

# OKLAHOMA HORSE RACING COMMISSION

## REGULARLY SCHEDULED MEETING JANUARY 24, 2019

### MINUTES

#### CALL TO ORDER

Chairman Lucas called the Regularly Scheduled Meeting of the Commission to order at 9:30 a.m. in the Board Room of the Department of Agriculture, Food and Forestry, Oklahoma City, Oklahoma.

#### ROLL CALL

Commission members answering roll call were Commissioners Goumaz, Keener, Kirk, Marcum, Sanders, Von Hemel, Wiens, Wright and Chairman Lucas. The following Commission staff members were in attendance: Mr. Kelly Cathey, Mr. Pete Markstone, Ms. Shonna Gore, Ms. Kara Moore and Ms. Bonnie Morris. Approximately twenty people attended and signed the registry which is part of the record.

#### MINUTES

Commissioner Wiens made a motion to approve the drafted minutes of the November 15, 2018 Commission meeting as presented. Commissioner Sanders seconded the motion. The vote was recorded as follows:

Aye: Mr. Wiens, Mr. Sanders, Mr. Kirk, Mr. Marcum, Mr. Von Hemel, Mr. Wright,  
Mr. Lucas

Abstain: Ms. Goumaz, Ms. Keener

The motion passed on a 7-0 vote.

**APPEAL HEARING AND REFERRAL BY BOARD OF STEWARDS AT REMINGTON PARK ON THERONE TRENT ALEXANDER, OWNER/ TRAINER, IN STEWARDS' ORDER 18-RP-086**

**Background**

In Stewards' Order 18-RP-086, the Board of Stewards at Remington Park found Mr. Alexander to be in violation of OAC 325:35-1-5(a), Trainer Responsibility, and OAC 325:35-1-21, Tricks/Schemes Prohibited, regarding his care of POPPIN BAYOU while the horse was undergoing training for the 2018 Remington Park Spring Quarter Horse, Paint and Appaloosa race meeting. The Board of Stewards imposed the maximum penalty within their authority of a Three Hundred Sixty Five Days [365] suspension, beginning Thursday, November 1, 2018 and continuing through Thursday, October 31, 2019.

The Board of Stewards referred the case to the Commission with the recommendation that the Commission instead, impose the greater penalty of revocation of Mr. Alexander's Owner/Trainer license. Mr. Alexander appealed the suspension.

**Current Consideration**

The Commission conducted an Appeal and Referral Hearing. Mr. Alexander represented himself. The Board of Stewards at Remington Park was represented by Mr. James Rucker, Deputy General Counsel, Department of Agriculture, Food and Forestry.

After hearing argument and evidence and asking questions, Commissioner Wiens made a motion to go into Executive Session to deliberate on the matters and include Ms. Sandra Balzer, Commission Legal Counsel, and Mr. Kelly Cathey, Commission Executive Director. Commissioner Keener seconded the motion. The vote was recorded as follows:

Aye: Wiens, Keener, Goumaz, Kirk, Marcum, Sanders, Von Hemel,  
Wright, Lucas

The motion passed on a 9-0 vote.

The Executive Session began at 10:30 a.m.

Commissioner Marcum made a motion to return to Open Session. Commissioner Von Hemel seconded the motion. The vote was recorded as follows:

Aye: Marcum, Von Hemel, Goumaz, Keener, Kirk, Sanders, Wiens,  
Wright, Lucas

The motion passed on a 9-0 vote.

The Commission returned to Open Session at 11:55 a.m.

Commissioner Goumaz made a motion to continue the matter to the March 28, 2019 Commission meeting. Commissioner Wiens seconded the motion. The vote was recorded as follows:

Aye: Goumaz, Wiens, Keener, Kirk, Marcum, Sanders, Von Hemel,  
Wright, Lucas  
The motion passed on a 9-0 vote.

## **REFERRAL BY BOARD OF STEWARDS AT REMINGTON PARK REGARDING STEWARDS' ORDER 18-RP-097**

### **Background**

In Stewards' Order 18-RP-097, the Board of Stewards at Remington Park found Mr. Enlow to be in violation of OAC 325:45-1-11, Trainer Responsibility, regarding the Paint horse, RP LIVE WIRE DASH, under his care and custody testing over the listed threshold for the drug, DEXAMETHASONE, following the 6<sup>th</sup> race at Remington Park, the finals of the Oklahoma Paint and Appaloosa Horse Futurity, on March, 24, 2018. Mr. Enlow was fined \$500.00. He did not dispute the Stewards' finding of a medication violation or the imposition of the fine.

The matter before the Commission was whether any mitigating circumstances exist to merit imposition of a different penalty than the ARCI recommended disqualification of the horse and loss of purse.

### **Current Consideration**

Commissioner Keener recused herself and left the meeting for this agenda topic.

The Commission conducted a Referral Hearing. Mr. Enlow represented himself and asked Dr. Billins to present argument and evidence. The Board of Stewards was represented by Mr. James Rucker, Deputy General Counsel, Department of Agriculture, Food and Forestry.

After hearing argument and evidence, Commissioner Goumaz made a motion to go into Executive Session to deliberate and include Ms. Sandra Balzer, Commission Legal Counsel, and Mr. Kelly Cathey, Commission Executive Director. Commissioner Sanders seconded the motion. The vote was recorded as follows:

Aye: Goumaz, Sanders, Kirk, Marcum, Von Hemel, Wiens, Wright, Lucas  
Commissioner Keener recused herself from this agenda topic.  
The motion passed on an 8-0 vote.

The Commission went into Executive Session at 12:39 p.m.

Commissioner Goumaz made a motion to return to Open Session. Commissioner Kirk seconded the motion. The vote was recorded as follows:

Aye: Goumaz, Kirk, Marcum, Sanders, Von Hemel, Wiens, Wright, Lucas  
Commissioner Keener recused herself from this agenda topic.  
The motion passed on an 8-0 vote.

The Commission returned to Open Session at 12:48 p.m.

Commissioner Goumaz made a motion, finding that there were insufficient mitigating circumstances to warrant a lesser penalty, to take preliminary action to disqualify the horse and lose the purse and direct Commission Legal Counsel to draft an Order for consideration at the February 21, 2019 meeting. Commissioner Von Hemel seconded the motion. The vote was recorded as follows:

Aye: Goumaz, Von Hemel, Kirk, Marcum, Sanders, Wiens,  
Wright, Lucas  
Commissioner Keener recused herself from this agenda topic.  
The motion passed on an 8-0 vote.

Chairman Lucas announced he was leaving the meeting to present the Commission's budget to a committee at the Capitol. Vice-Chairman Sanders conducted the rest of the meeting. Commissioner Keener returned to the meeting.

**JOINT REQUEST FROM WILL ROGERS DOWNS AND THE THOROUGHBRED RACING ASSOCIATION OF OKLAHOMA TO AMEND CY 2019 LIVE RACE DAYS FOR THE THOROUGHBRED RACE MEETING**

In a December 3, 2018 letter, Ms. Danielle Barber, Executive Director of the Thoroughbred Racing Association of Oklahoma, and Mr. Mark Enterline, Consulting General Manager for Will Rogers Downs, requested amending the CY 2019 live race days for the Thoroughbred race meeting.

Specifically, the request was to amend the start date from Monday, March 18, 2019, to a week later on Monday, March 25, 2019 and to add two Wednesdays, March 27, 2019 and April 3, 2019. This would maintain the total of 28 live race days.

Commissioner Marcum made a motion to approve the request to change the CY 2019 live race dates for Will Rogers Downs's CY 2019 Thoroughbred live race dates. Commissioner Von Hemel seconded the motion. The vote was recorded as follows:

Aye: Marcum, Von Hemel, Goumaz, Keener, Kirk, Wiens, Wright, Sanders  
Chairman Lucas was absent from this portion of the meeting.  
The motion passed on an 8-0 vote.

**RECOMMENDATIONS FROM THE OKLAHOMA-BRED ADVISORY COUNCIL**

**Thoroughbred Racing Association of Oklahoma's Funding Request for CY 2019 Thoroughbred Stakes Races at Will Rogers Downs**

In a December 28, 2018 letter, Ms. Danielle Barber, Executive Director, Thoroughbred Racing Association of Oklahoma, requested that Oklahoma-Bred funds be added to the following six stakes races to be run during WRD's CY 2019 Thoroughbred race meeting with a payout percentage breakdown of 60/20/11/6/3, totaling \$60,000 subject to availability of funds at the time the races are conducted as follows:

<u>Stakes Races</u>	<u>Purse Supplements</u>	<u>Broodmare Awards</u>	<u>Stallion Awards</u>	<u>Total</u>
The More Than Even Stakes	\$ 5,000	\$ 3,400	\$ 1,600	\$10,000
TRAO Classic Sprint Stakes	\$ 5,000	\$ 3,400	\$ 1,600	\$10,000
The Great Lady M Stakes	\$ 5,000	\$ 3,400	\$ 1,600	\$10,000
Cherokee Nation Classic Cup Stakes	\$ 5,000	\$ 3,400	\$ 1,600	\$10,000
Will Rogers Downs Handicap Stakes	\$ 5,000	\$ 3,400	\$ 1,600	\$10,000
Cinema Handicap Stakes	\$ 5,000	\$ 3,400	\$ 1,600	\$10,000
	<b>\$30,000</b>	<b>\$20,400</b>	<b>\$ 9,600</b>	<b>\$60,000</b>

The Oklahoma-Bred Advisory Council unanimously recommended \$60,000 in funding from the Oklahoma Breeding Development Fund Special Account for the six listed stakes races subject to availability of funds at the time the races would be conducted.

Commissioner Von Hemel made a motion to approve the Oklahoma-Bred funding request for the six CY 2019 stakes races to be run at Will Rogers Downs. Commissioner Wiens seconded the motion. The vote was recorded as follows:

Aye: Von Hemel, Wiens, Goumaz, Keener, Kirk, Marcum, Wright, Sanders  
Chairman Lucas was absent from this portion of the meeting.  
The motion passed on an 8-0 vote.

**Thoroughbred Racing Association of Oklahoma and Fair Meadow at Tulsa's Funding Request for CY 2019 Thoroughbred Stakes Races to be Conducted at Fair Meadows at Tulsa**

In an December 28, 2018 letter, Ms. Danielle Barber, Executive Director of the Thoroughbred Racing Association of Oklahoma, requested a total of \$20,000 in added Oklahoma-Bred funding for two stakes races to be conducted during Fair Meadows at Tulsa's CY 2019 race meeting with

the payout percentages at 60/20/11/6/3 subject to availability of funds at the time the races are conducted as follows:

<u>Stakes Races</u>	<u>Purse Supplements</u>	<u>Broodmare Awards</u>	<u>Stallion Awards</u>	<u>Total</u>
Muskogee [Creek] Nation Stakes	\$ 5,000	\$ 3,400	\$ 1,600	\$10,000
Route 66 Stakes	\$ 5,000	\$ 3,400	\$ 1,600	\$10,000
	\$10,000	\$ 6,800	\$ 3,400	\$20,000

The Oklahoma-Bred Advisory Council unanimously recommended \$20,000 in funding from the Oklahoma Breeding Development Fund Special Account for the two stakes races.

Commissioner Marcum made a motion to approve the Oklahoma-Bred funding for the CY 2019 two stakes races at Fair Meadows at Tulsa. Commissioner Von Hemel seconded the motion. The vote was recorded as follows:

Aye: Marcum, Von Hemel, Goumaz, Keener, Kirk, Wiens, Wright, Sanders  
Chairman Lucas was absent from this portion of the meeting.  
The motion passed on an 8-0 vote.

## **DISTRIBUTION OF BREAKAGE AND UNCLAIMED TICKET PROCEEDS GENERATED OUTSIDE OF A RACE MEETING**

### **Background**

At the May 18, 2017 Commission meeting, a hearing was held to address the distribution formulas being applied for breakage and unclaimed ticket proceeds generated outside of race meetings [Item F.1]. Both the OQHRA and TRAO were represented by Attorneys, which provided the Commission with briefs and oral arguments on the matter. The Board ruled the distribution formula to be 90 percent to Thoroughbreds and 10 percent to Quarter Horses, Paints and Appaloosas at Remington Park and Will Rogers Downs, effective January 1, 2017, and no change in the distribution formula for Fair Meadows at Tulsa. On October 30, 2018, the District Court of Oklahoma County voided said order based upon a procedural consideration.

### **Current Consideration**

Because the Commission's May 18, 2017 order was voided by the District Court, the Commission would readdress the matter involving the distribution of breakage and unclaimed ticket revenue that remains in question.

Commissioner Keener made a motion to go into Executive Session to deliberate on the matter and include Mr. James Rucker, Deputy General Counsel, Department of Agriculture, Food and

Forestry, and Mr. Kelly Cathey, Commission Executive Director. Commissioner Kirk seconded the motion. The vote was recorded as follows:

Aye: Keener, Kirk, Goumaz, Marcum, Von Hemel, Wiens,  
Wright, Sanders  
Chairman Lucas was absent from this portion of the meeting.  
The motion passed on an 8-0 vote.

The Commission went into Executive Session on 12:57 p.m.

Commissioner Keener made a motion to return to Open Session. Commissioner Kirk seconded the motion. The vote was recorded as follows:

Aye: Keener, Kirk, Goumaz, Marcum, Von Hemel, Wiens,  
Wright, Sanders  
Chairman Lucas was absent from this portion of the meeting.  
The motion passed on an 8-0 vote.

The Commission returned to Open Session at 1:58 p.m.

Commissioner Goumaz made a motion, pursuant to the Commission's authority as provided for at 3A, O.S. Section 204, and interpreting OAC 325:75-1-15(b), to move that this calculation be used in the distribution of breakage and unclaimed ticket proceeds generated outside of a race meeting is 90% Thoroughbred and 10% Quarter Horse, Paints and Appaloosas at Remington Park and at Will Rogers Downs and 42% Thoroughbred, 42% Quarter Horse and 16% Paints and Appaloosas at Fair Meadows at Tulsa effective as of January 1st 2011 and direct Commission Counsel to draft an Order for consideration at the February 21, 2019 meeting. Commissioner Wright seconded the motion. The vote was recorded as follows:

Aye: Goumaz, Wright, Kirk, Marcum, Von Hemel, Wiens, Sanders  
Nay: Keener  
Chairman Lucas was absent from this portion of the meeting.  
The motion passed on a 7-1 vote.

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

There was no such matter.

**ANNOUNCEMENTS**

Vice-Chairman Sanders made the following announcements:

1. A Public Hearing is scheduled for Monday, February 4, 2019, for proposed rule amendments to 12 chapters in the *Rules of Racing* in the Board Room, Department of Agriculture, Food and Forestry in 30 minute intervals.
2. The Oklahoma-Bred Advisory Council is scheduled to meet on Wednesday, February 6, 2019, starting at 1:30 p.m., in Conference Room 201 in the Department of Agriculture, Food and Forestry building.
3. The Commission's next regular meeting is scheduled for February 21, 2019 to be held in the Board Room at the Department of Agriculture, Food and Forestry.
4. The Commission Executive Director executed renewed CY 2019 license Orders for the following four independent (gaming machine) testing laboratories:
  - BMM North America, Inc. DBA BMM Compliance
  - Gaming Laboratories International, LLC
  - Nick Farley and Associates DBA Eclipse Compliance Testing
  - Slovenian Institute of Quality and Metrology
5. The Oklahoma Quarter Horse Racing Association has scheduled its annual awards banquet for Saturday, March 2, 2019 at the Grand Casino in Shawnee. The Commission will present the CY 2018 Year-End Awards for Quarter Horses, Paints and Appaloosas.

**ADJOURNMENT**

Vice-Chairman Sanders adjourned the meeting by acclamation at 2:01 p.m.

Approved this 21<sup>st</sup> day of February, 2019.



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Joe Lucas, Chairman

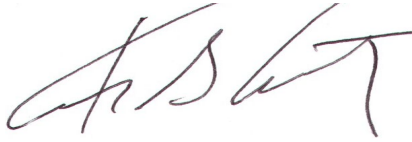


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Keith Sanders, Vice-Chairman



On Behalf of the Commission:  
ATTEST:



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Kelly G. Cathey, Executive Director  
KGC/bjm/1/25/19, 2/21/19

In conformity with the Oklahoma Open Meeting Act, advance notice of this regular Commission meeting was originally transmitted to the Oklahoma Secretary of State on August 17, 2017; and public notice of this meeting, together with the agenda, was posted in prominent public view in the lobby of the Department of Agriculture, Food and Forestry, Oklahoma City on January 22, 2019. The announcement of the CY 2019 Commission meetings was posted on the OHRC website on August 28, 2018. The agenda for this meeting was posted on the OHRC website, [www.ohrc.org](http://www.ohrc.org), on January 18, 2019.