

# ARIZONA RACING COMMISSION

SPECIAL COMMISSION MEETING

MARCH 25, 2015

## MINUTES OF SPECIAL MEETING

A public meeting of the Arizona Racing Commission was convened on Wednesday, March 25, 2015, beginning at 9:00 a.m. in the Building Conference Room, Suite 250, at 1110 West Washington Street, Phoenix, Arizona 85007.

|                 |                      |                                 |
|-----------------|----------------------|---------------------------------|
| <b>Present:</b> | <b>Chairman</b>      | <b>Jay McClintock</b>           |
|                 | <b>Vice Chairman</b> | <b>Rory S. Goreé</b>            |
|                 | <b>Commissioner</b>  | <b>Tom Lawless</b>              |
|                 | <b>Commissioner</b>  | <b>David Heiple</b>             |
| <b>Absent:</b>  | <b>Commissioner</b>  | <b>William "Bill" Feldmeier</b> |

**Also present: Interim Director Rudy Casillas and Assistant Attorney General Michael Raine.**

### A. Call to Order

**Chairman McClintock** called the Special Meeting of the Arizona Racing Commission to order at 10:01 a.m. The following matters were discussed, considered and decided at the meeting:

**Interim Director Casillas** welcomed the new Commissioner David Heiple, and asked him provide a brief statement to those in attendance.

**Commissioner Heiple** stated he is an Arizona native. He has been in the real estate business for over 35 years and owns his own business. He has owned 15 different horses over a 10 year period. Currently he doesn't own any horses. He has raced under 20/20 Stables and Arizona Kentucky Stables. Mr. Eric Kruljak was his trainer most of the time. He looks forward to working with the Commission.

### B. New Business

#### 1. a. Oral Proceeding on Proposed Amendments to Arizona Administrative Code R-19-2-401 (Advanced Deposit Wagering)

**Interim Director Casillas** asked for this meeting to address a couple of issues of concern and to seek Commission approval for some rule changes. One question was regarding AAC R19-2-401 Advance Deposit Wagering. When the legislature approved ADW and Governor Brewer signed off on the new law, SB 1282, it was with the understanding that the legislation would allow patrons to wager by use of a telephone call through voice communications through a telephone company. The Department was very certain that this bill did not violate state laws as far as gambling laws to allow internet gambling to occur by virtue of permitting this ADW legislation. As a result of the Governor signing SB 1282, on January 30, 2015 certificates for the ADW providers were issued. Within a month after providing these certificates, it came to his attention that one of the providers had already created and launched an iPhone application that could be downloaded through iTunes that not only provided the user of the phone access to their account to see status information, account information and some of the racing stats and races being provided, but also allowed them to enter wagering through the iPhone which would be processed through the internet. As a result of that particular provider's actions, another provider stepped up and said it was going to launch its application next month, on the third. This caused him great concern regarding violation of the law, A.R.S §13-3301. At this point he started drafting rule changes and now the Department comes back with a definition that was initially put into the legislation with a slight addition to it. He read the new definition:

11. "Telephone" means any device that a person uses for voice communications in connection with the services of a telephone company but does not include digital devices utilizing non-verbal communications.

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He was trying to eliminate the possibility of providers or patrons from engaging in internet wagering. He asked if there were any questions or concerns.

**Chair McClintock** asked if the providers were on board with this change and if they understood they were potentially violating the means or idea behind this and have agreed to change.

**Interim Director Casillas** replied yes. Initially what happened after the legislation the rule was written and modified and the providers looked at the new language in the rule and thought they were allowed to do this. Everybody is trying to make a buck and create business, and he doesn't think they intentionally set out to violate the law but that's where they're at, so we're trying to remedy this matter.

**Chair McClintock** asked if there were any questions. None were raised. He asked for a motion.

## **1. b. Request for Approval of Proposed Amendment to Arizona Administrative Code R19-2-401 (Advanced Deposit Wagering)**

**Commissioner Lawless** moved to approve the amendment as written to the definition of A.A.C. R19-2-401. **Vice Chair Goreé** seconded the motion. Motion carried.

## **2. a. Oral Proceeding on Proposed Amendments to Arizona Administrative Code R-19-2-4205(B) (Regulatory Wagering Assessment of Pari-Mutuel Rules)**

**Interim Director Casillas** explained the Department of Racing obtained its funding from the industry it regulates. The law and the rule established require the Department to regularly monitor these sources of income to assure that the funds coming in are in line with the Department's authority to spend. The current review of the data from the current fiscal year indicated the percentage assessment (0.60%) would not be enough to carry the Department through the entire year therefore, the Department was seeking an increase adjustment of the assessment to 0.85%. The Department understands that changes to the RWA causes difficulty for the permittees however, an increase is necessary to ensure the Department has funding through the end of fiscal year 2015 and into fiscal year 2016. The proposed change in the RWA would be effective immediately upon filing with the Secretary of State.

**Chair McClintock** asked if there was any comment from the Turf Paradise Race Course representatives.

**Jerry Simms, Owner Turf Paradise Race Course**, addressed the Commission. He explained the difference would be taken from the fund that is used to pay out the purses but if it meant keeping the track running or not, he was in favor of the increase.

**Tom Metzen, President of the HBPA**, addressed the Commission. He said the horsemen have been hurt enough by the current rate and the Department should look at cutting staff and expenses rather than taking more from their purses. He indicated the increase would drive owners away from Turf and they would most likely not return next season.

## **1. b. Request for Approval of Proposed Amendments to Arizona Administrative Code R-19-2-4205(B) (Regulatory Wagering Assessment of Pari-Mutuel Rules)**

**Chair McClintock** suggested holding off on the vote on this matter until Commissioner Feldmeier was available, maybe the next Commission meeting scheduled for April 16, 2015.

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**Interim Director Casillas** asked the Commissioners to make a decision that day, since there was a quorum present, and not wait another 22 days for the next Commission meeting. He stressed that time was of the essence and the Department would not have enough funding to see it through to the beginning of the next race meet in fiscal 2016.

**Chairman McClintock** stated this was a difficult decision to make since both sides had good arguments and this increase was neither party's fault.

**Commissioner Lawless** asked if it was possible to approve and increase but put a time limit to it.

**Assistant Attorney General Michael Raine** advised that could be done.

**Commissioner Lawless** moved to approve an increase of 0.15% to the RWA, making it 0.85% from 0.70%, effective immediately with a sunset date of November 1, 2015. **Commissioner Heiple** seconded the motion. Motion carried.

## C. Commission Reports

**Chairman McClintock** announced, the next regular Commission meeting will be held **Thursday, April 16, 2015, at 10:00 a.m.** in Building Conference Room Suite 250, at 1110 West Washington Street, Phoenix, Arizona 85007.

## Adjournment:

**Chair McClintock** called for a Motion to Adjourn. **Commissioner Lawless** moved to adjourn the meeting. **Commissioner Goreé** seconded the motion. Motion Carried.

This public meeting adjourned at 10:43 AM.

Dated this 17<sup>th</sup> day of April, 2015

Arizona Racing Commission

By   
Cassie Goodwin, Administrative Assistant