-2016 Thoroughbred Meet which started Friday, October 16, 2015. He says that the handle is down 5% but that the Jackpot Day on November 21, 2015, which Commissioner Guilbeau attended, was exciting and hopefully will reinvigorate the handle figures. He informs that the Louisiana Horsemen's Benevolent & Protective Association (LaHBPA) and jockeys gave positive feedback about the safety of the track surface at a meeting with Delta Downs staff a couple weeks ago. Dr. Grimstad says that he attended Jackpot Day and Delta Downs has done an exceptional job with growing the program.

B. THE OLD EVANGELINE DOWNS, LLC

d/b/a EVANGELINE DOWNS RACETRACK & CASINO

1. **PROGRESS REPORT**, *by Mr. Chris Warren*. Mr. Warren informs that the Evangeline Downs 46-day 2015 Quarter Horse Meet lost two days due to bad weather and concludes on December 19, 2015 with four stakes races, the Evangeline Open Derby, and Futurity. He states that Evangeline Downs is up 5% in handle and more horses competed in this quarter horse meet than last year, in part due to reworked stall allocations and an influx of horses from Lone Star Park in Texas. He informs that the

track held up well from the thoroughbred meet earlier this year and the quarter horse horsemen who are racing now appear to like it. He says that they have hired Randall Leger, who was highly praised by horsemen who race at Delta Downs, as their new Track Maintenance Supervisor.

2. REQUEST BY LAHBPA

a. Update of adding stalls at Evangeline Downs.

Mr. Warren informs that there is a scheduled meeting on December 15, 2015 with the LaHBPA to discuss adding stalls at Evangeline Downs. Mr. Benard Chatters, President of the LaHBPA, says that they will discuss the agreement that they come up with at the next Commission Meeting.

2015 QUARTER HORSE MEET

3. STEWARDS, OFFICIALS & MANAGEMENT

a. Ratification of Randall Leger to serve as Track Maintenance Supervisor for 2015 quarter horse meet.

Commissioner Young motions to approve; Commissioner Guilbeau seconds; motion carries.

**C. CHURCHILL DOWNS LOUISIANA HORSERACING COMPANY, LLC
d/b/a FAIR GROUNDS RACE COURSE & SLOTS**

- 1. PROGRESS REPORT, by Mr. Tim Bryant.** Mr. Bryant informs that the Fair Grounds currently has all of its 1,829 stalls occupied. He states that the Fair Grounds 2015-2016 Thoroughbred Meet, which began on November 19, 2015, has run 17 days so far with the same number of races, the same number of starters per race at 8.4, and a flat handle compared to last year. He says that they met with the LaHBPA and Commissioner Delahoussaye for feedback and are doing well. He informs that Champions Day was a success this past weekend. He says that the Fair Grounds hosted the Louisiana Thoroughbred Breeders Association gala and People's Health Christmas party over the past two nights. Mr. Bryant informs that overnight purses are projected to be flat compared to last year even after they increased the stakes' purses by about 9%. He states that the video poker business has offset their loss of slot revenue since the smoking ban went into effect. He says that there are new trainers at the Fair Grounds as the staff went through the stall application process thoroughly.

Commissioner Romero compliments the Fair Grounds' turf course. Mr. Bryant informs that the Fair Grounds races have been 100% on turf so far this year, despite a lot of rain in early November. Chairman Wright asks about why Fair Grounds races were not shown on TVG. Mr. Bryant answers that the Fair Grounds races weren't shown early in the meet but are now being shown more. He says that TVG isn't obligated to show all of the Fair Grounds races but they are up in handle on TVG year over year so far.

**D. HARRAH'S BOSSIER CITY INVESTMENT COMPANY, LLC
d/b/a HARRAH'S LOUISIANA DOWNS**

- 1. PROGRESS REPORT, by Mr. Trent McIntosh.** Mr. McIntosh recalls that, coming into 2015, Louisiana Downs had a five-year decline in purse structure, field size, and handle. He says that Louisiana Downs decreased to seven races a day to better suit their horse population and field sizes. He states that, during the Louisiana Downs 84-day 2015 Thoroughbred Meet, they changed the post time from 1:25 PM to 3:15 PM and their

racing days from their traditional Thursday to Sunday schedule to a Wednesday to Saturday schedule in order to lessen their competition with other tracks. He informs that the handle is up 3.5% over last year in incoming simulcast handle, which is the largest piece of their parimutuel revenue that helps to build their purses. He says that the Louisiana Downs 2015 Quarter Horse Meet increased in handle by 11% and the 2015 Thoroughbred Meet increased in handle by 5% despite their struggles with slot revenue. He states that the Louisiana Downs 46-day 2016 Quarter Horse Meet starts on January 9, 2016. He informs that they will continue to run 7 races a day, will release the stakes schedule on Tuesday, will release the condition book next week, and are accepting the incoming stall applications. Mr. Chatters informs that the LaHBPA is concerned with Louisiana Downs' slot revenues being down somewhere between \$10 and \$11 million this year and want to make sure that everybody is aware that there are some serious concerns with Louisiana Downs.

2016 QUARTER HORSE MEET

2. STEWARDS, OFFICIALS & MANAGEMENT

a. Approval of officials for 2016 quarter horse meet:

Trent McIntosh – Director of Operations
Charles Magee – Association Steward
William Coleman – Association Steward
David Heitzmann - Racing Secretary
Tammy Peck – Assistant Racing Secretary/Paddock Judge
Jennifer Sokol – Placing Judge
Koleen Karlin – Placing Judge
Jeffrey Williams – Placing Judge
Julie Gipson – Identifier
Geneva Franklin – Program Coordinator/Claims
Jimmy Cordell – Starter
Richard Miguez – Clerk of Scales
Terry Brown - Custodian
Betty Fetters – Clocker
Melvin Holland – Clocker
Laura Hollowoa – Outrider
Juan Roman – Outrider

Commissioner Young motions to approve; Commissioner Babb seconds; motion carries.

II. COMMITTEE REPORTS

A. MEDICATION COMMITTEE, by *Committee Chairman Thomas H. Grimstad, M.D.*

Dr. Grimstad informs that there are two issues that will be on the Agenda for the next Commission Meeting. He says that the first issue is the letter from the American Quarter Horse Association requesting to institute hair testing for clenbuterol. He states that the second issue to be addressed is mandatory necropsy, for which he will send information to the Commissioners prior to the next Medication Committee meeting. He informs that necropsy is mandatory in several jurisdictions but is complicated by figuring out who will pay for it and what is the value of the results over time.

Mr. Gardiner informs that, since the National Uniform Therapeutic Medication Schedule went into effect on November 15, 2015, there have not been many positives. Dr. Steven Barker, the Director of Equine Medication Surveillance Laboratory at LSU, says that the two-month

adjustment period granted by the Commission was successful as evidenced by the continuous decline in number and levels of the new positives under the new medication rules. He states that since November 15, 2015 they have seen a few positives for clenbuterol and corticosteroids due to their popularity and common usage. He informs that the Commission will need to address stacking and severity levels in the medication rules to clarify regulation and penalty scheme. He says that his replacement will start January 3, 2016 and the lab is in the process of submitting the necessary documents for ISO 17025 accreditation. He states that the lab just purchased another mass spectrometer to keep up with the workload in addressing the low levels of detection that are required by the medication schedule and for looking for all the other drugs of concern.

B. RULES COMMITTEE, by *Committee Chairman Keith W. Babb*

Commissioner Babb doesn't have a report but informs that discussion on rules will come up later. Mr. Gardiner informs that several recommendations were made by auditors based on national model rules as a result of a performance audit ordered of the Commission. He says that the Commission has received written comments in response to the current draft of the proposed changes in regard to health, safety, and welfare rules and will have to continue discussing those with the racing associations and horsemen. He states that the Commission may be in a position to consider adoption at the next meeting.

C. LEGAL COMMITTEE, by *Committee Chairman Benjamin J. Guilbeau, Jr.*

Commissioner Guilbeau says that he researched procedural applications and other jurisdictions concerning procedures involving veterinarians in adjudications. He informs that the Commission can develop a procedure of inquiry for veterinarians as part of stewards' investigations into reported overages in which they can subpoena the vets for their bills and medical records. He states that Illinois, Pennsylvania, and Indiana have had the most reported cases involving Commissions and vets. He says that Indiana had a high profile case in which the vet received a 9-year suspension for having vets in their practice distributing substances to trainers for use on race days, altering billing statements, and use of or recommendations for use of cobalt. He informs that his survey of other jurisdictions did not suggest that vets are more culpable than the trainers but showed instances in which the vet has been found culpable along with the trainer, resulting in charges rendered against the vet.

Chairman Wright requests that the Legal Committee research further and give specific advice to the Commission regarding vet inquiries. Commissioner Guilbeau informs that the Legal Committee should work with the Racing Commission Office and the Attorney General's Office to make sure that due process concerns are addressed in creating a vet inquiry procedure.

D. SECURITY COMMITTEE, by *Committee Chairman Kenneth "Kenu" Romero*

Commissioner Romero informs that the presence of State Police at all of the racetracks has been effective in reducing the workload of the racing offices by dealing with security issues before the issues reach the offices.

E. RACETRACK/HBPA LIAISON COMMITTEE, by *Committee Chairman Kevin S. Delahoussaye*

Commissioner Delahoussaye is absent. Mr. Gardiner informs that Commissioner Delahoussaye and Mr. Larry Munster, Assistant Executive Director of the LSRC, met with the Fair Grounds racing office and the LaHBPA to discuss entries, the new claiming rule, and other issues. He says that the parties appeared to work out the issues to their mutual satisfaction.

III. OTHER

A. Ratification of Approval of Extension of Apprentice Allowance for Gustavo "Alex" Cortez.

Commissioner Young motions to approve the ratification of a 58-day extension to Gustavo "Alex Cortez's Jockey Apprenticeship license; Commissioner Romero seconds; motion carries.

B. Discussion of Mandatory Necropsy.

Dr. Grimstad reiterates that he wants to disseminate more information about mandatory necropsy to the Commissioners and put this issue on the Agenda for the next Commission Meeting.

C. Discussion of California Claiming Rule.

Commissioner Guilbeau informs that there has been some interest from certain ownership groups about examining the California Claiming Rule. He says that the rule would require a medical judgment when a horse finishes a claiming race to determine if it's sound and whether the claim should go through or not, rather than the current rule which makes a claim effective when a horse breaks out of the gate for a claiming race.

Mr. Munster informs that he researched all of the other 10 major jurisdictions except Florida, which doesn't have official claiming rules and allows house rules for claiming at each track. He says that only California and Arkansas have a rule that imposes the return of a horse due to unfit physical condition of the horse after a claiming race. He states that Delaware, Kentucky, Texas, Indiana, New York, Illinois, and Pennsylvania have claiming rules like Louisiana's current rule that makes a claim effective when a horse breaks out of the gate.

Commissioner Davis asks if the jurisdictions that adopted the California Claiming Rule have any big negatives from it. Mr. Munster responds that California adopted the rule three or four years ago and generally kept it the same, which has resulted in an increased number of claims due to the added horse purchase protection.

Chairman Wright asks if there has been any controversy with regard to the aftereffect of the California Claiming Rule. Mr. Munster responds that he believes it takes the due diligence out of horsemanship and that horses can be destroyed for reasons outside of their soundness, such as accidents, from which the buyer would be protected but not the seller. Mr. Gardiner says that it puts a burden on regulatory vets who have to make judgment calls as to voiding a claim and returning a horse. Mr. Gardiner states that the history of claiming goes back to auction races and there has since been the caveat of letting the buyer beware of what he is purchasing.

Dr. Matt Cooley, Equine Director of the LSRC, informs that regulatory vets have a few minutes at most to determine if a horse is sound enough after a claiming race to make the claim effective or not, which opens the vets to great criticism. He says that, when a horse is purchased, it requires radiographs and means outside of what regulatory vets have at the racetrack to truly test a horse's soundness, particularly for obscure lameness and issues that are hidden by horses due to adrenaline from the race. He states that the Commission must consider the many sides of the California Claiming Rule and weigh the risks before deciding on adoption.

Commissioner Davis says that he would like to hear more about the horse owners' and trainers' struggles with interpretations of the California Claiming Rule as well as how often those issues are brought to the Racing Commissions.

Mr. Harry Bruns, Manager of the Fionn MacCumhal Racing Stable, says that he is a smalltime claiming owner and is concerned with larger claiming organizations having greater litigation power to win cases over horse claiming disputes due to regulatory vets' judgment calls. Commissioner Wright asks if Mr. Bruns has had similar instances of claiming disputes and legal problems. Mr. Bruns responds that he recently had a claimed horse that didn't run well and worries that the California Claiming Rule would create legal problems.

Mr. Chatters informs that he can list many issues with the rule that can lead to litigation, such as who is at fault if a horse is injured in a race due to another horse bumping it or a due to stepping into a hole in the track. He says that the economic impact to owners and breeders must be considered before putting a premium on the buyers with this rule. Commissioner McHalfey asks what effect the Commission's most recent change to the claiming rule has had. Mr. Chatters responds that he supports the current rule as it is from that recent revision and it has had a positive effect on claiming.

Dr. Grimstad says that he is in favor of the California Claiming Rule because it could prevent individuals from running horses when they shouldn't be run. He informs that there are people in this country who favor the elimination of horse racing because of current issues with horses breaking down, which some form of the rule can help prevent. Chairman Wright informs that there will be further discussions and evaluation of the California Claiming Rule before it returns at a Commission Meeting.

IV. RULES

A. DISCUSSION UPDATE:

1. Associations' Duties and Obligations

LAC 35: III Chapter 57 – Associations' Duties and Obligations

- §5704. *Public Address System* [new]
- §5706. *Barns on Backside of Racetrack* [new]
- §5707. *Fire Prevention Security* [amend]
- §5709. *Housing of Stable Employees* [amend]
- §5713. *Ambulance* [amend]
- §5714. *Equine Ambulance* [new]
- §5723. *Lighting* [amend]
- §5724. *Rails* [new]
- §5747. *Cleanliness and Inspection* [amend]
- §5764. *Surface of Race Course* [new]

a. Letters/Comments regarding the above Rules:

- *Letter from Harrah's Louisiana Downs dated October 21, 2015.*
- *Letter from Delta Downs and Evangeline Downs dated November 10, 2015.*
- *Letter from Fair Grounds dated November 13, 2015.*
- *Letter from Jockey's Guild dated November 25, 2015.*

(See Section "II. COMMITTEE REPORTS – B. RULES COMMITTEE" on page 4 for a brief discussion of these Associations' Duties and Obligations rules)

The Commissioners motion to go into Executive Session to discuss a legal proposition with which they may be confronted. A 20 minute recess was taken.

The motions in the John E. Hamilton and Roberto Morales adjudications occurred here. See Section "VI. ADJUDICATIONS – A. APPEALS (LA. REV. STAT. 4:154)" on pages 7 and 8 for the two cases.

V. LICENSE APPROVALS

A. REQUESTS FOR LICENSE APPROVAL (LA. REV. STAT. 4:150(B))

1. **Raymond Williams, Sr., Food and Beverage Applicant.** Convicted felon.

Commissioner Young motions to approve Mr. Williams for licensure to work in the Food and Beverage Department; Commissioner Babb seconds; motion carries.

2. **Antonuage D. Gray, Food and Beverage/Mutuels Department Applicant.** Convicted felon.

Commissioner Guilbeau motions to approve Ms. Gray for licensure; Commissioner Young seconds; motion carries.

3. **Kelly Jo Clawson, Food and Beverage Applicant.** Convicted felon.

Not present for hearing. No action taken.

B. REINSTATEMENT REQUESTS

1. **Albert J. Dussette, Jr., Jockey.** Seeking reinstatement of license.

Commissioner Guilbeau motions to restore Mr. Dussette to Good Standing and approve his Jockey's License; Commissioner Babb seconds; motion carries.

2. **Frederick J. Carmouche, Jockey.** Seeking reduction of suspension.

Not present for hearing. No action taken.

VI. ADJUDICATIONS

A. APPEALS (LA. REV. STAT. 4:154)

1. **John E. Hamilton, Jockey.** Ruling#ED21355 of 10/9/15 – *Careless Riding*. Continued from October 26, 2015 Commission Meeting.

Attorney –
Kyle Sherman, Esq.

Appeal withdrawn. Not present for hearing. Commissioner Young motions to uphold the Stewards' ruling and suspend Mr. Hamilton for 7 calendar days from December 15, 2015 through December 21, 2015. If Mr. Hamilton participates in a designated race day not subject to suspension; he shall be required to make up the suspension day on the first following race day after the designated day of racing. Commissioner Guilbeau seconds; motion carries.

2. **Roberto Morales, Jockey.** Ruling#DD21385 of 11/13/15 – *Careless Riding*.

Appeal withdrawn. Not present for hearing. Commissioners motion to uphold the Stewards' ruling and suspend Mr. Morales for 7 calendar days from January 4, 2016 through January 10, 2016. If Mr. Morales participates in a designated race day not subject to suspension; he shall be required to make up the suspension day on the first following race day after the designated day of racing. Commissioners second; motion carries.

B. VIOLATIONS OF LAC 35:I.1797 (Equine Positives)

1. **Justin J. Haug, Owner/Trainer.** (*Adjudication Referred*)

Ruling#FG21314 of 9/4/15 – *Phenylbutazone & Flunixin (ARCI Category IV, Severity Level III)*
Continued from October 26, 2015 Commission Meeting.

Testimony taken and evidence introduced. Commissioner Guilbeau motions to uphold the Stewards' ruling, fine Mr. Haug an additional \$500 for a total fine of \$1,500, and redistribute the purse. Commissioner Young seconds; motion carries.

2. **Alan J. Klanfer, Trainer.** (*Adjudication Referred*)

Ruling#ED21353 of 10/7/15 – *Mitragynine & 7-Hydroxymitragynine (ARCI Category I)*
Continued from October 26, 2015 Commission Meeting.

Testimony taken and evidence introduced. Commissioner Taylor motions to uphold the Stewards' ruling, amend Mr. Klanfer's suspension from 6 months to 1 year effective December 27, 2015 through December 26, 2016, fine him \$5,000, and redistribute the purse. Dr. Grimstad seconds; motion does not carry.

Commissioner Taylor makes a substitute motion to recind the previous motion, uphold the Stewards' ruling, amend Mr. Klanfer's suspension from 6 months to 1 year effective September 28, 2015 through September 27, 2016 to include credit for time served, fine him \$5,000, redistribute the purse, and deny him access to all racetracks, off-track wagering facilities and recognized training tracks under the jurisdiction of the Louisiana State Racing Commission. Dr. Grimstad seconds; motion carries.

Dr. Grimstad suggests that the Commission consider paying for an independent evaluation of the veterinary care that was provided to the horse One Fast Jet from Mr. Haug's case. Commissioner Guilbeau says that the Legal Committee can take a look at the process for independent evaluation and consult with the veterinary board of the state to move forward on the issue. Chairman Wright charges the Legal Committee to establish an arrangement to evaluate vets and to report back in 30 days.

VII. ADJOURNMENT

Commissioner Young motions to adjourn; Commissioner Taylor seconds; Chairman Wright adjourns the meeting.



Charles A. Gardiner III
Executive Director