

OKLAHOMA HORSE RACING COMMISSION

WENDY KEENER, ESQ., CHAIR

JOE LUCAS, VICE CHAIR

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BENNETT ANDERSON, MEMBER

BECKY GOUMAZ, MEMBER

MONTY MARCUM, MEMBER

PHILLIP KIRK, MEMBER

DONNIE VON HEMEL, MEMBER

DOUGLAS WRIGHT, MEMBER

REVISED AGENDA as of January 15th, 2021 @ 11:44 a.m.

**Regularly Scheduled Meeting
Thursday, January 21st, 2021 9:30 a.m.**

**Meeting Location:
One Remington Place – Eclipse Room/Suites Floor
Oklahoma City, Oklahoma 73111**

Address:

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
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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 ORDERMs. Keener, Chair

ROLL CALL.....Ms. Keener, Chair

BUSINESS.....Ms. Keener, Chair

A. MINUTES

The drafted Minutes of the November 19th, 2020 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. CONTINUANCE OF DELIBERATIONS ON DISTRIBUTION OF REVENUE GENERATED FROM THE EXPORT OF INTERSTATE SIGNALS AND RESOLUTION REQUESTING ATTORNEY GENERAL’S OPINION.

Background

At the November 19th, 2020 Meeting, the Commission voted to prepare a Resolution for the following meeting to allow the Commission to seek an opinion from the State Attorney General’s Office on the matter.

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 the correct calculation of the export signal. An executive session may be proposed following oral argument for each Preliminary Motion and the 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 on the Resolution; adopt the Resolution as proposed; or adopt the Resolution as modified; or continue the matter(s).

C. CONTINUED DELIBERATIONS REGARDING THE APPEAL OF JOSUE PONCE, OWNER/TRAINER ORDERS 20-RP-030, 20-RP-030A, and 20-RP-030B.

Background

At the November 19th, 2020 meeting, the Commission took preliminary action to uphold Steward's Orders 20-RP-030, 20-RP-030A, and 20-RP-030B regarding the presence of Clenbuterol, a prohibited substance, in the Quarter Horse "OH FANCY GO", following the race held at Remington Park on April 25, 2020. Furthermore, the Commission asked that legal counsel prepare a final order for consideration at the January 21, 2021 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. Ponce.

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. PETITION FOR APPEAL OF CRISTINO ESTRADA-REGALADO, OWNER/TRAINER REGARDING STEWARDS ORDERS 20-FMT-026B, 20-FMT-27B, AND 20-FMT-28B.

Background

On November 18, 2020, the Board of Stewards at Fair Meadows issued Orders 20-FMT-026B (JESS CUZ IM PERFECT), 20-FMT-027B (DTL HES MAN CANDY), and 20-FMT-028B (DTL CORONADO PLAYBOY) finding Mr. Estrada-Regalado to be in violation of OAC 325:45-1-4 Substance Violations; and OAC 325:45-1-11 Trainer Responsibility, as follows:

- for the presence of Clenbuterol, a prohibited substance, in the horse “JESS CUZ IM PERFECT”, following the race held at Fair Meadows on June 20, 2020,
- for the presence of Clenbuterol, a prohibited substance, and the presence of permitted substances Flunixin at a level of 31.9 +/- 3.3 ng/ml and Dexamethasone at a level of 85.4 +/- 0.6 pg/ml, exceeding Commission threshold levels, in the horse “DTL HES MAN CANDY”, following the race held at Fair Meadows Tulsa on June 26, 2020, and
- for the presence of Clenbuterol, a prohibited substance, in the horse “DTL CORONADO PLAYBOY”, following the race held at Fair Meadows Tulsa on June 27, 2020.

On December 3, 2020, the Commission denied Appellant’s Request for Temporary Stay of the suspensions, and granted a stay of payment of fines and the disqualification of the horses 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 O.S., § 301 *et seq*; the Oklahoma Horse Racing Act, Title 3A O.S. § 200 *et seq.*; the OHRC Rules of Racing, OAC 325, and OAC 325:7-1-24 Appeal Hearing Procedures.

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

1. The Appeal is not a new hearing on the matter. The parties' presentations are limited to arguments based on information in the record of the Board of Stewards hearing. The Commission may consider new evidence not in the record, 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).

2. The Appellant, Mr. Cristino Estrada-Regalado, 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. All parties are subject to questioning by the 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. Regalado. An executive session may be proposed following oral argument for any Preliminary Motions and the 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; take preliminary action on the matter(s) and instruct the Commission Legal Advisor to draft Order(s) for consideration in further deliberations at a future Commission Meeting; or continue the matter(s).

E. POSSIBLE FINAL ACTION ON PROPOSED RULE AMENDMENTS TO 11 CHAPTERS IN RULES OF RACING AND RULES OF RACETRACK GAMING UNDER PERMANENT RULEMAKING

Background

At the August 27th, 2020 the Commission approved the permanent rulemaking process to consider proposed amendments to the following chapters in *Rules of Racing and Racetrack Gaming*:

Rules of Racing:

- Chapter 1, Commission Powers and Jurisdiction**
- Chapter 15, Licensing**
- Chapter 20, Racing Officials and Racing Personnel**

Chapter 25, Entries and Declarations
Chapter 35, General Conduct
Chapter 45, Prohibited Practices and Equine Testing
Chapter 60, Running the Race
Chapter 65, Pari-Mutuel Wagering
Chapter 70, Objections and Protests: Hearings and Appeals
Chapter 75, Oklahoma Bred Program

Rules for Racetrack Gaming:

Chapter 85, Gaming Machine Specifications and Use and Operation Requirement

Mr. Kelly Cathey, Commission Executive Director, will present the public comments.

Current Consideration

The next step in the rulemaking process is the Commission's consideration of adopting the proposed rule amendments in the chapters under the permanent rulemaking process.

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 Rule Changes of Rules for Racing and Rules for Racetrack Gaming. An executive session may be proposed following discussion on the Rules and the Review of Public Comments.

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; adopt the proposed amendments, in whole or in part; adopting amendments as modified, in whole or in part; or continue the matter.

F. **ANY MATTER NOT KNOWN ABOUT OR WHICH WOULD NOT HAVE BEEN REASONABLY FORESEEN PRIOR TO POSTING THE AGENDA.**

G. **ANNOUNCEMENTS**

2/4/21 – Deadline for submitting agenda topic requests for February 18th, 2021 Regularly Scheduled Commission Meeting

2/15/21 – **(HOLIDAY)** Presidents’ Day

2/18/21 – 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