

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

SECOND AMENDED AGENDA 11-19-2019 6:15 p.m.

**Regularly Scheduled Meeting
Thursday, November 21, 2019, 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)
TELEPHONE: (405) 522-8167; Fax: (405) 943-6474
WEBSITE: WWW.OHRC.ORG**

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 October 17, 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. RECOMMENDATION FROM THE OKLAHOMA BRED ADVISORY COUNCIL

The Oklahoma-Bred Advisory met on November 6, 2019 and forwarded the unanimously recommendations for the Commission's approval:

1. The Oklahoma Quarter Horse Racing Association requested Oklahoma-Bred funding for stakes races in CY-2020 at each racetrack based on projections and subject to fund availability:

- \$967,600 for Stakes Races, Futurity and Derby Trials/Finals at Remington Park
- \$49,000 for Stakes Races at Fair Meadows
- \$60,800 for Stakes Races and Futurity/Derby Finals at Will Rogers Downs

2. The Thoroughbred Racing Association requested Oklahoma-Bred funding for stakes races in CY-2020 at each racetrack based on projections and subject to fund availability:

- \$605,600 for Stakes Races at Remington Park
- \$20,000 for Stakes Races at Fair Meadows
- \$60,000 for Stakes Races at Will Rogers Downs

Possible Action:

Possible actions may include, but is not limited to: taking no action, approving the proposed requested funding, altering the requested funding, or continuing the matter.

**C. CONTINUED DELIBERATIONS ON TRAINER MARY MEZA'S
PETITION FOR APPEAL OF THE BOARD OF STEWARDS ORDER
19-RP-057**

Background

At the October 17, 2019 meeting, the Commission conducted a Hearing on whether the Petition for Appeal of the Board of Stewards order was timely filed in accordance with OAC 325:7-1-23 or whether there is good cause to extend the time filing.

The Commission took preliminary action to find that Ms. Meza's Petition for Appeal was not timely filed and therefore the Commission lacks jurisdiction to hear the matter, The Commission direct its legal advisor to prepare a proposed Final Order with Findings of Facts and Conclusions of Law for continued deliberations at the November 21, 2019 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 Ms. Meza's Petition for Appeal.

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.

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 January 16, 2020 Commission meeting; or continue the matter(s).

E. APPEAL HEARING FOR JOSE VILAFRANCO-VAZQUEZ, OWNER/TRAINER, REGARDIING 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, and the Board of Stewards at Remington Park are entitled to be present and to present arguments.
2. The appellant, Mr. Villfranco, 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's 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 January 16, 2020 Commission meeting; or continue the matter(s).

**F. APPEAL HEARING FOR OSCAR NUNEZ-HERRERA,
OWNER/TRAINER, REGARDIING STEWARDS' ORDER 19-RP-
037B.**

Background

In Stewards' Order 19-RP-037B, Mr. Nunez-Herrera was found to be in violation of Commission rules when his quarter horse(s) "JOHNNY DE CAPO" and "MS JETTA B", tested positive for clenbuterol, a prohibited substance, following races at Remington Park in April, 2019.

The Board of Stewards fined Mr. Nunez-Herrera three thousand dollars (\$3,000) for each horse for a total fine of six thousand dollars (\$6,000.00). Mr. Nunez-Herrera was suspended and/or made ineligible for licensure for a period of one-hundred eighty (180) days on each case for a total of three-hundred sixty (360) days. On August 27, 2019, the Commission issued an Order denying the request for a Temporary Stay of the suspensions, but granted a Stay of the disqualifications of the horses from their first and second place finishes in the races, and payment of fines pending the Commission's issuance of a Final Order in this matter.

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. Nunez, and the Board of Stewards at Remington Park are entitled to be present and to present arguments.

2. The appellant, Mr. Nunez, 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. 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; take preliminary action on the matter(s) and instruct the Commission Legal Advisor to draft Order(s) for consideration in further deliberations at the January 16, 2020 Commission meeting; or continue the matter(s).

G. REQUEST BY REMINGTON PARK AND THE OKLAHOMA QUARTER HORSE RACING ASSOCIATION TO ADD 60 ADDITIONAL RACES TO THE CY 2020 QUARTER HORSE, PAINT AND APPALOOSA RACE MEETING

Background

The CY 2020 Horseman's Agreement between Remington Park and the Oklahoma Quarter Horse Racing Association (OQHRA) includes a provision that allows an option for the parties to request Commission approval of 60 additional overnight races to be run during the CY 2020 Quarter Horse, Paint and Appaloosa Race Meeting.

A letter requesting the additional 60 days from Matt Vance Vice President of Racing Operations was received on Monday November 18, 2019

Possible Action:

Possible action may include, but is not limited to: taking no action, approving the request, in whole or in part; or continuing the matter.

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

I. 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 Trainer Gomez (Item D), and Trainer Villafranco-Vazquez (Item E).

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 and Mr. Villafranco's 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: granting the motion; denying the motion; or continuing the matter.

J. ANNOUNCEMENTS

12/15/19 – Remington Park's Thoroughbred race meeting is scheduled to conclude

12/24-25/19 – HOLIDAY [Christmas]
There is no December, 2019 Meeting

1/1/2020- HOLIDAY

1/2/20 – Deadline for submitting agenda topic requests for January 16, 2020 Regularly Scheduled Commission Meeting

1/16/20 – 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