

OKLAHOMA HORSE RACING COMMISSION

WENDY KEENER, ESQ., CHAIR

JOE LUCAS, VICE CHAIR

KEITH SANDERS, SECRETARY

BENNETT ANDERSON, MEMBER

BECKY GOUMAZ, MEMBER

MONTY MARCUM, MEMBER

PHILLIP KIRK, MEMBER

DONNIE VON HEMEL, MEMBER

DOUGLAS WRIGHT, MEMBER

AMENDED AGENDA 1/13/2020 11:00 am

Regularly Scheduled Meeting
Thursday, January 16, 2020, 9:30 a.m.

Meeting Location:
Agriculture Board Room
Department of Agriculture, Food and Forestry
2800 N. Lincoln Boulevard
Oklahoma City, OK 73105

Address of the:
OKLAHOMA HORSE RACING COMMISSION
2800 N. LINCOLN BLVD., SUITE 220
OKLAHOMA CITY, OKLAHOMA 73105
(Located in Department of Agriculture, Food and Forestry Building)
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AGENDA POSTED IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING ACT

All citizens who attend public meetings of the Commission who need special accommodations, i.e., Sign Language Interpreter, amplification device, large print materials, Braille materials, audio cassette materials, readers or other special accommodations must notify the Commission by the deadline date and time for acceptance of agenda requests.

CALL TO ORDER Ms. Keener, Chair

ROLL CALL Ms. Keener, Chair

BUSINESS Ms. Keener, Chair

A. MINUTES

The drafted Minutes of the November 21, 2019 Regularly Scheduled Commission Meeting will be considered for approval.

THE FOLLOWING MATTERS ARE PRESENTED FOR CONSIDERATION AND ACTION, IF ANY, DEEMED APPROPRIATE BY THE COMMISSION.

B. CONTINUED DELIBERATIONS FOR OSCAR NUNEZ-HERRERA, OWNER/TRAINER, REGARDING THE APPEAL HEARING OF STEWARDS' ORDER 19-RP-037B.

Background

At the November 21, 2019 meeting, the Commission took preliminary action to affirm Stewards Order 19-RP-037B, including the fines, suspension, and disqualifications of both horses. Furthermore the Commission directed its legal advisor to prepare a proposed Final Order with Findings of Facts and Conclusions of Law for continued deliberations at the January 16, 2020 Commission Meeting.

Possible Executive Session

Pursuant to 25 O.S. § 307 (B)(8) and 311 (B)(1), an Executive Session may be proposed for the purpose of deliberations in an individual proceeding regarding Mr. Nunez's Appeal of Stewards' Order 19-RP-037B.

1. Motion and Vote to Go Into Executive Session for the Purpose Stated Above
2. Motion and Vote to Reconvene in Open Session

Possible Action:

Possible action may include, but is not limited to: take no action; adopting the Final Order as proposed, adopting the Final Order as modified, or continue the matter.

C. MOTION FOR RECUSAL OR DISQUALIFICATION OF CURRENT COMMISSION MEMBERS

The Commission will consider the Motion filed by Attorney John Mac Hayes regarding recusal of the Commission members from the Appeal Hearings for Alfredo Gomez Owner/Trainer, Jose Villafranco-Vazquez Owner/Trainer, and Francisco J. Bravo Owner/Trainer.

Possible Executive Session

Pursuant to 25 O.S. § 307 (B)(8) and 311 (B)(1), an Executive Session may be proposed for the purpose of deliberations in an individual proceeding regarding Mr. Gomez's Appeal of Stewards' Order 19-WRD-036 and 19-WRD-037, Mr. Villafranco-Vazquez' Appeal of Stewards' Order 19-RP-072, and Mr. Francisco J. Bravo's Appeal of Stewards' Order 19-WRD-069.

1. Motion and Vote to Go Into Executive Session for the Purpose Stated Above
2. Motion and Vote to Reconvene in Open Session

Possible Action

Possible action may include, but is not limited to: granting the motion; denying the motion; or continuing the matter.

D. APPEAL HEARING FOR ALFREDO GOMEZ, OWNER/TRAINER, REGARDING STEWARDS' ORDERS 19-WRD-036 and 19-WRD-037

Background

In Stewards' Orders 19-WRD-036 and 19-WRD-037, the Board of Stewards at Remington Park found Mr. Gomez to be in violation of Commission rules when his quarter horses "EOS TRUMPSTER" and "FLYIN SMOAK" tested positive for the presence of Clenbuterol, a prohibited substance, following races held at Remington Park in April 2017. The Board of Stewards fined Mr. Gomez one thousand five-hundred dollars (\$1,500) per order for a total fine of three thousand dollars (\$3,000). Mr. Gomez was suspended and/or made ineligible for licensure for a period of ninety days for each horse, with a credit of sixty (60) days for time served. The remaining thirty days of suspension for each horse will be served consecutively beginning May 28, 2019 through Friday, July 26, 2019.

Mr. Gomez requested A Temporary Stay of Payment of Fine, and in accordance with provisions of OAC 325:70-1-27 Temporary Stay Order, the Commission Executive Director, after consultation with three (3) Commissioners, on June 19, 2019 issued an Order 2019-OHRC-0005 granting a Temporary Stay of Payment for Stewards' Order 19-WRD-036 and 19-WRD-037 pending final determination of the Commission.

Current Consideration

The Hearing before the Commission will be conducted pursuant to the authority and jurisdiction of the Oklahoma Administrative Procedures Act, Title 75, § 301 et seq., the Oklahoma Horse Racing Act, Title 3A O.S. § 200 et seq., OAC 325 (OHRC *Rules of Racing*), OAC 325:70-1-22, Grounds for Appeal from Decision of the Stewards, and OAC 325:70-1-24, Appeal Hearing Procedure.

The procedure for the Hearing before the Commission is set as follows:

1. The appellant, Mr. Gomez, and the Board of Stewards at Remington Park are entitled to be present and to present arguments.
2. The appellant, Mr. Gomez, or his counsel will present oral arguments first, with the Board of Stewards or their counsel proceeding next. Each party will be allowed fifteen (15) minutes to present its case.
3. The Appeal is not a new evidentiary hearing on the matter. Both parties are limited to making arguments/comments concerning the evidence presented at the Board of Stewards' Hearing. However, the Commission may consider new evidence not found in the record of the Board of Stewards' Hearing, provided that the proponent makes an offer of proof briefly explaining the new evidence, including an explanation of how the evidence satisfies the requirements set forth in OAC 70-1-22(2).
4. All parties are subject to questioning by Commissioners, Commission Staff and Commission Counsel.

Possible Executive Session

Pursuant to 25 O.S. § 307 (B)(8) and 311 (B)(1), an Executive Session may be proposed for the purpose of deliberations in an individual proceeding regarding Mr. Gomez's Appeal of Stewards' Order 19-WRD-036 and 19-WRD-037.

1. Motion and Vote to Go Into Executive Session for the Purpose Stated Above
2. Motion and Vote to Reconvene in Open Session

Possible Action:

Possible action may include, but is not limited to: take no action; take preliminary action on the matter(s) and instruct the Commission Legal Advisor to draft Order(s) for consideration in further deliberations at the February 20th, 2020 Commission meeting; or continue the matter(s).

E. APPEAL HEARING FOR JOSE VILAFRANCO-VAZQUEZ, OWNER/TRAINER, REGARDING STEWARDS' ORDER 19-RP-072.

Background

In Stewards' Order 19-RP-072, the Board of Stewards at Remington Park found Mr. Villafranco-Vazquez to be in violation of Commission rules when his quarter horse "FAST FERRARI" tested positive for Clenbuterol, a prohibited substance, following a race at Remington Park on May 7, 2017.

The Board of Stewards fined Mr. Villafranco-Vazquez One Thousand, Five Hundred Dollars (\$1,500). Mr. Villafranco-Vazquez was suspended and/or made ineligible for licensure for a period of ninety 90 days, with credit for eleven (11) days served in May 2017. The remaining seventy-nine days will be served from Saturday, September 7, 2019 and continuing through Sunday, November 24, 2019. The suspension is stayed pending final determination of the Commission.

Current Consideration

The Hearing before the Commission will be conducted pursuant to the authority and jurisdiction of the Oklahoma Administrative Procedures Act, Title 75, § 301 et seq., the Oklahoma Horse Racing Act, Title 3A O.S. § 200 et seq., OAC 325 (OHRC *Rules of Racing*), OAC 325:70-1-22, Grounds for Appeal from Decision of the Stewards, and OAC 325:70-1-24, Appeal Hearing Procedure.

The procedure for the Hearing before the Commission is set as follows:

1. The appellant, Mr. Villafranco-Vazquez, and the Board of Stewards at Remington Park are entitled to be present and to present arguments.
2. The appellant, Mr. Villfranco-Vazquez, or his counsel will present oral arguments first, with the Board of Stewards or their counsel proceeding next. Each party will be allowed fifteen (15) minutes to present its case.
3. The Appeal is not a new evidentiary hearing on the matter. Both parties are limited to making arguments/comments concerning the evidence presented at the Board of Stewards' Hearing. However, the

Commission may consider new evidence not found in the record of the Board of Stewards' Hearing, provided that the proponent makes an offer of proof briefly explaining the new evidence, including an explanation of how the evidence satisfies the requirements set forth in OAC 70-1-22(2).

4. All parties are subject to questioning by Commissioners, Commission Staff and Commission Counsel.

Possible Executive Session

Pursuant to 25 O.S. § 307 (B)(8) and 311 (B)(1), an Executive Session may be proposed for the purpose of deliberations in an individual proceeding regarding Mr. Villafranco - Vazquez' Appeal of Stewards' Order 19-RP-072.

1. Motion and Vote to Go Into Executive Session for the Purpose Stated Above
2. Motion and Vote to Reconvene in Open Session

Possible Action:

Possible action may include, but is not limited to: take no action; take preliminary action on the matter(s) and instruct the Commission Legal Advisor to draft Order(s) for consideration in further deliberations at the February 20, 2020 Commission meeting; or continue the matter(s).

F. APPEAL HEARING FOR FRANCISCO J. BRAVO, OWNER/TRAINER, REGARDING STEWARDS' ORDER 19-WRD-069

Background

In Stewards' Order 19-WRD-069, the Board of Stewards at Will Rogers Downs found Mr. Bravo to be in violation of Commission rules when his thoroughbred horse "EASE IT ON OVER" tested positive for an overage of Xylazine, following a race at Will Rogers Downs on April 3, 2019.

The Board of Stewards at Will Rogers Downs found that Francisco J. Bravo, having a second offense for a Category "B" substance in the past 365 days, shall be and is hereby fined one thousand five hundred dollars (\$1,500) and is suspended and/or made ineligible for licensure for a period of thirty (30) days, effective the first day of Live Racing of the 2020 Will Rogers Downs Spring Meet.

Current Consideration

The Hearing before the Commission will be conducted pursuant to the authority and jurisdiction of the Oklahoma Administrative Procedures Act, Title 75, § 301 et seq., the Oklahoma Horse Racing Act, Title 3A O.S. § 200 et seq., OAC 325 (OHRC *Rules of Racing*), OAC 325:70-1-22, Grounds for Appeal from Decision of the Stewards, and OAC 325:70-1-24, Appeal Hearing Procedure.

The procedure for the Hearing before the Commission is set as follows:

1. The appellant, Mr. Bravo, and the Board of Stewards at Remington Park are entitled to be present and to present arguments.
2. The appellant, Mr. Bravo, or his counsel will present oral arguments first, with the Board of Stewards or their counsel proceeding next. Each party will be allowed fifteen (15) minutes to present its case.
3. The Appeal is not a new evidentiary hearing on the matter. Both parties are limited to making arguments/comments concerning the evidence presented at the Board of Stewards' Hearing. However, the Commission may consider new evidence not found in the record of the Board of Stewards' Hearing, provided that the proponent makes an offer of proof briefly explaining the new evidence, including an explanation of how the evidence satisfies the requirements set forth in OAC 70-1-22(2).
4. All parties are subject to questioning by Commissioners, Commission Staff and Commission Counsel.

Possible Executive Session

Pursuant to 25 O.S. § 307 (B)(8) and 311 (B)(1), an Executive Session may be proposed for the purpose of deliberations in an individual proceeding regarding Mr. Bravo Appeal of Stewards' Order 19-WRD-069.

1. Motion and Vote to Go Into Executive Session for the Purpose Stated Above
2. Motion and Vote to Reconvene in Open Session

Possible Action:

Possible action may include, but is not limited to: take no action; take preliminary action on the matter(s) and instruct the Commission Legal Advisor to draft Order(s) for consideration in further deliberations at the February 20th, 2020 Commission meeting; or continue the matter(s).

G. ANY MATTER NOT KNOWN ABOUT OR WHICH COULD NOT HAVE BEEN REASONABLY FORESEEN PRIOR TO POSTING THE AGENDA

H. ANNOUNCEMENTS

1/20/2020 - HOLIDAY

2/6/2020 – Deadline for submitting agenda topic requests for February 20, 2020 Regularly Scheduled Commission Meeting

2/17/2020 - HOLIDAY

2/20/2020 – Commission Regularly Scheduled Meeting, 9:30 a.m., Board Room, Department of Agriculture, Food and Forestry, 2800 N. Lincoln Boulevard, Oklahoma City, OK

ADJOURNMENT.....Mrs. Keener, Chair