

# Minutes of the meeting held on Thursday, March 15, 2012

1. The meeting was called to order by Chairman Robert K. Schmitz at 10:00 am in Conference Room South B & C, 31st Floor, 77 South High St., Columbus, Ohio, pursuant to due notice.
2. Roll call. The following Commissioners were determined to be present: Todd Book, William Koester and Mark Munroe.
3. Approval of the minutes from the meeting held on February 23, 2012. Motion by Commissioner Munroe, second by Commissioner Koester, unanimously approved.
4. Approval of proposed rules 3769-2-42 and 3769-12-42 (see the attached appendix): At this time Commissioner Book asked to be recused from this discussion. These proposed rules are identical provisions written to cover harness permits and thoroughbred permits. They provide a mechanism for simplified licensing of individuals already licensed by the Ohio Lottery Commission.

Commissioner Munroe read into the record the following Commission resolution: I move the Commission approve rules 3769-2-42 and 3769-12-42 for submission and review for the common sense initiative process and for initial filling with the Joint Committee on Agency Rule Review. Second by Commissioner Koester. In a roll call vote, Chairman Schmitz voted aye. Commissioner Koester voted aye. Commissioner Munroe voted aye. The motion passed by a 3-0 margin.

At this time, the Commission recessed as a quasi-judicial body to discuss or deliberate about cases pending before the Commission. The Commission returned to the regular administrative portion of the meeting approximately 15 minutes later.

## 5. Executive Director's Report:

### A. River Downs

1. In a letter dated February 28, 2012, River Downs requested approval of the following items related to the PNK (Ohio) LLC Meeting #1: A performance bond.
2. List of Officials. All have been certified as competent for their positions by General Manager Kevin Kaufman.
3. Number of Races and Wagering Format.
4. Post time at 1:30 pm on Wednesdays, Thursdays, Saturdays and Sundays; first post on Fridays is at 3:00 pm.
5. Simulcasting Schedule.
6. A letter to the state fire marshal requesting an inspection of the facility. Motion by Commissioner Munroe to approve items one through six. Second by Commissioner Koester, unanimously approved.

### B. Thistledown

1. In a letter dated March 8, 2012, Thistledown requested approval of the following items related to the Summit Meeting: A waiver of Surety Bond.
2. List of Officials. All have been certified as competent for their positions by General Manager Lee Dillard.
3. Number of Races and Wagering Format.
4. Post time daily at 1:50 pm.
5. Simulcasting Schedule.
6. A letter to the state fire marshal requesting an inspection of the facility. Motion by Commissioner Koester to approve items one through six. Second by Commissioner Book, unanimously approved.
7. In a communication dated March 8, 2012, a request to waive the requirement contained in the Ohio Thoroughbred Race Fund Conditions requiring that races scheduled after May 1 be at a distance of at least six furlongs. The waiver would be for the period between May 4 and May 21, 2012. Motion by Commissioner Book, second by Commissioner Koester, unanimously approved.

### C. Raceway Park

1. In a letter dated March 5, 2012, Raceway Park requested approval of the following items related to the Raceway Park Inc. Meeting: A waiver of Surety Bond.
2. List of Officials. All have been certified as competent for their positions by General Manager Bill McLaughlin.
3. Number of Races and Wagering Format.
4. Post time at 7:00 pm on Saturdays and 6:00 pm on Sundays.
5. Simulcasting Schedule.
6. A letter to the state fire marshal requesting an inspection of the facility. Motion by Commissioner Munroe to approve items one through six. Second by Commissioner Book, unanimously approved.
7. In the same letter, a request to open before noon for wagering on five days in 2012: May 4 for the Kentucky Oaks; May 5 for the Kentucky Derby; May 18 for the Black Eyed Susan; May 19 for the Preakness; and June 9 for the Belmont. Motion by Commissioner Koester, second by Commissioner Book, unanimously approved.

### D. Scioto Downs

1. In a letter dated February 15, 2012, a request for approval of the following items related to the Scioto

Downs Inc. Meeting: A guaranty of performance.

2. List of Officials. All have been certified as competent for their positions by General Manager Stacy Cahill.
3. Number of Races and Wagering Format.
4. Post times of 6:30 pm and 1:00 pm when three holiday matinees are scheduled.
5. Simulcasting Schedule.
6. A letter to the state fire marshal requesting an inspection of the facility. Motion by Commissioner Koester to approved items one through six. Second by Commissioner Book, unanimously approved.
7. In a letter dated February 23, 2012, a request to open before noon for wagering on the following days in 2012: May 19 for the Preakness and June 9 for the Belmont. Motion by Commissioner Book, second by Commissioner Munroe, unanimously approved.
8. In the same letter, a request to move post time from 6:30 pm to 5:30 pm on May 19 and June 9, 2012. Staff has no objections. Motion by Commissioner Munroe, second by Commissioner Koester, unanimously approved.
9. In a letter dated March 7, a request for special event status for the following races in 2012: May 18 for the Pimlico Special and Black Eyed Susan/Preakness Double; May 19 for the Preakness and Preakness Pick 4; June 9 for the Belmont; July 14 for the Meadowlands Pace; July 28 for the Haskell; August 4 for the Hambletonian; August 18 for the Arlington Million; and August 25 for the Travers. A letter of consent from the Ohio Harness Horsemen's Association was also submitted. Motion by Commissioner Koester, second by Commissioner Munroe, unanimously approved.

#### **E. Northfield Park**

1. In a letter dated March 6, 2012, a request to open for wagering before noon on the following days in 2012: May 5 for the Kentucky Derby; May 19 for the Preakness; June 9 for the Belmont; September 20 for the Little Brown Jug; November 3 for the Breeders Cup; and November 22 for early wagering at Churchill Downs. Motion by Commissioner Koester, second by Commissioner Munroe, unanimously approved.
  2. In the same letter, a request on behalf of Cedar Downs to open for wagering before noon on the following days in 2012: May 4 for the Kentucky Oaks; May 5 for the Kentucky Derby; May 19 for the Preakness; June 9 for the Belmont; August 4 for the Hambletonian; August 25 for the Travers; September 19 for the Jugette; September 20 for the Little Brown Jug; November 2 and 3 for the Breeders Cup; and November 22, 23 and 24 for early wagering at Churchill Downs. Motion by Commissioner Book, second by Commissioner Munroe, unanimously approved.
- 6.** Approval of Host/Guest/Additional Simulcast Product for April. Motion by Commissioner Koester to approve the submissions by Beulah Park, River Downs, Thistledown, Lebanon Raceway, Northfield Park, Northfield Park on behalf of Cedar Downs, and Raceway Park. Second by Commissioner Book, unanimously approved.
- 7.** Request for the expenditure of fine money:
- a. **Beulah Park:** In a communication dated February 28, 2012, a request for the expenditure of \$300 for a cookout to be held in conjunction with the Beulah Park Spring Golf Outing on April 26. Motion by Commissioner Munroe, second by Commissioner Koester, unanimously approved.  
In a communication dated February 29, 2012, a request for the expenditure of \$1,942.50 for an Easter Dinner on March 29, 2012. Motion by Commissioner Koester, second by Commissioner Book, unanimously approved.
  - b. **Northfield Park:** In a communication dated March 6, 2012, a request for the expenditure of \$1,200 for an Easter Dinner for licensees and their families at the track kitchen. Motion by Commissioner Koester, second by Commissioner Munroe, unanimously approved.
- 8.** In a communication dated February 29, 2012, a request by the Ohio Thoroughbred Owners and Breeders to receive a disbursement in the amount of \$7,500 from the Ohio Thoroughbred Race Fund in order to pay for the 2012 stakes brochure featuring race fund conditions and racing dates. This funding will also be used for championship trophies and to produce a film of the winners. Motion by Commissioner Koester, second by Commissioner Book, unanimously approved.
- 9.** In the Matter of Hearing Officer's Report and Recommendation:
- a. **Catherine Blanks (2010-42) and Ronald Burke (2010-45):** Assistant Attorney General Vivian Tate presented background related to this case that came before the Commission at the previous meeting on February 23, 2012. Ms. Banks and Mr. Burke were not present.  
Each licensee was fined \$250 for separate rulings by judges after positive findings for Dimethyl Sulfoxide ("DMSO"). Each was required to return the purse in the respective race. The violation by Ms. Banks occurred at the Darke County Fair on Aug. 26, 2010. The violation by Mr. Burke occurred at the Delaware County Fair on Sept. 22, 2010. The two appeals were considered in a combined hearing originally scheduled in Columbus on April 26, 2011. Further evidence was presented during three continuations of the proceeding. Hearing Officer Tom Rocco recommended that the Judge's rulings in these two matters be modified as follows: The finding of a violation of medication rules in each instance should be affirmed, but the penalty assessed to each licensee and the return of the purse should be vacated. In addition, Hearing Officer Tom Rocco recommended that the costs of the adjudication hearing be divided and assessed equally against Ms. Blanks and Mr. Burke.  
A motion was made by Commissioner Book to adopt the portion of Hearing Officer Tom Rocco's Report and Recommendation, affirming the finding of a violation of medication rules and splitting the costs of the

adjudication hearing, and modifying the portion of the Report to reinstate the \$250 fine and require the return of purse money won in each instance. Second was made by Commissioner Koester. Chairman Schmitz voted aye. Commissioner Koester voted aye. Commissioner Book voted aye. Commissioner Munroe voted aye. Motion passed 4-0.

- b. **Enzo Canelo (2010-57):** Ms. Tate presented background related to this case. Mr. Canelo was not present. The licensee was fined \$250 and required to return the purse by stewards at Beulah Park when a positive finding for ("DMSO") was discovered in his horse My Grecian Goddess after the seventh race at Thistledown on October 8, 2010. Mr. Canelo was the trainer of record for My Grecian Goddess. Following a hearing on February 17, 2011, Hearing Officer Tom Rocco recommended that the violation of medication rules in this matter should be affirmed and the original penalty, a \$250 fine and return of purse money won, should stand. Further, Hearing Officer Tom Rocco affirmed that the costs of the adjudication hearing should be paid by Mr. Canelo. Motion to adopt Hearing Officer Tom Rocco's Recommendation was made by Commissioner Book, second by Commissioner Koester, unanimously approved.

**10.** In consideration of:

- a. **Charles Burneson:** Ms. Tate presented background related to Mr. Burneson's request for a license. His background includes a criminal conviction in Ohio in 2006 for the theft of horses, violations of Commission rules between 1989 and 2005, and violations of Michigan Racing Commission rules. Mr. Burneson offered testimony related to his current fitness to again become licensed. Executive Director William Crawford said the staff recommendation is to deny the license to Mr. Burneson. A motion to that effect was made by Commissioner Munroe, second by Commissioner Koester, unanimously approved.
- b. **Joseph K. Hall:** Ms. Tate presented background about Mr. Hall's past violations of Commission rules including violations for possession of hypodermic needles, syringes and/or injectibles and/or other drugs, fighting, a refusal to submit to a urine test, and an act of cruelty to a horse in 2010. Mr. Hall was present and offered testimony related to his current fitness to again become licensed. Mr. Crawford said the staff recommendation is to deny a license to Mr. Hall. A motion to that effect was made by Commissioner Koester, second by Commissioner Munroe, unanimously approved.

**11.** In the matter of Financial Judgment:

- a. **Jose Lopez:** Mr. Lopez, a licensed thoroughbred trainer and owner, was not present. Ms. Tate presented background about a financial judgment obtained against Mr. Lopez for a racing-related debt. A motion was made by Commissioner Koester to suspend the licenses held by Mr. Lopez on April 1, 2012 unless written evidence of full payment of the debt is received by the Commission before April 1, 2012. Second by Commissioner Munroe, unanimously approved.
- b. **Toby Troyer:** Mr. Troyer, a licensed thoroughbred exercise rider and owner, was not present. Ms. Tate presented background about a financial judgment obtained against Mr. Troyer for a racing-related debt. A motion was made by Commissioner Koester to suspend the licenses held by Mr. Troyer on April 1, 2012 unless written evidence of full payment of the debt is received by the Commission before April 1, 2012. Second by Commissioner Munroe, unanimously approved.
- c. **Karl Waters:** Mr. Waters, a licensed thoroughbred exercise rider, was not present. Ms. Tate presented background about a financial judgment obtained against the Mr. Waters for a racing-related debt. A motion was made by Commissioner Koester to suspend the licenses held by Mr. Waters on April 1, 2012 unless written evidence of full payment of the debt is received by the Commission before April 1, 2012. Second by Commissioner Munroe, unanimously approved.

**12.** Monthly Financial Report: Fiscal Officer Sherry White presented this report.

**13.** Compliance Reports: Greg Veit and Doug Thomas presented reports about Beulah Park, Lebanon Raceway and Northfield Park

**14.** Committee Reports: There were none.

**15.** Chairman's Comments: Chairman Schmitz said a there is a possibility a second meeting of the Commission will be scheduled in April. He also announced there was a request to change the date of the June meeting from June 19 to June 14.

**16.** Public Comments: There were none.

**Old Business:** There was none

**New Business:** There was none.

**17** Executive Session: There was none.

A motion to adjourn by Commissioner Koester, second by Commissioner Munroe, unanimously approved.

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Date, Time & Place of Next Meeting:

**April 12, 2012 at 10:00 a.m.**  
**77 South High St., Columbus, Ohio**  
**31<sup>st</sup> Floor, Room South B & C**

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## **Appendix**

### **3769-2-42 Video Lottery Sales Agent Employee License; Application on Reciprocal Validation.**

(A) No one shall be employed in any capacity unless they have been licensed. Applicants for video lottery sales agent employee licenses on reciprocal validation shall apply in a manner determined by the commission. Each such application shall be submitted with the required fee as described in paragraph (C) of this rule. Each such license, unless revoked or suspended for cause, shall automatically renew, after submission of the fee described in paragraph (C) of this rule, each January first in which the applicant is licensed by the lottery commission.

(1) All applications for licenses shall carry the full name and permanent address of the applicant with street or rural route number and zip code. No temporary address of any kind will be acceptable, unless the applicant shall affirm that they have no permanent address.

(2) If a licensee or applicant changes his or her address or telephone number at any time during the licensing year, it shall be the licensee's responsibility to notify the commission of the change within fifteen days.

(B) A corporation, association, partnership, limited liability company, or trust, when it files an application for a license on reciprocal validation shall also provide the following:

(1) A list of all officers, directors and stockholders or partners (both general and limited) with their names, addresses and occupations. If the stock is publicly traded, then only the names, addresses and occupations of the officers, directors and owners of ten per cent or more of the stock need be given; and

(2) Any other pertinent information requested by the commission. If any other corporation or partnership owns ten per cent or more of the applicant, it shall file the same information as required in paragraph (B)(1) of this rule.

(C) Each applicant, not otherwise licensed under a category listed in rule 3769-2-24 of the Administrative Code, shall submit annually in a manner determined by the commission the following fees as described in rule 3769-2-24(A) of the Administrative Code:

(1) Special A fees for key employee applicants, as defined in paragraph (M) of rule 3770:2-2-01 of the Administrative Code; and

(2) Special B fees for gaming employee applicants, as defined in paragraph (K) of rule 3770:2-2-01 of the Administrative Code.

(D) For purposes of this rule, an applicant who has submitted fingerprints to the lottery commission for a video lottery sales agent employee license pursuant to chapter 3770:2-4 of the Administrative Code shall be deemed to have complied with the requirements of rule 3769-2-19 of the Administrative Code.

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### **3769-12-42 Video Lottery Sales Agent Employee License; Application on Reciprocal Validation.**

(A) No one shall be employed in any capacity unless they have been licensed. Applicants for video lottery sales agent employee licenses on reciprocal validation shall apply in a manner determined by the commission. Each such application shall be submitted with the required fee as described in paragraph (C) of this rule. Each such license, unless revoked or suspended for cause, shall automatically renew, after submission of the fee described in paragraph (C) of this rule, each January first in which the applicant is licensed by the lottery commission.

(1) All applications for licenses shall carry the full name and permanent address of the applicant with street or rural route number and zip code. No temporary address of any kind will be acceptable, unless the applicant shall affirm that they have no permanent address.

(2) If a licensee or applicant changes his or her address or telephone number at any time during the licensing year, it shall be the licensee's responsibility to notify the commission of the change within fifteen days.

(B) A corporation, association, partnership, limited liability company, or trust, when it files an application for a license on reciprocal validation shall also provide the following:

(1) A list of all officers, directors and stockholders or partners (both general and limited) with their names, addresses and occupations. If the stock is publicly traded, then only the names, addresses and occupations of the officers, directors and owners of ten per cent or more of the stock need be given; and

(2) Any other pertinent information requested by the commission. If any other corporation or partnership owns ten per cent or more of the applicant, it shall file the same information as required in paragraph (B)(1) of this rule.

(C) Each applicant, not otherwise licensed under a category listed in rule 3769-2-24 of the Administrative Code, shall submit annually in a manner determined by the commission the following fees as described in rule 3769-2-24(A) of the Administrative Code:

(1) Special A fees for key employee applicants, as defined in paragraph (M) of rule 3770:2-2-01 of the Administrative Code; and

(2) Special B fees for gaming employee applicants, as defined in paragraph (K) of rule 3770:2-2-01 of the Administrative Code.

(D) For purposes of this rule, an applicant who has submitted fingerprints to the lottery commission for a video lottery sales agent employee license pursuant to chapter 3770:2-4 of the Administrative Code shall be deemed to have complied with the requirements of rule 3769-2-19 of the Administrative Code.