

LOUISIANA STATE RACING COMMISSION

MINUTES – June 18, 2012 Meeting

As transcribed by Mary E. Lee DiLeo, Certified Court Reporter

COMMISSIONERS IN ATTENDANCE

Jerry F. Meaux, *Chairman*
Payton R. Covington, *First Vice Chairman*
Bob F. Wright, *Second Vice Chairman*
Kevin S. Delahoussaye
Benjamin J. Guilbeau, Jr.
Richard M. "Dick" Hollier, Jr.
Kenneth "Kenu" Romero
Judy W. Wagner
Dion Young

ABSENT

Keith W. Babb
William A. Robinson

APPROVED

At the Commission Meeting of

July 31, 2012
(Date)

Cheryl A. Gardner

Executive Director
Louisiana State Racing Commission

The meeting of the Louisiana State Racing Commission was called to order by the Chairman on Monday, June 18, 2012 at 9:00 AM in the Queen Anne Ballroom of the Monteleone Hotel, 214 Royal Street, New Orleans, Louisiana. Roll call was taken; a quorum was present.

Member commissioners motion to approve the meeting minutes from the previous meeting; Member commissioners second; 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 Delta Downs 2012 Quarter Horse Meet began on April 27th. He informs (based on 23 of 46 race days) the live handle is up 6%, the bet-in handle is up approximately 20% (due to more sites in California taking Delta Downs' signal), simulcasting is up 2.5% and total overall revenue is up approximately 10%. Mr. Warren informs they have added two major stakes this year. He informs The Firecracker Futurity will have a record \$328,000 purse. He informs the Lee Berwick trials will take place this Saturday with a \$500,000 plus purse. He informs there has been some rain that has helped the track and overall he has received good reviews regarding the surface.
- 2. Discussion** of acquisition of Peninsula Gaming, LLC by Boyd Gaming Corporation. Mr. Paul West, Louisiana Regulatory Counsel for Boyd Gaming, and Mr. Chris Gibase, Senior Vice President of Operations for Boyd Gaming introduce themselves to the commission. Mr. West informs the commission about the transaction in the offering, wherein Boyd Gaming would acquire Peninsula Gaming, which would, in effect, have Boyd Gaming owning both Evangeline Downs and Delta Downs. He informs the

transaction is presently going through the regulatory process and the acquisition should close at the beginning of the 4th quarter of this year, if all of the regulatory approvals get put into place. He suggests Boyd Gaming meet with the Racing Commission's Legal Committee to discuss how the transaction would work and answer questions. He states if everything goes well he would then request an approval of the transaction at the August commission meeting. Mr. Wright suggests Boyd Gaming should follow through with their plans and report back to the commission at a later date for further discussion.

B. EVANGELINE DOWNS RACETRACK & CASINO

1. **PROGRESS REPORT**, by *Mr. Steve Darbonne*. Mr. Darbonne informs Evangeline Downs 2012 thoroughbred meet began on April 18th. He informs so far there have been 36 live race days with 371 races and an average field size of 9.71 per race. He informs the simulcast handle is up 7.4% and the on-track handle is up 10.26% from last year. He informs the TVG agreement has helped, especially on Wednesdays and Thursdays and somewhat limited on Fridays and Saturdays. He informs Evangeline Downs has met with the horsemen and they did not have any major complaints. Mr. Covington asks Mr. Darbonne to report on the track surface. Mr. Darbonne responds it is better than it has ever been and Evangeline Downs is continuing to make minor adjustments, as they come, based on Dr. Peterson's recommendations.

2012 THOROUGHBRED MEET

2. **STEWARDS, OFFICIALS & MANAGEMENT**
 - a. **Ratification** of Matthew Yount as Track Superintendent for 2012 Thoroughbred Meet. Mr. Guilbeau motions to approve; Mr. Covington seconds; motion carries.
 - b. **Ratification** of Ashley Simon as Placing Judge for 2012 thoroughbred meet. Mr. Guilbeau motions to approve; Mr. Hollier seconds; motion carries.

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

1. **PROGRESS REPORT**, by *Mr. Eric Halstrom*. Mr. Halstrom informs the Fair Grounds is preparing for the 2012 Quarter Horse Meet, which will begin on August 15th. He informs the quarter horse meet is starting a couple of weeks earlier to accommodate scheduling after the Delta Downs meet. Mr. Halstrom informs the Fair Grounds will be requesting a change in post time, in order to try Starlight racing, for one night during the quarter horse meet. He informs the thoroughbred stakes schedule will be out soon and some of the Kentucky Derby eligibility requirements have changed. He informs the Louisiana Derby will be 1 of 7 races that will have the maximum amount of eligibility points. Mr. Halstrom informs he is working with Jason Boulet, Fair Grounds Racing Secretary, in preparing a recruiting schedule. He mentions he took a recent trip to Arlington for recruiting and will be at Churchill, Lone Star and also make an east coast swing. He believes there will be some very good horses attending the 2012-2013 Thoroughbred Meet.

OTB

2. OTB APPROVAL

- a. **Approval** to open Westwego Fair Grounds OTB Casino (Jefferson Parish), 800 Westbank Expressway, Westwego, Louisiana. Ms. Rhea Loney, Assistant Attorney General informs all legal requirements have been met regarding compliance with application provisions.

Mr. Delahoussaye motions to approve; Mr. Guilbeau seconds; motion carries.

Mr. Romero asks Mr. Halstrom when will the OTB open. Mr. Halstrom responds in a couple of months.

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

1. **PROGRESS REPORT**, by *Mr. Trent McIntosh*. Mr. McIntosh informs Louisiana Downs 2012 thoroughbred meet has started, and so far, (23 of 84 race days) the live handle is flat. He informs there is a slight increase in field size which is 9 per race. He informs Louisiana Downs made a marketing agreement with twinspires.com. He informs Louisiana Downs is offering Super Pick 5 wagering and there was a \$32,000 payout in the 2nd week of the meet. He states the Triple Crown days along with the Louisiana Derby are the biggest days at the track. He informs Louisiana Downs is offering bounce back rewards to customers on large attendance days. He informs Comfort Inn and Suites is under construction and should be open in the 4th quarter of this year. He informs Louisiana Downs is offering free shipping of horses from Evangeline Downs to their track on Sundays through the end of June to increase field sizes. He informs this practice began approximately 2 weeks ago with little success thus far, but hopes for greater success in the future.

2012 THOROUGHBRED MEET

2. WAGERING (LAC 35:XIII.Ch 103-127)

a. Ratification of amended wagering format for 2012 thoroughbred meet.

1. Replace Pick 6 wager with 50¢ minimum Pick 5 wager on last 5 races.

Mr. Covington motions to approve; Mr. Romero seconds; motion carries.

II. COMMITTEE REPORTS

A. MEDICATION COMMITTEE, by *Committee Chairman Payton R. Covington*

1. Piroplasmiasis update by *Dr. Matt Cooley*.

Dr. Cooley informs the commission extended piroplasmiasis testing for at least another year at the last meeting. He informs that the Department of Agriculture found a horse which raced at the Fair Grounds last fall and two horses which raced at Evangeline Downs that were proven positive, likely by contaminated needles. He informs there is an experimental treatment being used on horses in Washington State with financing by a large ranch in South Texas. This ranch had over 200 head of positive piroplasmiasis cases. He informs there has been some progress in treatments, but the new test has not been approved by the FDA. Mr. Covington asks Dr. Cooley if the current treatment is satisfactory in his opinion. Dr. Cooley states the treatment is not 100% effective, but it is somewhere around 72%. Dr. Cooley states the test has promise, but Louisiana should not accept any of these horses into the state until the FDA approves the test and the horses prove to be negative for piroplasmiasis.

2. Request from American Quarter Horse Association (AQHA) for Louisiana to create a 30-day withdrawal time for the bronchodilator Clenbuterol (for quarter horses only).

Mr. Gardiner reports Oklahoma has adopted a different threshold level and a withdrawal time for Clenbuterol in quarter horses than for thoroughbreds and, currently, the AQHA is requesting that all southern states that run quarter horses follow suit. Mr. Gardiner informs Mr. Trey Buck, the Executive Director of the racing side of AQHA, would like to address the Racing Commission in a future meeting. Mr. Gardiner states that currently Louisiana's threshold levels and withdrawal times for Clenbuterol are much closer to race time than 30 days and they are the same times for both breeds. We can all anticipate a request from AQHA to create a different withdrawal time and a much lower threshold level for the bronchodilator Clenbuterol.

Mr. Laverne Perry informs California and New Mexico have also adopted similar rules. He informs the LQHBA Board of Directors supports this measure. He states Clenbuterol is a good drug if administered properly.

Dr. Barker provides a history of Clenbuterol and how it pertains to the strengths and doses that are not approved by the USDA. Dr. Barker states that it is his scientific opinion that the correct use of Clenbuterol is a therapeutic benefit to horses. Dr. Barker states the issue of withdrawal times was discussed many years ago. The pharmacology of Clenbuterol is completely gone by 24 hours. There are residues that are still detectable, but these residues have no effect on the performance of the horse at the time of the race. He informs that has been established, it is in the scientific literature and multiple studies. He states that clinical studies have shown that to get the anabolic effect from Clenbuterol in a horse, you would have to inject a dose that is so large that it is extremely toxic. The anabolic level that you need and the toxic dose are very close to one another. He informs if the withdrawal time is changed to 30 days, you are banning its use because the therapeutic use would only be in those severe cases, and then you would have to stop using it regardless of what the condition of the horse may be. He states you would then force people to use drugs that are not approved for use in horses to treat bronchial issues in race horses. Mr. Wright asks Dr. Barker if he has presented his position to the AQHA at a national and/or state level. Dr. Barker informs he has presented the same stance at an AQHA meeting, but did not get their support. Mr. Wright asks why his position is contrary to the AQHA. Dr. Barker explains that he bases his decision on science.

Mr. Perry states Louisiana should fall in line with the larger quarter horse racing states that support this measure.

Mr. Wright states he doesn't want to see Louisiana differ on a rule that is uniformly adopted across the country.

Dr. Barker and Mr. Gardiner discuss Ventipulmin (the only FDA approved version of Clenbuterol) and its proper usage opposed to the cheaper versions of the drug currently being distributed.

Mr. Romero and Dr. Barker have a further discussion regarding drug levels and different time periods of usage.

Mr. Alvin Brossett of the Louisiana Quarter Horse Association (LQHA) asks the commission what the alternatives are and whether there would be penalties for not following the AQHA rule.

Mr. Wright motions to table the discussion and contact the members of the AQHA for their reasons for supporting this proposal and adopting this rule; Mr. Young seconds; motion carries.

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

Mr. Babb is absent. No report is given.

C. LEGAL COMMITTEE, by Committee Chairman Bob F. Wright

Mr. Wright informs he has a report to make to the commission, but would like to have an executive session either before or after his report.

Mr. Wright motions to go into executive session; Mr. Guilbeau and Ms. Wagner second; motion carries. Mr. Wright states there are other matters he would like to address before going into executive session. Mr. Young motions to move the Legal Committee Report to the end of the docket to take care of all issues on the table; Ms. Wagner seconds; motion carries.

Mr. Wright requests that Mr. P. J. Stakelum, HBPA attorney, address the commission and explain the legal issue his clients have settled with the HBPA. Mr. Stakelum explains his client, Stanley Seelig heard rumors that the HBPA's election in 2008 was rigged. Mr. Seelig asked Mr. Stakelum to investigate the matter. Mr. Stakelum explains he went to the Court and succeeded in being able to view and inspect records. In December 2009, Mr. Seelig and four other members sued for monetary relief because the board was not being responsive to the needs of the association. Ultimately, Travelers Insurance Company, which is the director and officers' insurer of the HBPA, paid \$850,000 to settle the case. Mr. Stakelum states Mr. Seelig's suit is a derivative action suit. The suit provided some individual non-monetary relief which included the removal of certain board members. Mr. Wright asks Mr. Stakelum, in regard to the settlement, if the two suits that are pending are one by Mr. Arthur Morrel and one by Mr. Stanley Seelig and where those suits are filed. Mr. Stakelum responds the suits are filed in Civil District Court for the Parish of Orleans. He informs the court agreed to consolidate them for purpose of settlement. Mr. Wright asks Mr. Stakelum if there was a preliminary notice given to the members who were involved in the class action settlement. Mr. Stakelum responds not in the sense that every single member was notified, but notice was posted in all related facilities, including online at the HBPA website. Mr. Wright asks Mr. Stakelum who receives the benefit of this settlement. Mr. Stakelum states the net proceeds go to the HBPA and the rest goes towards legal fees and so forth. Mr. Wright, Ms. Wagner and Mr. Stakelum have a discussion regarding the recipients and the actual monetary breakdown of the \$850,000 disbursements.

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

Mr. Romero reports the Memorandum of Understanding between the State Police and the Racing Commission has been signed. He informs the State Police are working at all tracks which are currently racing. Mr. Romero asks Lieutenant Sheldon Perkins to comment further. Lieutenant Perkins reaffirms that State Police are in place at all working facilities. He informs he has met with the state stewards and anticipates a strong working relationship with them. Mr. Covington asks Lieutenant Perkins if he's satisfied with the way things are going so far. Lieutenant Perkins responds yes and that their work will be in phases. Mr. Romero thanks Lieutenant Perkins for his service to the Commission. Mr.

Gardiner informs there are a lot of people on the backside seeking to confide in the State Police in order to keep an even playing field.

E. RACETRACK/HBPA LIAISON COMMITTEE

Mr. Meaux informs that Mr. Delahoussaye has been appointed Chairman of the Racetrack/HBPA Liaison Committee, if he accepts. Mr. Delahoussaye accepts his appointment.

F. COMPLIANCE COMMITTEE

No report.

III. RULES

A. Discussion and/or Notices of Intent:

1. LAC 35:V. Chapter 63 - Entries

§6335. Owner's Entry of More Than One Horse (*potential uncoupling of betting interests in stakes races with purse minimum requirements.*)

Mr. Halstrom informs the commission that the other three racetracks, the HBPA and the two breeder associations support this rule change. Mr. Halstrom discusses the proposed rule change and its affect on the Fair Grounds. Mr. Gardiner and Mr. Meaux discuss the pros and cons of changing this rule as well as the potential minimum purse requirements that would be allowed. Mr. Young, Ms. Wagner, Mr. Covington, Mr. Halstrom, Mr. McIntosh and Mr. Seelig further discuss appropriate minimum purse requirements.

Mr. Covington motions to uncouple horses in all stakes races with a purse of \$50,000 and above; Mr. Young seconds; motion carries.

Ms. Loney reads the actual language of the proposed rule into the record.

Ms. Loney informs there must be a motion given to pass a notice of intent on the above stated changes. Mr. Hollier motions to approve the notice of intent; Mr. Young seconds; motion carries.

2. LAC 35: I. Chapter 17 – Corrupt and Prohibited Practices

§1797. Penalty Guidelines

Mr. Gardiner requests that this matter be withdrawn at this time. He informs the staff is working on some minor changes that would allow purse redistribution to take place at the stewards' level.

B. Discussion:

1. TOBA requirements for listed races beginning in 2013.

Mr. Andy Schweigardt, Secretary of the American Graded Stakes Committee for TOBA, provides the background of the requirements, grades and minimum purse amounts for listed races. He explains about an important change to the quality control process for listed races in North America and how that will impact Louisiana's Phenylbutazone rule. He explains the North American listing status is primarily determined by the purse of a race. He explains that some races may be downgraded by removal of their listed status. Mr. Schweigardt explains that listed races will now have the same eligibility requirements as graded stakes races. Beginning next year, listed

aces for the first time will have to comply with the graded stakes committee's drug testing protocol and medication requirements, that is, samples selected for testing from listed races must be tested to the standards in the committee drug testing protocol and the races must be conducted under the provisions of the RCI model rules on anabolic steroids and nonsteroidal anti-inflammatory drugs in order to remain eligible for grading. Listed races need to have the 2 microgram threshold for Phenylbutazone and TOBA is asking the commission to amend its Phenylbutazone rule to ensure Louisiana's listed races are included.

Mr. Seelig states this is a very premature issue and would like to wait and see if the rest of the country follows on the graded races and, if that happens, then we can have a discussion on the listed races. Mr. Schweigardt informs that other states have passed this rule and it is not premature to take action at this time.

Ms. Loney advises of the timeline regarding the regular rule-making process for it to be in place by January 2013 if that was the Commission's wish.

Mr. Meaux states, that personally, he thinks it is premature to start talking about listed stakes.

Mr. Wright motions to postpone TOBA's request regarding listed stakes until more information is provided; Mr. Young seconds; motion carries.

Mr. Wright motions to have an executive session for the purpose of discussing potential litigation; Mr. Young seconds; motion carries. A 10-minute recess was taken before the commission went into executive session.

Mr. Gardiner informs the Racing Commission office recently received some very disturbing news from the Louisiana State University testing laboratory. He informs that Louisiana is one of a few states that is finding positive tests for the drug Dermorphin. Mr. Gardiner informs Dermorphin is a Class I narcotic analgesic opiate and has no place in racing. He informs several trainers have been notified and the process of appeals by the way of referee or split samples is being undertaken and the results of the tests should be available within the next week.

Dr. Barker states he was contacted by the Oklahoma Racing Commission informing him of Dermorphin positives being discovered in that state. He informs Dermorphin is a seven amino acid peptide chain; it's a small protein, which naturally occurs in certain species of frogs from South America. He informs it is about 40 times more potent than morphine. Dr. Barker said LSU immediately agreed to be a referee laboratory for this testing and so far 1,000 samples have been screened. He informs there have been 11 positives discovered in Louisiana. He informs Dermorphin is being manufactured mainly for research purposes and is available from a number of small chemical companies that sell reference standard material and, of course, there are other sources for things like this that are far less regulated. It can be ordered and easily purchased over the internet. He informs the pharmacology of the drug is such that it alleviates the sense of pain. He informs there is no veterinary medical use and its use is considered doping. He states it is very dangerous to the horse as well as the jockey, and everyone in

the race, including defrauding the betting public. He stresses this drug does not belong in a horse and certainly does not belong in racing.

IV. ADJUDICATIONS

(In order presented)

A. APPEALS (La. R. S. 4:154)

1. **David A. Alvarez, Jockey.** Ruling#DD19436 of 6/6/12 – *Careless Riding.* (Appeal Withdrawn) Mr. Wright motions to uphold the stewards' ruling; suspend 7 calendar days total from 6/24/12 through 6/30/12. If jockey participates in a designated race day (6/30/12) not subject to suspension; he shall be required to make up the suspension day on the first following race day at Delta Downs after the designated day of racing, on 7/4/12; Mr. Guilbeau seconds; motion carries.

2. **Tracy J. Hebert, Jockey.** Ruling#ED19411 of 5/23/12 – *Careless Riding.* (Appeal Withdrawn) Mr. Covington motions to uphold the stewards' ruling; suspend 7 calendar days total from 6/24/12 through 6/30/12. If jockey participates in a designated race day (6/30/12) not subject to suspension; he shall be required to make up the suspension day on the first following race day at Evangeline Downs after the designated day of racing, on 7/4/12; Mr. Guilbeau seconds; motion carries.

3. **Bobby L. Ransom, Jockey.** Ruling#DD19339 of 5/12/12 – *Careless Riding.* (Appeal Withdrawn) Mr. Covington motions to uphold the stewards' ruling; suspend 7 calendar days total from 6/24/12 through 6/30/12. If jockey participates in a designated race day (6/30/12) not subject to suspension; he shall be required to make up the suspension day on the first following race day at Delta Downs after the designated day of racing, on 7/4/12; Ms. Wagner seconds; motion carries.

B. ADJUDICATIONS REFERRED (La. R. S. 4:172)

1. **Gerald Bernard, Jr., Groom.** Ruling#ED19372 of 5/2/12 – *Impermissible Conduct & Possession of a Weapon.*

2. **Edward J. Cormier, Owner/Trainer.** Ruling#ED19371 of 5/2/12 – *Impermissible Conduct & Possession of and Discharging a Firearm.*

Mr. Covington motions to continue Gerald Bernard, Jr.'s case (Ruling#ED19372) and Mr. Edward J. Cormier's case (Ruling#ED19371); Mr. Hollier seconds; motion carries.

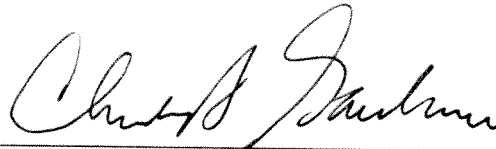
3. **Dennis M. Langford, Owner/Trainer.** Ruling#DD19364 of 4/27/12 – *Tramadol (ARCI Category II).* Mr. Covington motions to uphold the stewards' ruling; suspend six months; fine \$1,500 and redistribute the purse. Denied access to all race tracks, off-track wagering facilities and recognized training tracks under the jurisdiction of the Louisiana State Racing Commission; no second. Ms. Wagner makes a substitute motion to uphold the stewards' ruling; suspend one year effective 4/27/12 thru 4/26/13; fine \$2,000 and redistribute the purse. Denied access to all race tracks, off-track wagering facilities and recognized training tracks under the jurisdiction of the Louisiana State Racing Commission; Mr. Hollier seconds; motion carries.

C. APPEAL/REFERRED (La. R. S. 4:154, 4:172)

1. **Timothy J. Fontenot, Jockey.** Ruling#ED19402 of 5/16/12 – *Human Drug Test (3rd offense)*. Mr. Covington motions to uphold the stewards ruling and suspend five years. Denied access to all race tracks, off-track wagering facilities and recognized training tracks under the jurisdiction of the Louisiana State Racing Commission; Mr. Romero seconds; motion fails. Mr. Guilbeau makes a substitute motion to uphold the stewards' ruling; suspend 5 years effective 6/18/12 thru 6/17/17 and be considered for re-licensing after 1 year of suspension, with proper rehabilitation documentation, including negative drug tests. Denied access to all race tracks, off-track wagering facilities and recognized training tracks under the jurisdiction of the Louisiana State Racing Commission; Mr. Romero seconds: Poll vote: 7-yes, 1-no; motion carries.

V. ADJOURNMENT

Mr. Hollier motions to adjourn; Mr. Delahoussaye seconds; Mr. Meaux adjourns the meeting.



Charles A. Gardiner III
Executive Director