



NOTICE OF MEETING and AGENDA

August 10, 2016

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, notice is hereby given of a meeting of the Massachusetts Gaming Commission. The meeting will take place:

Wednesday, August 10, 2016

10:00 a.m.

Massachusetts Gaming Commission

101 Federal Street, 12th Floor

Boston, MA

PUBLIC MEETING - #197

1. Call to order
2. Approval of Minutes
 - a. July 21, 2016
3. Racing Division – Alex Lightbown, Director of Racing/Chief Veterinarian
 - a. Brockton Fairgrounds – Request for Race Horse Development Funds – **VOTE**
 - b. Brockton Fairgrounds – Request for Approval of Racing Officials – **VOTE**
 - c. Suffolk Downs – Request for Approval of Racing Officials – **VOTE**
 - d. Suffolk Downs – Request for Approval of NYRA as advanced deposit wagering vendor – **VOTE**
4. Administrative Update – Ed Bedrosian, Executive Director
5. Commissioner's Updates
6. Other business – reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that on this date, this Notice was posted as "Massachusetts Gaming Commission Meeting" at www.massgaming.com and emailed to: regs@sec.state.ma.us, melissa.andrade@state.ma.us.

DATE

8/8/16

Stephen P. Crosby, Chairman

A handwritten signature in blue ink, appearing to read "Stephen P. Crosby", is written over a horizontal line.

Date Posted to Website: August 8, 2016 at 10:00 a.m.



Massachusetts Gaming Commission

101 Federal Street, 12th Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com

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Meeting Minutes

Date/Time: July 21, 2016 – 10:00 a.m.

Place: Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, Massachusetts

Present: Chairman Stephen P. Crosby
Commissioner Lloyd Macdonald
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga

Absent: Commissioner Gayle Cameron

<p>Time entries are linked to corresponding section in Commission meeting video</p>

Call to Order

See transcript page 2

10:03 a.m. Chairman Crosby called to order the 195th Commission meeting. He noted the absence of Commissioner Gayle Cameron.

Approval of Minutes

See transcript pages 2-3

10:03 a.m. *Commissioner Macdonald moved for the approval of the June 23, 2016 Commission meeting minutes subject to any corrections, typographical errors, or other nonmaterial matters. Motion seconded by Commissioner Stebbins. Motion passed unanimously.*

Administrative Update

See transcript pages 3-21

10:04 a.m. Executive Director Edward Bedrosian, Jr. reported that Terrance Lanier will be completing his internship with Director Mark Vander Linden. He thanked him for his work and wished him well. He noted that new employees include Financial Investigator Susan LaRosa and IEB Intern Tiffany Coyle. He provided an update on staff performance evaluations. He stated that the Commissioners will conduct

his performance evaluation. General Counsel Catherine Blue presented options for the Commissioners on how to conduct the executive director's performance evaluation and comply with the open meeting law. The Commissioners discussed the options available. The matter was deferred to the end of the meeting.

Commissioner's Update

See transcript pages 21-22

10:20 a.m. Commissioner Zuniga suggested postponing this agenda item to the end of the meeting to accommodate guests.

Workforce, Supplier and Diversity Development

See transcript pages 22-92

10:21 a.m. Director Jill Griffin provided an update on the Commission's partnership with the community colleges consortium – Massachusetts Casino Careers Training Institute ("MCCTI"), which was formed to provide a trained workforce for the casinos. She noted that representatives from various regions will provide an update on progress in workforce training, especially hospitality and gaming occupations. She introduced and congratulated Robert LePage on his new position as Assistant Secretary for Career Education in the Executive Office of Education. Mr. LePage provided an update on the Governor's Workforce Skills Cabinet.

10:26 a.m. Darrell LeMar, Executive Director of Workforce Development at Bunker Hill Community College, reported on demographics which included the following: there are approximately 17,000 students, 57% are women, the average age is 26, 64% of the student body is of color, international students represent over 101 different countries, and there are more than 100 degree and certificate programs - including hospitality and culinary arts. Mr. LeMar also reported on the campus facilities. He stated that there is a need to locate funding mechanisms for the noncredit courses. He also stated there is a need to get a date for when the casino will open so that they can start training.

10:41 a.m. Dean William Berardi, from Bristol Community College ("BCC"), provided an update on the CATCH (Culinary Arts Tourism Casino and Hospitality) Institute at BCC. He reported that a degree in hospitality management, with four concentration areas (food, tourism, hotel, and casino management), was approved by the Department of Higher Education. He also provided an update on the Casino Lab in Taunton which included an overview of the gaming tables. He stated that there will also be a surveillance lab for students. He reported that he will reach out to the Tribe for workforce training.

10:53 a.m. Jeffrey Hayden, Vice President of Business and Community Services at Holyoke Community College, reported on workforce challenges, partnering efforts and training, ESL programs, and highlights which included: the launch of Skill Smart - a tool to help people identify career opportunities, MGM Resorts HCC Center for Hospitality and Culinary Arts at Holyoke, and the Career Pathways Map. Jeremiah Riordan, Vice President of Workforce Training at Springfield Technical Community College, reported on customer service trainings and partnership with Holyoke Community College.

11:09 a.m. Marikate Murren, Director of Workforce and Development at MGM Springfield, reported that the City of Springfield was awarded a working city challenge grant. She noted that the grant is for \$475,000 over a three year period.

11:27 a.m. Robert DeSalvio, President of Wynn Boston Harbor, stated that Wynn has experience with opening casinos in a jurisdiction without a large talent pool and he cited their experience in Bethlehem. Marikate Murren stated that MGM recognizes that there is a lot of work to do, but they are confident in their partnerships, information sessions, and use of the Skill Smart program to help identify skill gaps and connect folks to education partners.

11:32 a.m. The Commission took a brief recess.

11:38 a.m. The meeting resumed.

Research and Responsible Gaming

See transcript pages 92-135

11:38 a.m. Director Mark Vander Linden noted that Terrance Lanier, a Legal Fellow with the Commission, will be leaving and he thanked him for his work on Play My Way, voluntary self-exclusions and other matters.

Director Vander Linden provided an update on Play My Way. He stated that Play My Way is a voluntary budgeting tool in place at Plainridge Park Casino. He reported that the initial data for Play My Way revealed 2,723 marquee reward patron enrollments from June 9th through July 14th. He also reported that approximately ten percent unenrolled.

11:48 a.m. Michele Collins, Vice President of Marketing at Plainridge Park Casino, stated that she was pleased with the smooth rollout of the Play My Way program. She stated that the collaboration and employee training made it successful. She also stated that the program is a great benefit for the patrons. She noted that enrollment at other properties using a similar product was less than one percent.

11:55 a.m. Executive Director Marlene Warner, with the Massachusetts Council on Compulsive Gambling, gave credit to Elaine Driscoll, Director of Communications for the Commission, for the Play My Way roll out and signage. She stated that the GameSense Advisors have assisted patrons with Play My Way enrollment and they have reported positive patron experiences. She noted that the messages are clear and it is easy for patrons to change their amounts. She also noted that high-end players are signing up for the program, as well as couples to plan a household gambling budget. She also noted that older adults on a fixed income find this service useful.

12:08 p.m. Terrance Lanier reported on his experience with the Play My Way launch. He stated that he distributed materials and engaged in conversations with patrons about the process. He stated that it was effective to assist the patrons with enrollment and he described the enrollment process as user friendly.

Mr. Lanier thanked the Commissioners for the opportunity to work at the Commission. He stated it was an interesting experience.

12:12 p.m. Director Vander Linden reported on Responsible Gaming Education Week – August 1-5th, and partnership with Plainridge Park Casino and the Massachusetts Council on Compulsive Gambling. Michelle Collins reported on plans for responsible gaming week which included: a new slogan – Play My Way Everyday – to promote a 365 day commitment to responsible gaming, daily events, balloon drop and pop with messages, prizes, food specials offered at \$3.65, tips calendar, promotion board, a GameSense information tent at the James Taylor and Florida Georgia Line concerts, Be Good Play My Way smoothie samples, and a carnival for employees and patrons. She stated that the objectives are to make the public aware of what is going on and increase participation in the program. Marlene Warner reported on the carnival highlights which will include games, tattoos, and information on odds and probability.

12:23 p.m. The Commission recessed for lunch.

1:04 p.m. The meeting resumed. Chairman Crosby noted that Dr. Alexandra Lightbown, Director of Racing, is en route and the Commission will take up the racing matter as soon as she arrives.

Legal Division

See transcript pages 136-163

1:06 p.m. General Counsel Catherine Blue reported on the Mass Gaming & Entertainment (“MG&E”) final written license decision. She noted that two letters were received from Attorney John Donnelley, representing MG&E, requesting that the Commission not finalize the decision pending resolution of matters in court pertaining to the tribal land in trust. General Counsel Blue stated that the vote in April was final and this is just the written decision of that vote. She requested the Commission approve the final draft of the written decision. Deputy General Counsel Todd Grossman reported that the finance section may need a slight addition to clarify numbers taken from a report.

1:10 p.m. *Commissioner Stebbins moved that the Commission approve the written decision denying the license for operator Category 1 gaming establishment Region C as presented in the packet subject to typographical and mechanical corrections and instruct staff to provide a copy of the written decision to the applicant, MG&E, and post the decision on the Commission’s website. Motion seconded by Commissioner Macdonald. Chairman Crosby clarified that there is not a link between the decision and the tribal land in trust lawsuit, they are two separate matters. Commissioner Zuniga noted for the record that the potential edits to numbers in the marketing assessment will be treated as mechanical or typographical corrections. Motion passed unanimously.*

1:12 p.m. Chief Information Officer John Glennon reported on amendments to the slot machine regulations and noted that the changes will make operating easier. Deputy General Counsel Grossman reported on the amendments which included protocols for removal, delivery and installation of slot machines, and clarification of terms electronic gaming device and prototype.

1:24 p.m. *Commissioner Stebbins moved that the Commission direct staff to start the formal promulgation process for changes in regulation 205 CMR 138 and 205 CMR 144 as included in the packet. Motion Seconded by Commissioner Macdonald. Motion*

amended by Commissioner Stebbins to include section 145. Amended motion seconded by Commissioner Macdonald. Motion passed unanimously.

1:26 p.m. Chief Information Officer Glennon, Gaming Technology Manager Floyd Barroga, and Deputy General Counsel Grossman, provided an update on skill based gaming, which included revisions to GLI Standards, solicitation of comments from regulators, and potential adoption of version 3.0.

1:33 p.m. General Counsel Blue presented on the small business impact statement for regulation 205 CMR 138.00: Uniform Standards of Accounting Procedures and Internal Controls (ATM changes), and requested to start the formal regulation promulgation process.

1:34 p.m. *Commissioner Macdonald moved that the Commission approve the small business impact statement for 205 CMR 138.00: Uniform Standards of Accounting Procedures and Internal Controls as included in the packet and authorize staff to take all steps necessary to file a small business impact statement with the Secretary of the Commonwealth and proceed with the regulation promulgation process. Motion seconded by Commissioner Stebbins. Motion passed unanimously.*

Investigations and Enforcement Bureau

See transcript pages 163-174

1:35 p.m. Director Karen Wells reported on a proposed emergency change to regulation 205 CMR 134.13. She stated that the proposed change would make the fingerprint requirement for non-gaming vendors discretionary as opposed to automatic. She stated that an operational review revealed it was overly burdensome and they will focus on the entity using a risk-based approach. She also stated that she is not aware of any other state that requires fingerprinting for this level of vendor. Licensing Director Paul Connelly stated that the changes will save time for both the Commission and the registrants. He also noted that it will bring us in line with other jurisdictions.

1:45 p.m. *Commissioner Stebbins moved that the Commission adopt by emergency the included changes to 205 CMR 134 with respect to fingerprinting. Motion seconded by Commissioner Macdonald. Motion passed unanimously.*

Racing Division

See transcript pages 174-220

1:46 p.m. Doug O'Donnell, Senior Financial Analyst, reported on local aid distributions to Boston, Revere, Plainville and Raynham. He stated that .35% of the total handle is distributed to cities and towns.

1:48 p.m. *Commissioner Zuniga moved that the Commission approve the local aid quarterly payments for June 30th of 2016 for a total of \$180,970.07 to the cities of Boston, Plainridge, Raynham and Revere in the manner that is broken out in the packet here today. Motion seconded by Commissioner Stebbins. Motion passed unanimously.*

- 1:49 p.m. Chairman Crosby noted for the record that he received a call from George Carney yesterday and Mr. Carney told him that he heard rumors that the Commission was going to decline his proposal. Chairman Crosby stated that no one would know if the Commission was going to approve or disapprove the proposal because the Commission has never discussed it. Chairman Crosby stated that they did not discuss any particulars of the proposal.
- 1:51 p.m. Director of Racing, Dr. Alexandra Lightbown, reported on a request for Race Horse Development Funds from the Middleboro Agricultural Society, which included \$2.5 million for purses, \$262,000 for the Massachusetts Thoroughbred Horsemen's Association to cover administrative costs, and \$1,473,947 for administrative and operational expenses. She noted that they are not going to simulcast so they won't have income from simulcasting to use towards these costs. She recommended that the Commission approve the request for \$2.5 million from the fund for purses, approve the request for money to the Thoroughbred Horsemen's Association for administrative costs, and deny the request for administrative money to run the meet.
- 1:55 p.m. General Counsel Blue reported that she and Dr. Lightbown have given this a lot of thought, they looked at the statutes, they have had several meetings with folks from Brockton explaining the legislation regarding operational and administrative expenses, and she is in support of Dr. Lightbown's recommendation.
- 1:57 p.m. Attorney Michael Morizio, representing George Carney, stated that they have worked with staff and applied for and received a placeholder license last fall. He stated that they want to bring back racing and expand it to a location that hasn't seen racing in 15 years. He also noted the efforts by Bill Lagorio to bring racing back. He stated that he was surprised by the recommendation that it is not possible to provide for operational and administrative expenses. He stated that if Mass THA and NEHBPA can receive funds for administrative and operational expenses, then why can't the track receive funds. He feels that the language is broad and is intended to support the horse racing industry. He stated that the Commission has the authority to approve the money for these purposes.
- 2:14 p.m. William Lagoria, President of the Massachusetts Thoroughbred Horsemen's Association, stated that he has attended every meeting with General Counsel Blue and Dr. Lightbown and he was not told that the money could not be used for administrative and operating expenses. He stated that they did talk about limitations regarding capital and general operating expenses.

General Counsel Blue stated that their proposal has evolved over time and we have looked at ways to make it work within the law.

Chairman Crosby stated that we are all trying to figure out how to say yes and be flexible with the Race Horse Development Fund. He noted that there is pending legislation that would give the Commission flexibility over the Fund. Attorney Morizio requested that the Commission give him an opportunity at the next Commission meeting to thoroughly explain his argument that the Commission has the authority to approve the Fund for these purposes. Chairman Crosby stated that he would be willing to set up a meeting next week to further discuss the question - does the Commission have the authority under the law to use the Race Horse Development Fund money for anything other than purses, and if so, would that

include a track. Chairman Crosby stated he will get back to Mr. Morizio with a date for the next meeting.

2:32 p.m. The Commission took a brief recess.

2:40 p.m. The meeting resumed.

Ombudsman

See transcript pages 221-347

2:40 p.m. Ombudsman John Ziemba provided an overview of the 2016 Community Mitigation Fund applications. He noted that East Longmeadow has withdrawn its application. He reported on the following Reserve grant requests: Lynn requested \$100,000 to conduct studies relative to casino traffic; Malden requested \$100,000 for a senior planner, marketing program, and citizens engagement program for employment opportunities; Saugus requested \$35,000 to assess potential opportunities for Saugus businesses to benefit from the Wynn Boston Harbor project; and Wrentham requested \$50,000 for a Route 1 corridor study. The Commissioners discussed the reserve grant applications.

3:20 p.m. *Commissioner Macdonald moved that the Commission approve the recommendation of the review team as it relates to Lynn's proposed use of the reserve of \$100,000 as summarized in the summary memorandum. Motion seconded by Commissioner Stebbins. Motion passed unanimously.*

Commissioner Macdonald moved that the Commission approve the recommendation of the review team as it relates to Malden's use of reserve of \$100,000 as described in the summary memorandum submitted by the review team. Motion seconded by Commissioner Stebbins. Commissioner Stebbins, Commissioner Macdonald, and Chairman Crosby approved the motion. Commissioner Zuniga opposed the motion. Motion passed 3 to 1.

Commissioner Macdonald moved that the Commission approve the recommendation of the review team as it relates to Saugus' request of the use of reserves in the amount of \$35,000 as described in the summary memorandum. Motion seconded by Commissioner Stebbins. Commissioner Stebbins, Commissioner Macdonald, and Chairman Crosby approved the motion. Commissioner Zuniga opposed the motion. Motion passed 3 to 1.

Commissioner Macdonald moved that the Commission approve the recommendation of the review team as it relates to the Wrentham proposal as to the use of \$50,000 of its reserve account as described in the summary memorandum submitted by the review team. Motion seconded by Commissioner Stebbins. Motion passed unanimously.

3:24 p.m. Ombudsman Ziemba provided an overview of the 2016 Transportation Planning grants. He reported that Chelsea is requesting a reserve grant for \$100,000 and a transportation planning grant for \$167,150 to assess current and future conditions of the Beacham and William Street corridor. The Commissioners discussed Chelsea's grant request.

- 3:39 p.m. *Commissioner Macdonald moved that the Commission approve the recommendation of the review team in regard to Chelsea's proposed use of the reserve of \$100,000 and transportation planning grant of \$167,150 as described in the summary memorandum that was provided to us. Motion seconded by Commissioner Zuniga. Motion passed unanimously.*
- 3:40 p.m. Ombudsman Ziemba presented on a request from Everett to utilize \$100,000 of its reserve and \$50,000 of the transportation planning grant for a study to expand the Everett portion of the Northern Strand Community Trail bike path. The Commissioners discussed Everett's grant request.
- 3:47 p.m. *Commissioner Macdonald moved that the Commission approve the recommendation of the review team with regard to Everett's transportation planning grant of \$100,000 from the reserve fund and \$50,000 from the transportation fund. Motion seconded by Commissioner Zuniga. Commissioners Zuniga, Stebbins and Macdonald approved the motion. Chairman Crosby opposed the motion. Motion passed 3 to 1.*
- 3:49 p.m. Ombudsman Ziemba presented on a request from Malden for a \$100,000 transportation grant to assess parking capacities and pedestrian safety. The Commissioners discussed Malden's grant request. Commissioner Zuniga suggested obtaining additional information from Malden. No vote taken and the matter was postponed.
- 4:03 p.m. Ombudsman Ziemba presented on a request from Medford for a \$600,000 transportation planning grant for a multiyear transportation planning program which includes a transportation planner, consultant, and water transportation matching funds. The Commissioners discussed Medford's grant request. Ombudsman Ziemba recommended that the Commission authorize \$267,000 in one year funding for the City of Medford for the provision of transportation planning services and in addition to consultant services as delineated in the Commission's packet, the memorandum from the review team. He stated that such funding will include \$150,000 for the water transportation study. He also stated that staff will work with Medford through the grant contract process to identify, in future applications, specific allocation of transportation planning dollars for gaming-related versus general municipal activities. He also noted that the water transportation funds would be contingent upon obtaining an earmark and inclusion of gaming-related stops such as Station Landing and the Wynn facility.
- 4:41 p.m. *Commissioner Macdonald moved that the Commission approve the review team's [Medford] recommendation as just summarized by John [Ziemba]. Motion seconded by Commissioner Stebbins. Motion passed unanimously.*
- 4:41 p.m. Chairman Crosby discussed the remaining meeting schedule. He suggested covering the West Springfield grant and postponing the remaining matters until the next meeting.
- 4:42 p.m. Ombudsman Ziemba presented on a request from the Town of West Springfield for \$247,500 for the design and permitting of a project to reconstruct Memorial Avenue. Joseph Delaney, Construction Project Oversight Manager, stated that it was a reasonable fee for design work.

4:46 p.m. *Commissioner Macdonald moved that the Commission approve the recommendation of the review team for \$246,000 in transportation planning grant funds to assist the Town of West Springfield for the design costs of Memorial Avenue Complete Streets design. Motion seconded by Commissioner Zuniga. Motion passed unanimously.*

4:47 p.m. Chairman Crosby stated that the remaining agenda items will be picked up at the next Commission meeting. Commissioner Macdonald acknowledged the work of the stenographer.

Other Business Not Reasonably Anticipated

See transcript pages 347-348

4:47 p.m. *Having no further business, a motion to adjourn was made by Commissioner Zuniga. Motion seconded by Commissioner Macdonald. Motion passed unanimously.*

List of Documents and Other Items Used

1. Massachusetts Gaming Commission, Notice of Meeting and Agenda dated July 21, 2016
2. Massachusetts Gaming Commission, Draft Meeting Minutes dated June 23, 2016
3. Game-Maker Valve Moves to Choke Off \$7.4 Billion Gambling Market, Joshua Brustein and Eben Novy-Williams, dated July 13, 2016
4. eSports and Skin Gambling: The Elephant in the Room, Mark McGuinness, dated July 11, 2016
5. Massachusetts Casino Careers Training Institute powerpoint presentation, dated July 21, 2016
6. Massachusetts Gaming Commission, Memorandum dated July 21, 2016 regarding Play My Way Update
7. Plainridge Park Casino Responsible Gaming Education Week powerpoint presentation
8. Massachusetts Gaming Commission, Memorandum dated July 20, 2016 regarding 2016 Community Mitigation Fund Application Review with attachments
9. Massachusetts Gaming Commission, Memorandum dated July 19, 2016 regarding Middleboro Agricultural Society request for Race Horse Development Funds
10. Letter from the Middleborough Agricultural Society to Dr. Lightbown, Director of Racing, dated July 18, 2016 regarding the Recognition and Purse Agreement and Budget
11. Letter from Senator Michael Brady to the Massachusetts Gaming Commission, dated July 20, 2016 regarding local aid payments and Brockton Fairgrounds
12. Letter from Representative Gerard Cassidy to the Massachusetts Gaming Commission, dated July 19, 2016 regarding the Brockton Racing Track
13. Letter from George Brown, from the Massachusetts Thoroughbred Breeders Association, to Chairman Crosby, received July 15, 2016 regarding the Horse Racing Committee recommendation on split
14. Brockton Racing Public Comments, 7 emails dated July 20, 2016
15. Draft Amendment to 205 CMR 134.00: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations (Fingerprinting)
16. MGC Draft Decision Denying a License to Operate a Category 1 Gaming Establishment in Region C
17. Letter from Attorney John Donnelly to General Counsel Catherine Blue, dated July 19, 2016 regarding Decision Denying a License to Operate a Category 1 Gaming

Establishment in Region C

18. Letter from Attorney John Donnelly to General Counsel Catherine Blue, dated July 8, 2016 regarding Decision Denying a License to Operate a Category 1 Gaming Establishment in Region C
19. Draft amendments to 205 CMR 138.00: Uniform Standards of Accounting Procedures and Internal Controls; 205 CMR 144.00: Approval of Slot Machines and Other Electronic Gaming Devices and Testing Laboratories; and 205 CMR 145.00: Possession of Slot Machines and Other Electronic Gaming Devices
20. Executive Summary of Changes for GLI-11 V3.0, Gaming Devices Public Comment Draft, Issued May 25, 2016
21. Gaming Labs Certified ("GLI") Standard Series – GLI-11: Gaming Devices, Public Comment Version 3.0, Public Comment Release Date: dated May 25, 2016
22. Small Business Impact Statement for regulation 205 CMR 138.00: Uniform Standards of Accounting Procedures and Internal Controls
23. Brockton Racing Public Comments, 4 emails dated July 20, 2016
24. Massachusetts Gaming Commission, Memorandum dated July 21, 2016 regarding Local Aid Distribution
25. Letter from Representative Claire Cronin to the Massachusetts Gaming Commission, dated July 20, 2016 regarding Brockton Fairgrounds and Race Horse Development Funds

/s/ Catherine Blue

Catherine Blue, Assistant Secretary

3.a

Middleboro Agricultural Society

1958 Broadway

Raynham, Massachusetts 02767

1-508-824-4071

August 8, 2016

Dr. Lightbown, Director of Racing
Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

Dear Dr. Lightbown,

As requested by the Commission, enclosed please find the submission by the MassTHA which is provided in connection with our supplemental application to conduct, during this calendar year, 15 days of live thoroughbred racing and 112 days of training and stabling at the Brockton Fairgrounds.

To summarize, our supplemental application includes the enclosed MassTHA submission and the following:

1. Request for \$3,974,947 in purse funding from the Race Horse Development Fund;
2. Revised Meet Schedule and
3. Our estimated operating and administrative expenses (to be paid by Horsemen) as attached to our July 18, 2016 submission.

Our Purse Agreement includes the First Amendment to Recognition and Purse Agreement that was provided under our July 18, 2016 cover letter.

Thank you again for your continued support of the thoroughbred industry and our efforts to revive live racing in Brockton.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Kelly", with a stylized flourish at the end.

Robert J. Kelly,
President

Enclosures

**MIDDLEBOROUGH AGRICULTURAL SOCIETY REQUEST
FOR PURSES FROM RACE HORSE DEVELOPMENT FUND**

August 8, 2016

Page 1. Introduction William Lagorio, President MassTHA

Page 4. MAS / Purse Request

Page 8. MAS / Budget Submittal

Page 11. MassTHA / Budget Submittal

Page 12. Legal Analysis

Page 17. Revised Middleborough Agricultural Society Racing Schedule

Appendix: Video (to be hand delivered)

Massachusetts Thoroughbred Horsemen's Association, Inc.

189 Squire Road, #251

Revere, Ma. 02151

Massachusetts Gaming Commission

101 Federal Street, 12th floor

Boston, Ma. 02110

Chairman Crosby and Commissioners,

The thoroughbred industry is very labor intensive. On average four thoroughbreds in training require a trainer, groom and a hot walker. All horses in training require an exercise rider and on occasion a pony person.

When you have a large group of horses stabled on the backside of a racetrack their basic requirements mandate not just those employed by the trainer but local vendors who become regulars at the track. Those vendors include Blacksmiths, Veterinarians, Equine Dentists and Feed, Hay and Bedding vendors. It's the combination of live racing in conjunction with a fully operational training center that primes the economic pump of the thoroughbred racing industry.

This Brockton application will allow the majority of Massachusetts owned and trained horses to return to their home base and get back on their feet. It will also allow the horses who have been unable to leave their local farms a place to finally train and prepare for a race meet. All through the Brockton race meet the horses will be local, the workers will be local and the monies generated will contribute to the local economy.

We estimate that 250 to 300 horses stabled on the backside would create employment opportunities for 60 to 90 full-time workers. These numbers do not include all of the local vendors. A large part of the operations and administrative budget would be utilized to employ many of the Massachusetts folks who were displaced off after Suffolk Downs ended its 2014 racing season. They would include the racing office staff including the racing secretary, the starting gate crew including the starter, a track steward, valets, jockeys, outriders, tellers, security staff,

maintenance workers, placing judges, paddock judge, clerk of scales, jocks room custodian, identifier and a stall man. Many of these jobs require employment on non-race days as well as race days and all of these jobs will employ local Massachusetts people, some of them from Brockton. The paycheck impact will be significant.

The ability to stable, train and race at one facility without the added expense of living and working away from home will provide some long overdue relief to our local horsemen. It will also allow the many Mass bred horses who could not afford to ship and train out of state and that have been sitting on local farms waiting for a local training facility a chance to race and earn Mass breeders awards for the first time in two years. The Brockton race meet will provide that long overdue relief to many Massachusetts farmers and breeders.

There are two other relevant economic measures that should be considered. First, we know that just under four million dollars will initially impact the local economy and MassTHA suggests it's a reasonable assumption that this figure could grow to five million dollars with some added spending by horsemen. Is a multiplier of two unreasonable for such a geographically compressed area? Probably not. So we can expect a very solid economic impact for the greater Brockton area.

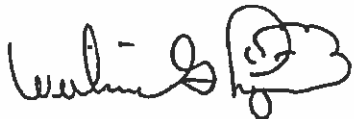
Second, while difficult to measure the value of "open space" or the farms, in 2013 there were more than 5,000 horse related businesses in Massachusetts. Included in that number were 62 Massachusetts farms that were directly involved in Thoroughbred breeding. An additional 71 farms were engaged in Thoroughbred-related operations. (information taken from Christiansen Capitol Advisors, LLC. October 2013 equine study).

Without full-time racing, including a training facility the breeding industry has all about disappeared. Many farms have ceased their breeding operations and as a result the stalls, once full of mares, stallions and babies are empty. The surrounding agri-business and its economic impact statewide are fading fast. Our beautiful green spaces are in jeopardy of becoming housing developments and malls and the farm owners are experiencing great financial hardship.

Commissioners, Brockton is more than a fair meet, for many it's a lifeline. If allowed to move forward it would for first time utilize the Race Horse Development Fund for its intended purpose, pumping capital back into the Massachusetts Thoroughbred industry and all of its surrounding economic benefits. It would provide the Commonwealth a true return on its investment. The 3.9-million-dollar

investment in Brockton will allow the majority of Massachusetts trainers, owners, farm owners and breeders a chance to get back on their feet and plan for the future as well as saving their homes, farms and livelihoods.

Sincerely,

A handwritten signature in black ink, appearing to read 'William G. Lagorio'. The signature is fluid and cursive, with a large, stylized 'W' and 'L'.

William G. Lagorio, President, MassTHA

Middleborough Agricultural Society 2016 Purse Request

MAS 2016 Racing Meeting at Brockton - 112 Days

Proposed training commencement: August 22, 2016

Proposed racing commencement: September 5, 2016 - 15 days

Total Purses from Race Horse Development Fund	\$3,974,947.00
Average Purse Per Race Day (15 Days)	\$264,930.00
a. Purse payment to Horsemen per race day	\$166,667.00
b. Payment by Horsemen to MAS per race day	\$98,263.00
Average Purse Per Meet Day (112 Days)	\$35,482.00

Middleboro Agricultural Society

1958 Broadway

Raynham, Massachusetts 02767

1508-824-4071

July 18, 2016

Dr. Lightbown, Director of Racing
Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

Dear Dr. Lightbown,

Enclosed please find our *First Amendment To Recognition And Purse Agreement* together with our budget (dated July 18, 2016) to conduct a live thoroughbred racing meeting at the Brockton Fairgrounds during this calendar year.

We have revised and lowered our purse request from \$3M to \$2.5M for 15 days of live racing, and request that purse amount be approved together with our budget amount of \$1,473,947 for administrative and operational expenses.

Thank you again for your continued support of the thoroughbred industry and our efforts to revive live racing in Brockton.

Sincerely,



Robert J. Kelly
President

cc: William Lagorio, President, MassTHA
Enclosures

FIRST AMENDMENT TO
RECOGNITION AND PURSE AGREEMENT
Between
MASSACHUSETTS THOROUGHBRED HORSMEN'S ASSOCIATION, INC.
And
MIDDLEBOROUGH AGRICULTURAL SOCIETY

This First Amendment To Recognition And Purse Agreement is entered into, with an effective date of July 15, 2016, by the Massachusetts Thoroughbred Horsemen's Association, Inc., a Massachusetts corporation having its principal office at 36 Witherbee Avenue, Revere, MA 02151 ("MassTHA"), and the Middleborough Agricultural Society, a Massachusetts corporation having its principal office at 1958 Broadway, Raynham, MA 02767 ("MAS"), and amends that certain Recognition And Purse Agreement between the parties and dated April 19, 2016 (as amended hereby, the "Agreement").

For good and valuable consideration hereby acknowledged as received and sufficient, MassTHA and MAS amend the Agreement as follows:

1. Section 3.3 of the Agreement is deleted in its entirety and the following is substituted therefor:

“ 3.3 Purse Account Payments. MAS shall make payments to the Horsemen from the Purse Account consistent with this Agreement, the Initial Condition Book, the regulations prescribed by the Commission and available funds in the Purse Account.”


2. The following provision is added to Section 5 of the Agreement:

5.7 MAS reserves the right to unilaterally suspend or cancel race days and/or the length and scope of stalling and training services should MAS' costs exceed the amount of reimbursement that has been allowed by the Commission.


(Signature page follows.)

This First Amendment To Recognition And Purse Agreement is hereby executed in Massachusetts and dated as of the above stated date.

Massachusetts Thoroughbred Horsemen's Association, Inc.

By 
Name: William Lagorio
Title: President

Middleborough Agricultural Society

By 
Name: Timothy Carney
Title: Treasurer

Racing Budget For Mass. Gaming Commission
Middleborough Agricultural Society
15 Race Days with 4 months of Training & Stalling Expenses

<u>Account</u>	Total Budgeted Amount	
Advertising & Promotion	\$ 30,000.00	
Insurance		
General Liability	\$ 9,933.00	
Jockey	\$ 4,250.00	
Crime	\$ 2,500.00	
Property	\$ 10,000.00	
MA Gaming Comm - License	\$ 4,500.00	
MA Gaming Comm - Assessment	\$ 3,750.00	
Professional Fees:		
Auditor/Accounting	\$ 5,000.00	
Legal	\$ 35,000.00	
Real Estate Taxes on Track (4 months)	\$ 64,000.00	
General & Administrative Expense (16 weeks)	\$ 30,000.00	
Training & Stalling Rent (16 weeks)	\$ 400,000.00	
 Sub Contractor Services		
Amtote - Tote Service	\$ 30,000.00	
Brewster - Ambulance (16 weeks)	\$ 70,800.00	
Horse - Ambulance (16 weeks)	\$ 70,800.00	
City of Brockton - Police (15 days)	\$ 12,069.00	
City of Brockton - Fire (15 days)	\$ 11,263.05	
MGA - Equipment Rental & Fuel (16 weeks)	\$ 114,840.00	A
MGA - Repair Rail, Racetrack Surface, Refurbished Starting Gate, etc.	\$ 150,000.00	
MGA - Racing Department Labor (16 weeks)	\$ 311,040.00	B
MGA - Operating Labor (15 days)	\$ 72,701.96	A
Postime Productions - Television, Timing, Photo Finish, Sound (15 days)	\$ 31,500.00	

8

Totals

\$ 1,473,947.01

7/18/2016

**Massasoit Greyhound Association Inc.
Fair Racing Budget**

PAYROLL	Pay Rate	Hours	Daily	Daily	Daily
Employee					
Announcer	\$ 20.00	4.5	1	\$ 90.00	\$ 1,350.00
Horsemen's Bookkeeper	\$ 23.00	4.5	1	\$ 103.50	\$ 1,552.50
Accounting	\$ 100.00	1	1	\$ 100.00	\$ 1,500.00
Programs	\$ 10.00	5.5	2	\$ 110.00	\$ 1,650.00
Programs Manager	\$ 12.00	5.5	1	\$ 66.00	\$ 990.00
Parkers	\$ 10.00	3	2	\$ 60.00	\$ 900.00
Mutuels	\$ 12.50	4	8	\$ 400.00	\$ 6,000.00
Mutuel Head	\$ 18.75	5	1	\$ 93.75	\$ 1,406.25
Money Room(Cage)	\$ 17.00	5	1	\$ 85.00	\$ 1,275.00
Money Room(Table)	\$ 12.50	5	1	\$ 62.50	\$ 937.50
Lottery(Office)	\$ 18.75	4	1	\$ 75.00	\$ 1,125.00
Change & Info	\$ 10.66	4	1	\$ 42.64	\$ 639.60
Secretary	\$ 13.00	5	1	\$ 65.00	\$ 975.00
Electrician	\$ 75.00	5	1	\$ 375.00	\$ 5,625.00
Management	\$ 100.00	5	1	\$ 500.00	\$ 7,500.00
Maintenance	\$ 14.00	4.5	3	\$ 189.00	\$ 2,835.00
Cleaning Crew-Daily	\$ 10.00	5	2	\$ 100.00	\$ 1,500.00
Cleaning Crew Mgr-Daily	\$ 11.50	5	1	\$ 57.50	\$ 862.50
Print Shop	\$ 26.06	8	2	\$ 416.96	\$ 6,254.40
				\$ 2,991.85	\$ 44,877.75
Benefits & Employer Tax	35%			\$ 4,039.00	\$ 60,584.96
Overhead	10%			\$ 403.90	\$ 6,058.50
Profit	10%			\$ 403.90	\$ 6,058.50
Daily Total				\$ 4,846.80	\$ 72,701.96 15 Days
Equipment Rental					
Farm Tractor	\$ 50.00	5	2	\$ 500.00	\$ 7,500.00
ID Tractor 5055E - Starting Gate	\$ 100.00	5	1	\$ 500.00	\$ 7,500.00
Volvo L90 Front End Loader	\$ 100.00	5	1	\$ 500.00	\$ 7,500.00
Rubbish Packer	\$ 100.00	5	1	\$ 500.00	\$ 7,500.00
Conica Minolla Copier	\$ 50.00	5	1	\$ 250.00	\$ 3,750.00
				\$ 2,250.00	\$ 33,750.00
Overhead	10%			\$ 225.00	\$ 3,375.00
Profit	10%			\$ 225.00	\$ 3,375.00
Daily Total				\$ 2,700.00	\$ 40,500.00 15 Days
Valer Truck	\$ 240.00	1	108	\$ 25,920.00	\$ 25,920.00 108 Days
Tractor to seal track	\$ 240.00	1	108	\$ 25,920.00	\$ 25,920.00 108 Days
Fuel					\$ 22,500.00
Total Equipment Rental					\$ 114,840.00



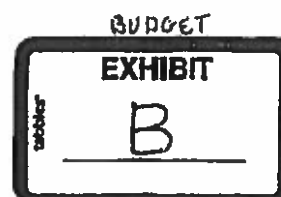
MGA – Racing Department Labor

Steward – 3 days per week x 17 weeks @ 350.00 per day	= \$17,850
Racing Secretary – 19 weeks @\$ 1500.00 per week	= \$28,500
Veterinarians – 2 per race day @ 525.00 each per day	= \$15,750
Veterinarian - (1) - 2 days a week 2 weeks prior to opening	= \$2,200
Placing Judges/ Racing office staff (3) at \$200.00 per day	= \$18,000
Assistant Racing Secretary x 750.00 per week	= \$14,250
Stall Man – x \$650.00 per week x 19 weeks	= \$12,350
Identifier @ \$300.00 per day x 19 weeks	= \$5,700
Clerk of Scales @ \$300.00 per day x 15 weeks =	= \$4,500
Paddock Judge @ \$300.00 per day x 15 weeks =	= \$4,500
Program Director @ \$550.00 per week x 15 weeks	= \$8,250
Outrider AM Training 7 days a week = 126- days x 125.00 per	= \$15,750
Outrider Race Days @ 300.00 per day x (2)	\$9,000
Starter \$1,200 per week x 18 weeks	= \$21,600
Assistant Starters (8) at 300.00 per Race day	= \$36,000
Assistant Starters (4) Am Gate Work @ \$125.00 per day	= \$27,000
Valets (jocks room) (8) @ 150.00 per day =	= \$18,000

SubTotal \$259,200

Taxes 51,840

Total \$311,040





Massachusetts Thoroughbred Horsemen's

Association, Inc.

2016 Operating Budget

Rent -	\$12,000
Utilities -	\$6,120
Office Staffing -	\$29,000
Executive Director -	\$45,000
Bookkeeper -	\$15,600
Office Supplies -	\$7,900
Lobbyist-	\$45,000
*Legal -	\$60,000
Auditor -	\$6,000
National THA Dues -	\$16,000
Election Expense -	\$8,000
Meetings and events -	\$7,000
Travel -	\$2,680
Website - set-up &	
Maintenance -	\$1,800

Total Budget = \$262,000

*Includes additional legal monies based on the federal lawsuit filed by the New England HBPA.

LEGAL ANALYSIS

The Commissioners have been presented with the question of whether they have the discretion to authorize payment to the Middleborough Agricultural Society ("MAS") of funds from the Race Horse Development Fund ("RHDF") to cover administrative and operational expenses for MAS' 2016 racing meeting. In response, the New England Horsemen's and Benevolent Protection Association ("NEHBPA") asserted in its August 1, 2016 letter that the Commission does not have the discretion to directly pay MAS from the RHDF ("*There is no statutory or regulatory authority that grants the Commission the power to utilize race horse development funds to fund the administrative and operating expenses of MAS.*" "*There is no corresponding statutory or regulatory authority that allows the Commission to distribute race horse development funds under M.G.L. 23K § 60 to MAS for administrative and operating expenses.*").

The question presented and the assertions made by the NEHBPA have been misstated. First, MAS is not requesting payment *directly* from the RHDF or that RHDF monies be *redirected away from* the Horsemen's purses. RHDF monies to be paid directly to the Horsemen's purses as required by M.G.L. c. 23K §60(c)(i). We respectfully suggest that the Commission recognize the actual waterfall stages that RHDF monies will follow during the MAS race meeting; specifically, such funds will first be paid directly into an interest-bearing purse account that has been established pursuant to the MassTHA purse agreement, then paid into the Horsemen's purses as winnings. It is only after each purse payment has been made will those winnings be used by the Horsemen to pay racing, training and stabling expenses, and to pay a limitless variety of the Horsemen's personal (nonracing) expenses. See the waterfall diagram for MAS attached hereto as Exhibit 1. That waterfall progression is entirely consistent with decades of horse racing law in the Commonwealth and elsewhere, and does not constrain or conflict with the Commission's plenary authority and discretion under M.G.L. c. 23K (the, "Gaming Act").

1. Deference to this agencies decisions and its interpretation of its enabling statutes is high even where deference extends or alters the statutes scope. See Goldberg v. Board of Health of Granby, 444 Mass. 627, 633 (2005).

2. The Racehorse Development Fund benefits purses, breeding programs and horsemen and jockey organizations. See, St. 2011, c. 194 and section 60 of 23K. See also, substantial deference to regulatory agency when statutory language may be read two ways, particularly where interpretation turns on complex statutory and regulatory framework presented here. Commerce Ins. Co. v Commissioners of Ins., 447 Mass. 478, 481 (2006).
3. The commission has the authority and discretionary power to interpret rather than literally read and apply a statute where the results will be thwart rather than advance the legislatures intent and obvious purpose, "the best interests of racing", if another construct is available. Watros v. Greater Lynn Mental Health Inc., 421 Mass. 106, 113 (1995).
Also see 1. Supra at page 8.

DISCUSSION:

It should be uncontroverted that one of the principal purposes of the Gaming Act is to support and revitalize the horse racing industry which cannot exist without a racetrack. See Section 7 (administration of simulcast wagering and live racing), Sections 19 and 12 (the category 1 licensees and the category 2 licensee, if previously licensed to conduct live racing, must continue to do so), and Section 60 (creation of the horse racing committee and Race Horse Development Fund). The Commission holds plenary authority to advance that statutory purpose. Section 4 of the Gaming Act provides that the Commission " . . . *shall have all powers necessary or convenient to carry out and effectuate its purposes . . .*" Similarly, the Legislature declared that the "*power and authority granted to the commission shall be construed as broadly as necessary for the implementation, administration and enforcement of this chapter.*" Id., at Section 1(10). Those statutory provisions are as broad and all encompassing as could have been envisioned by the Legislature.

Turning to the RHDF, Section 60(c)(i) provides that the [RHDF] funds approved by the Commission shall be deposited weekly into an interest-bearing purse account, and that the purse account will then be combined with revenues from existing purse agreements "*to fund purses for live races consistent with those [purse] agreements with the advice and consent of the horsemen.*" The plain language of Section 60(c)(i) gives the Commission plenary authority to

approve purse funding from the RHDF in any amount it deems appropriate to support horse racing. The Commission has unbridled authority to determine the funding amount and can consider whatever factors the Commission deems appropriate to make its determination. The ultimate use of the purse winnings by the Horsemen does not, however, in any way constrain the Commission's plenary authority to fund those purses. It is for that reason the NEHBPA has misstated the funding waterfall so as to assert an illusory constraint on the Commission's power.

There is also no statutory provision that requires the Commission to control or regulate the Horsemen's ultimate use of their purse winnings. Section 60(c)(i) only reaches through to the funding of purses, and not what occurs thereafter. The Horsemen are statutorily free to use their purse winnings in any manner they decide. If such was not the case, the Commission would be statutorily bound to examine the Horsemen's intended use for all (100%) of their purse winnings which would be an impracticable obligation.

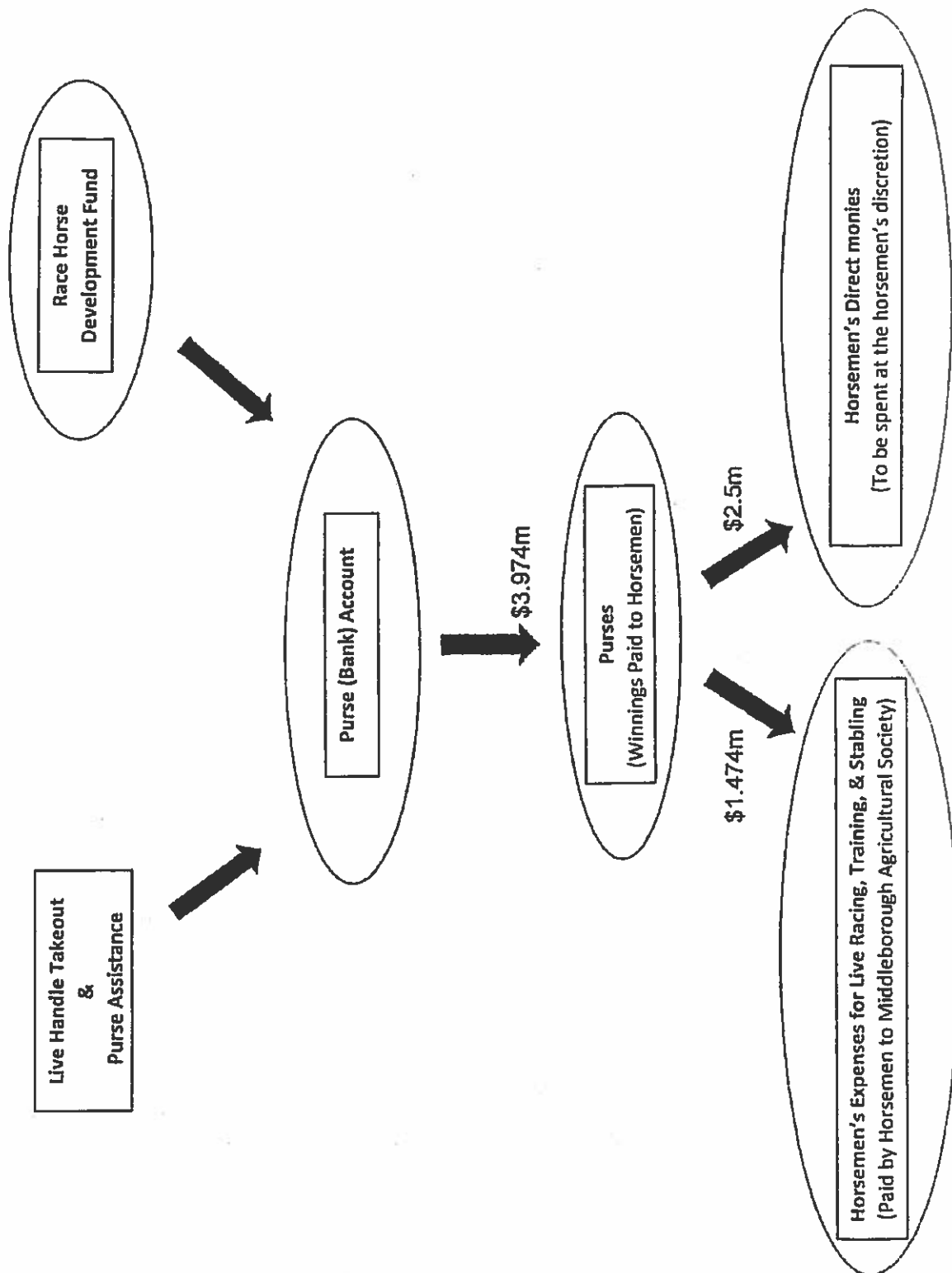
The provisions of chapter 10 of the Acts of 2015, which amended M.G.L. c. 128A and c. 128C, were relied on by Suffolk Downs to use \$950K in live handle takeout and simulcast premiums for their expenses and not for purse winnings. The Suffolk Downs' waterfall progression for its 2016 racing meeting is shown on Exhibit 2, hereto. As outlined above, for MAS' 2016 racing meeting the Commission would not be exercising its authority under M.G.L. c. 128A and c. 128C (as amended by chapter 10 of the Acts of 2015), but would be utilizing its plenary authority under Section 60(c)(i) to fund the Horsemen's purses.

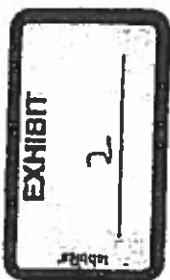
MAS respectfully requests purse funding in the amount of \$3.974M for 15 days of live racing at the Brockton Fairgrounds. MAS respectfully suggests that its funding request is fair and reasonable, and offers the following comparison:

<u>Suffolk Downs 2016 Racing Meeting</u>		<u>MAS 2016 Racing Meeting</u>	
Total Funding:	\$3,350,000.00	Total Funding:	\$3,974,000.00
Funding Per Race Day \$	558,333.33	Funding Per Race Day:	\$264,933.33
Funding Per 9 Total Days:	\$372,222.22	Funding Per 112 Total Days:	\$35,482.14

MIDDLEBOROUGH AGRICULTURAL SOCIETY 2016

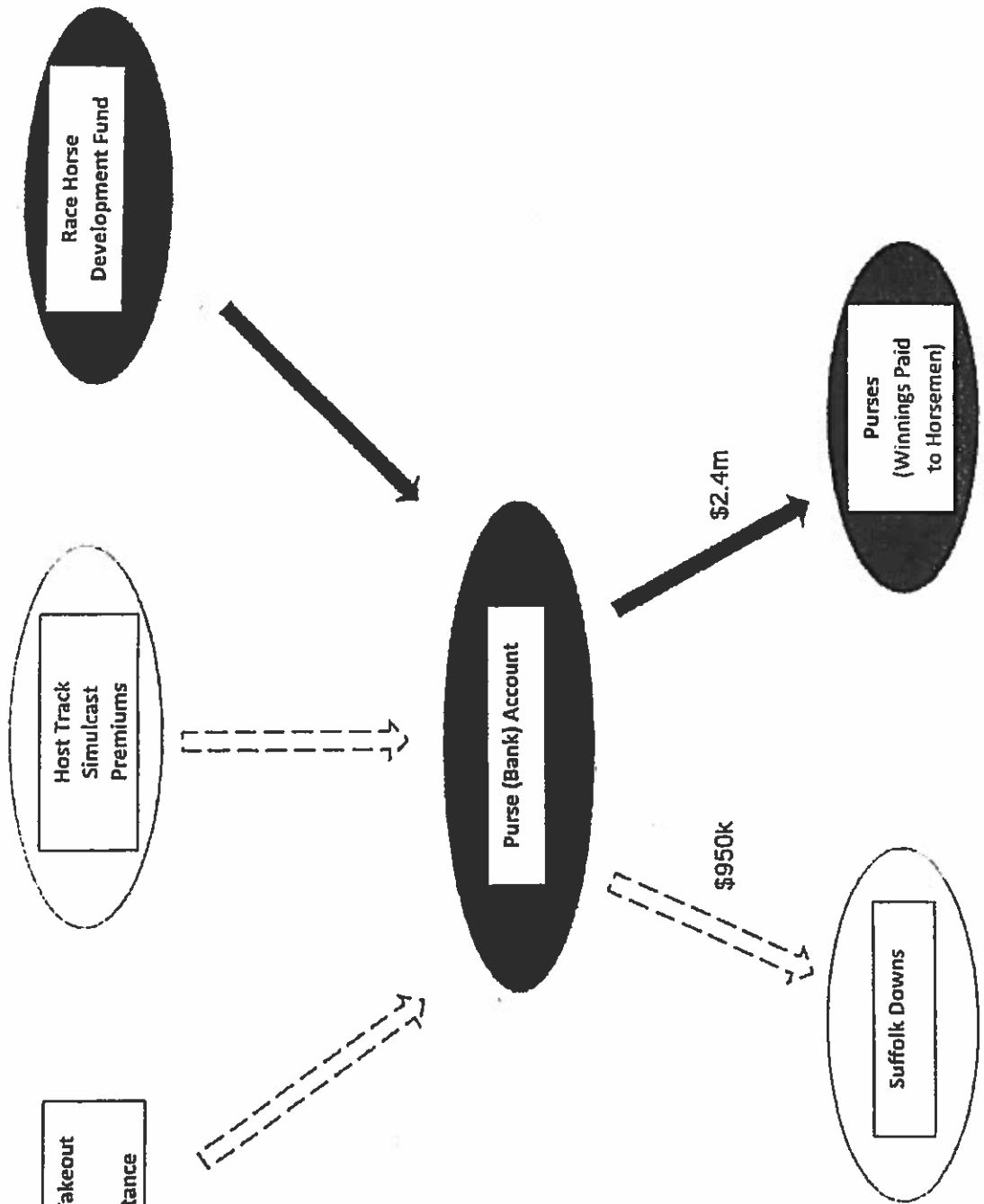
15 Race Days & 112 Days of Training/Stabling





SUFFOLK DOWNS 2016

6 Race Days Over 9 Day Racing Meet



Middleborough Agricultural Society
(Revised August 8, 2016)

RUNNING HORSE RACING MEETING SCHEDULE

Race Dates: Monday, September 5, 2016 (Labor Day)
Wednesday, September 7, 2016
Saturday, September 10, 2016
Wednesday , September 14, 2016
Saturday, September 17, 2016
Wednesday , September 21, 2016
Saturday, September 24, 2016
Wednesday , September 28, 2016
Friday, September 30, 2016
Saturday, October 1, 2016
Wednesday , October 5, 2016
Saturday, October 8, 2016
Monday, October 10, 2016 (Columbus Day)
Wednesday , October 12, 2016
Saturday, October 15, 2016

Daily Races: Post Time 1:15PM.

3.a

COMMENTS



The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON, MA 02133-1054

PAUL A. SCHMID
REPRESENTATIVE
8TH BRISTOL DISTRICT

ROOM 473F, STATE HOUSE
TEL: (617) 722-2210
Paul.Schmid@MAhouse.gov

Chairman
Committee on Environment,
Natural Resources and Agriculture

August 10, 2016

Chairman Stephen Crosby
MA Gaming Commission
101 Federal St, 12th Floor
Boston, MA 02110

Chairman Crosby,

I write in support of the request by the Massachusetts Thoroughbred Horseman's Association for fifteen racing days at Brockton Fairgrounds and for four million dollars for purses and track improvements.

Horse racing brings economic activity to the Commonwealth, maintains open spaces and provides a link to a storied agricultural past. Recently, racing days have dwindled to practically nothing. With this proposal the Gaming Commission has the opportunity to inject a little life into the industry.

Thank you for allowing me to express my endorsement of thoroughbred racing in Massachusetts. It would be wonderful to hear the clarion call of 'and they're off' echo once again.

Sincerely,

A handwritten signature in cursive script that reads "Paul Schmid".

Paul Schmid, Chair,
Committee on Environment, Natural Resources and Agriculture 8th Bristol District

MacLachlan, Amy (MGC)

From: Jay Budrewicz <jaybudrewicz@yahoo.com>
Sent: Tuesday, August 09, 2016 8:11 PM
To: MGCcomments (MGC)
Subject: Vote yes for Brockton

Dear MGC,

I hope that you vote yes tomorrow and approve Brockton Fair's request for funds. This will benefit many people who live and pay taxes in the state. It will also stimulate the local economy much more than the festival days at Suffolk Downs. The fact that Brockton will allow training for local trainers is very important. This is how a younger generation is able to get exposed to the industry when they are able to work with the horses in Massachusetts every day. It is what the money was intended for.

Thank you,
Jay Budrewicz
392 country club rd
Greenfield ma

Sent from my iPhone



Neil D. Raphael
617.542.7999
nraphael@
raphaellic.com

RAPHAEL LLC
Counselors at Law
One Liberty Square
Boston, MA 02109
T: 617.542.7900
F: 617.307.4486

August 1, 2016

VIA HAND DELIVERY

Chairman Stephen Crosby
Massachusetts Gaming Commission
101 Federal Street
12th Floor
Boston, MA 02110

Re: **Brockton Racing**

Dear Chairman Crosby:

This firm represents the New England Horsemen's Benevolent and Protective Association, Inc. ("NEHBPA"). I am writing this letter to communicate the position of the NEHBPA with respect to the request for race horse development funds submitted by the Middleborough Agricultural Society ("MAS") and the Massachusetts Thoroughbred Horsemen's Association ("MTHA") for racing this summer at the Brockton Fairgrounds ("Brockton Racing"). It is my understanding that this matter will be voted on by the Massachusetts Gaming Commission ("Commission") on August 1, 2016. I request that this correspondence be submitted to the Commission prior to the vote for its consideration and be part of the public record.

Requests

MAS requested \$2,500,000 from the race horse development fund for purses for fifteen days of racing. Additionally, MAS requested \$1,473,947 from the race horse development fund for administrative and operational expenses. Finally, MAS and MTHA requested \$262,000 from the race horse development fund for the administrative expenses of the MTHA. I will respond to each request separately.

Administrative and Operating Expenses of MAS - \$1,473,947

There is no statutory or regulatory authority that grants the Commission the power to utilize race horse development funds to fund the administrative and operating expenses of MAS. As discussed at length during the last meeting of the Commission, M.G.L. c. 128A, § 5 and M.G.L. c. 128C, §§ 2 and 4 were amended in 2015 to allow for percentages of live and simulcasting handle, respectively, to be utilized for administrative and horseracing operations. There is no corresponding statutory or regulatory authority that allows the Commission to distribute race horse development funds under M.G.L. 23K § 60 to MAS for administrative and operating expenses. It is simply illegal under Massachusetts law and this request should be rejected.



Purse Funding of MAS - \$2,500,000

The purse agreement between MAS and MTHA is attached hereto as Exhibit A. As the Commission may be aware, the NEHBPA has filed federal litigation in District Court against MAS and MTHA challenging the legality of the purse agreement. A copy of the Complaint in the litigation is attached hereto as Exhibit B.

As the Commission will note, the Purse Agreement contains the following provision (Section 3.3):

"MAS shall make payments to the Horsemen from the Purse Account consistent with the Initial Condition Book, the regulations prescribed by the Commission, and available funds in the Purse Account. It is also understood and agreed that, because MAS would be contributing significant value to support thoroughbred racing and MassTHA, that contribution being the Fairgrounds or another location in Massachusetts, and to cover MAS' costs to improve the race track and operate the live race meetings, MAS shall be paid from the Purse Account the amount that equals ten percent (10%) of the total purse payments that are paid to the Horsemen, with a guaranteed minimum payment (the, "MassTHA Contribution")." (emphasis added).

The minimum 10 percent kickback provided by MTHA to MAS will be funded directly from race horse development funds dedicated to the purse account. M.G.L. c. 23K § 60(c) states as follows:

(c) Funds received from the Race Horse Development Fund shall be distributed between thoroughbred and standardbred accounts, as approved by the commission, as follows:

(i) 80 per cent of the funds approved by the commission shall be deposited weekly into a separate, interest-bearing purse account to be established by and for the benefit of the horsemen; provided, however, that the earned interest on the account shall be credited to the purse account; and provided further, that licensees shall combine these funds with revenues from existing purse agreements to fund purses for live races consistent with those agreements with the advice and consent of the horsemen; (emphasis added)

(ii) 16 per cent of the funds approved by the commission shall be deposited as follows: (A) for a thoroughbred track, into the Massachusetts Thoroughbred Breeding Program authorized by the commission; or (B) for a standardbred track, into the Massachusetts Standardbred Breeding Program authorized by the commission;

(iii) 4 per cent shall be used to fund health and pension benefits for the members of the horsemen's organizations representing the owners and trainers at a horse racing facility for the benefit of the organization's members, their families, employees and others under the rule and eligibility requirements of the organization, as approved by the commission; provided, however, that this



amount shall be deposited within 5 business days of the end of each month into a separate account to be established by each respective horsemen's organization at a banking institution of its choice; and provided further, that of this amount, the commission shall determine how much shall be paid annually by the horsemen's organization to the thoroughbred jockeys or standardbred drivers organization at the horse racing facility for health insurance, life insurance or other benefits to active and disabled thoroughbred jockeys or standardbred drivers under the rules and eligibility requirements of that organization.

Pursuant to the attached purse agreement, MAS will be diverting a minimum of \$250,000 from the \$2,500,000 in race horse development funds that should be allocated to purses and distributed to horsemen only. This is illegal and a clear violation of M.G.L. c. 23K § 60(c)(i). There is no statutory or regulatory authority that allows the Commission to grant race horse development funds to purse funding when it knows that the funding will not be utilized for purses. The Commission cannot approve this request for purse funding given this provision in the purse agreement. This request should be rejected as it illegal and detrimental to the horsemen.

Finally, prior to authorizing these funds, the Commission should review the current safety situation with respect to Brockton Racing. As set forth in the litigation, MAS and MTHA have taken very few steps to ensure a safe meet for the equine and human athletes. The Commission should not be funding any purses at Brockton until these safety issues are addressed by MAS.

Administrative and Operating Expenses of MTHA - \$262,000

The MTHA has requested \$262,000 for the funding of its administrative and operating expenses. The MTHA is not the group that represents the majority of the horsemen and is not authorized to receive those funds. The NEHBPA has filed litigation to prove that the MTHA is a sham organization specifically created for the purpose of diverting funds from the race horse development fund for the benefit of the MTHA, MAS, and their officers to the detriment of the horsemen. As alleged in the litigation, the MTHA has not held elections and has never publicly disclosed its membership. The MTHA purports to represent the "local horsemen," but has never demonstrated to the Commission or anyone that it represents any horsemen other than Mr. Lagorio. Indeed, the MTHA has received multiple cease and desist letters from the Thoroughbred Horsemen's Association, Inc. demanding that it cease utilizing the THA mark. A copy of the most recent correspondence is attached hereto as Exhibit C.

At its December 17, 2015 meeting, the Commission addressed the issue of multiple horsemen's groups. The testimony was as follows:

COMMISSIONER CAMERON: General Counsel Blue, ... you are recommending some changes in regulation. So, we wouldn't be authorizing either [the NEHBPA or the MTHA] but we would be indicating that they are each free to operate in the Commonwealth.

MS. BLUE: That's correct. What we're looking for today is guidance from you to go back and draft regulations that we would bring back to you for your review and comment, and comment by the public too that would basically set up a



structure like that. *That would say the recognized horsemen's group is the group that represents the majority of people who race at the track -- And they would have to work that out with the track. It wouldn't be with the Commission. -- and who has entered into a purse agreement with that track.*

Further, it was stated:

CHAIRMAN CROSBY: What do we do if somebody comes to us and says they don't represent the horsemen, we represent the horsemen?

MS. BLUE: *Then we would say you have to make that argument to the track. The track has to enter into a purse agreement with the horsemen who represent a majority of the horsemen.*

(emphasis added). The NEHBPA is the horsemen's organization that represented the majority of horsemen at the last meeting at Brockton. It will represent the majority of horsemen at the Brockton meeting if it goes forward. MAS needs to enter into a purse agreement with the NEHBPA.

Given the Commission has taken the position that it will not formally recognize any horsemen's group (or adjudicate the issue), it should defer funding requests for administrative expenses of the horsemen's representative at Brockton until the Court has adjudicated the issue of representation or a meet is conducted at which participating horsemen select their representative. *See, e.g., M.G.L. c. 23K § 60(c)(iii) ("4 per cent shall be used to fund health and pension benefits for the members of the horsemen's organizations representing the owners and trainers at a horse racing facility for the benefit of the organization's members.")* (emphasis added).

This request for funding should be rejected by the Commission.

Thank you for your time and attention.

Very Truly Yours,

Neil D. Raphael

Enclosures

cc: Catherine Blue, Esq.
Commissioner Gayle Cameron
Commissioner Lloyd Macdonald
Commissioner Enrique Zuniga
Commissioner Bruce Stebbins

Reilly, Janice (MGC)

From: Crosby, Steve (MGC)
Sent: Monday, August 08, 2016 10:15 AM
To: Reilly, Janice (MGC)
Cc: Bedrosian Jr., Edward (MGC); Blue, Catherine (MGC)
Subject: FW: Brockton Fair Grounds 2016 Race Meet

For the book.

From: rdoyle@prime-equine.com [mailto:rdoyle@prime-equine.com]
Sent: Sunday, August 07, 2016 10:16 PM
To: Stebbins, Bruce (MGC); Zuniga, Enrique (MGC); James.mchugh@state.ma.us; Cameron, Gayle (MGC); Crosby, Steve (MGC)
Subject: Brockton Fair Grounds 2016 Race Meet

Commissioners,

First and foremost, I would like to thank you for taking the time to read my letter. I realize that it is probably one of the longer letters that you will receive. However, it is extremely important to me to tell you my whole story, even if it might be the "condensed" version.

My first visit to Suffolk Downs took place in 1980, when I was eight years old. My grandfather lied to my mother, telling her that he was taking me to Fenway Park for a Boston Red Sox game. I knew the route to Fenway by heart. So, when we started following the signs to Logan Airport, I knew something was up. "We are going to the racetrack", my grandfather replied when I inquired why we were taking a different route.

When we pulled into the parking lot of Suffolk Downs, I was in awe of the size of the facility. I had never been to a racetrack before. I had never been near horses before with the exception of the two saddlebreds that my neighbor kept as pets. My grandfather led me thru the entrance and up the stairs to the Terrace Dining room. He slipped the maitre'd a twenty dollar bill and we were seated promptly, right under one of the televisions, with a full view of the track if we looked out the windows to our left. I sat down in my seat and watched as my grandfather unrolled a newspaper (which I would soon learn was the Daily Racing Form), opened it to a specific section and then tossed it, open, in front of me. "Okay, kid. Pick me a winner."

That's how my love for the thoroughbred industry began. Over the next eight years, I would come to the track at every opportunity. When I turned sixteen, my grandfather felt it was time to purchase a racehorse of my own. I did not know at the time that my grandfather had been diagnosed with leukemia. His hope was that our horse would grace the Suffolk Downs winners circle and we could hang the win picture in his office at work. Unfortunately, my grandfather never had the opportunity to see our horse race in person. He passed away just a couple of weeks after we had successfully claimed our horse. His death did not deter my love of the industry. I knew, deep down, he would want me to take that love and become the best horseman that I could. I was not about to let him down.

While my grandfathers death signaled the end of one part of my life, it was the beginning of my life as a horsemen. I immediately got a job with trainer Marian Manning as a hot walker. I started dating one of the gentleman that worked as a groom for her. We purchased a couple of horses together and, when Suffolk Downs closed its doors in the winter of 1989, we packed our bags for Gulfstream Park in Hallandale, Florida to work for trainer Dominic "Sonny" LaGreca, who had also been at Suffolk. From Florida we went to Philadelphia Park, then back to New England to Rockingham Park. When Suffolk Downs opened back up, we moved our small stable there. I went to work as a groom for trainer Michael Laudano, whom I will always have the greatest respect for as, even though he had a stable of a dozen or so quality horses, he worked overnights for FedEx as a second job to support his family. My boyfriend and I would

take one more foray out of town to Atlantic City and Delaware Park. However, in the end, we returned to Massachusetts, as this was home.

Unfortunately, our relationship ended when we returned to Massachusetts as the dreams we previously shared had changed. My goal was to purchase a farm and offer injury rehabilitation services for area thoroughbreds, in addition to foaling broodmares and raising weanlings/yearlings. I teamed up with trainer Alfred Pimental and purchased several horses with him that raced under the Prime Equine Racing Stable banner. I was at the track at every opportunity, and grew close to many of the other owners, trainers, grooms and exercise riders. So many of them worked second jobs to make ends meet, whether it be at the airport or across the street at Shaws Supermarket. I considered these folks to be extended family members and cared deeply for them. We WERE a family. We supported each other during the race meet and the offseason. No matter what these outstanding horsemen and women were faced with, there was one constant - their love of the industry. A love so deep that, when times got bad, their horses would eat before they would. I looked up to these wonderful people and respected their sacrifices.

As the years passed, the length of the live racing meets at Suffolk Downs became shorter, the daily purse distribution at said race meets decreased, and many of the horsemen and woman that I grew up with were faced with a harsh reality. The industry in this state was dying. We had been hoping that the legislature would legalize expanded gaming and tie it to thoroughbred racing in a way that would guarantee a live race meet, an increase in the daily purse distribution, and a guarantee that thoroughbred racing would not only survive in this state, but thrive. In 2011, our prayers were answered - the expanded gaming bill became law with Governor Deval Patrick's signature. You all know the rest of the story. While the horsemen were upset and angry over the commissions decision to deny Suffolk Downs the Region A casino license, we respected it. The question on everyone's minds after that fateful announcement was, "Now what?" For a number of horsemen, the answer was to relocate. For the others, it was to remain and fight - fight for our industry - fight for our survival.

The board members of the NEHBPA and their consultant, Lou Raffetto, "believed that the right thing to do was not to run a full meet, but to run a festival style meet with food trucks and craft beer." There was a separate group of horsemen that knew this plan would not have positive affects on the local industry. Their cries and concerns were continually ignored by the NEHBPA, leaving no alternative - the formation of a separate horsemens group was necessary for the survival of the local industry. Thus, the MassTHA was born. And, they went to work immediately, devising a plan to bring not only a longer term race meet to the Commonwealth for the local horsemen, but the opportunity to train at the same facility.

On the cover, the NEHBPA's plan of a "festival style" race meet seems to be a success. However, when you open the cover and turn the pages, a different scenario plays out. In the five days (there will have been seven by the time you have read this letter) of live racing that have been held at Suffolk Downs since they lost their bid for the Region A casino license, the daily purse distribution has been upwards of \$500,000. Between 65 to 70% of the purse money offered on these race days has been awarded to out of state horsemen. This money will never be spent in the state of Massachusetts. This money will be paid to the feed stores, the tack shops, the exercise riders, grooms and other service providers that are located in those horsemens' home states. Unfortunately, these "festival style" race meets, approved and supported by the NEHBPA, were failing the local industry.

Thankfully, there is a solution to this crisis. Bringing racing to the Brockton Fair Grounds, a contingency that the MassTHA worked tirelessly to bring to reality, will provide local horsemen with the opportunity to compete against their peers. The planned daily purse distribution of \$150,000 per day is just enough to provide local horsemen with the chance to earn much needed purse money to keep their stables alive, while deterring out of town horsemen from shipping in with their higher level stock. It will provide local horsemen with a facility to train their horses and prepare them for a profitable meet. It will provide grooms, hot walkers and exercise riders the opportunity to earn a paycheck while working in an industry that they love. Local feed stores, tack shops, and hay farms will reap the benefits.

These men and women who I grew up with, who I learned from, who assisted me when times were tough, who yes, at points, worked an additional job or two to make ends meet, are the true local horsemen and women of Massachusetts. They are the reason why the Race Horse Developmental Fund was created. To save local horse racing. To save local horsemen. Yes, some remained in the state because they could not

afford to relocate their stable to a different track. Yes, some remained because of their family roots - their kids were enrolled in an outstanding academic program or they had elderly family members that they needed to care for. None of these reasons make them any less of an important part of the local industry. None of these reasons make them any less of a horsemen.

In closing, I would like to say how I appreciate the fact that you are receptive to the opinions of those of us who find ourselves at the crossroads of thoroughbred racing here in Massachusetts. I hope that you will give us the opportunity to continue to pursue our dreams.

Thank you,
Renee Doyle

Reilly, Janice (MGC)

From: Alan Lockhart <alockhart287@yahoo.com>
Sent: Monday, August 08, 2016 2:34 PM
To: MGCcomments (MGC)
Subject: Brockton Racing

To Whom It May Concern,

In regards to giving out funds from the RHDF for a 15-day meet at the Brockton Fairgrounds, it doesn't help the majority of horsemen from Massachusetts. A majority of trainers and owners from the state have moved elsewhere to continue to make a living in horse racing. None of us will be able to benefit from a 15-day meet at Brockton as costs to ship in a stable and set up would be too high just to run one day a week. The people that would benefit from it are the few that didn't want to make a hard decision to stay in the industry during a trying time. Those that want a meet in Brockton only have a few horses at most. It won't support any families and just be a handout to try to rectify a poor situation that is currently happening within the industry in Massachusetts. I can't see any benefit to any horsemen from the state by running a 15-day meet at Brockton. The same people that are supporting this are the ones who are complaining about the six days run at Suffolk Downs. By my calculations that's only an extra nine days of racing or 2.47% more than the current six days at Suffolk Downs. My family has been supporting the industry in the state for 6 plus decades and neither the 6 days at Suffolk nor the 15 days that could be at Brockton is beneficial to local horsemen. The last two years at Suffolk is hopefully a bridge to a brighter future for the industry in the state.

Having a splinter group of horsemen is also a bad thing for us as a whole. The horsemen have hardly any leverage or bargaining power to begin with. Allowing a group that has no accreditation to any national organization to be able to sign a purse agreement and get handed funds only sets a bad precedent. It would allow me to start my own group and undercut both the HBPA and MassTHA to offer a better deal to either Suffolk Downs or Mr. Carney. It will destroy what little leverage or bargaining power that we do have left as a whole group of horsemen. Also, the MassTHA isn't affiliated with the National THA and have been asked to stop using that moniker. Also, the THA nationally goes by the same set of standards for members as the HBPA does. I have emails if needed to provide further proof.

My recommendation is to not allow the MassTHA funds to run at Brockton. The best course of action is to get Mr. Carney and the leaders of the MassTHA to have open discussions with the NEHBPA. The NEHBPA and the MassTHA have to unite and work together as one. It will protect all of us (horsemen) in the long run and hopefully help us unite rather than be divided in these trying times. So please consider what I'm saying when this commission votes regarding the Brockton issue on Wednesday, August 10th, 2016.

Sincerely,

Alan J Lockhart

New England Horsemen's Benevolent and Protective Association, Inc.

President
Anthony Spadea

A National Organization

Acting Executive Director
Bruce P. Patten

Directors: Owners
Randy Andrews
Susan Clark
Shirley Dullea
Manfred Roos
Paul Umbrello



Directors: Trainers
Jay Bernardini
Matthew Clarke
Alan Lockhart
Kevin McCarthy
George Saccardo

P.O. Box 388
Revere, MA 02151
617-568-3333 or 800-225-3460 Ext. 7258
WWW.NewEnglandHBPA.com

August 8, 2016

Massachusetts Gaming Commission
101 Federal Street
Boston, MA 02110

Members of the Commission:

The New England Horsemen's Benevolent and Protective Association, Inc. (NEHBPA) hereby submits its comments relative to the continued consideration by the Commission of the Requests of the Middleboro Agricultural Society (MAS) and the Massachusetts Thoroughbred Horsemen's Association (MTHA) for the racing meet proposed to be conducted at the Brockton Fairgrounds on dates to be determined in 2016.

The NEHBPA requests that the Commission give due consideration to the following issues when considering the requests of MAS and the MTHA.

1. The Commission should consider the precedent being established of permitting amendment of application without full supporting documentation and adequate time for public comment. In addition, authorization of a meet to proceed on short notice is likely to insure the failure of the meet as Horsemen who may have considered racing at the meet have made prior commitments to race elsewhere. In addition, horses that have been out of racing for some time requires months of training and preparation to make them fit to race.
2. Catherine Blue, Counsel to the Commission, has previously opined that the request of MAS for \$1,473,947 from the Race Horse Development Fund for administrative and operational expenses cannot be granted due to lack of statutory authority. That issue was addressed in greater detail by NEHBPA litigation Counsel Neil D. Raphael in his correspondence to Chairman Crosby dated July 29, 2016, a copy of which is enclosed herewith. The NEHBPA suggests it is entirely inappropriate to try and circumvent state law by providing RHDF funding for purses that is then "kick backed" to MAS as presently provided by the Purse Contract between MAS and MTHA.
3. By correspondence dated May 16, 2016 from Bruce S. Barnett as counsel to Sterling Suffolk Racecourse LLC (Suffolk Downs) petition was filed to the Commission to

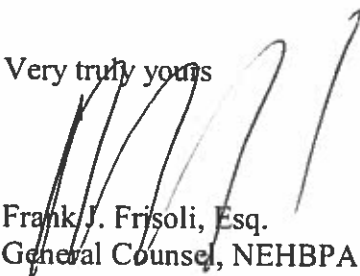
commence a proceeding to suspend the simulcast license of Raynham Taunton until it pays \$303,937.12 owed from October 2014 through June 2015 for statutory premiums. These funds were required by statute to be paid to the purse account for the benefit of the NEHBPA. Raynham Taunton, MAS, and the Brockton fairgrounds are all owned or controlled by George Carney and his family. The Commission should certainly consider whether it is appropriate to grant a license, and/or provide funds from the RHDF to a Carney controlled entity in light of the failure of his company to comply with statutory obligations to pay premiums from the revenue it derived from simulcasting.

4. The Commission received correspondence dated February 26, 2016 from Unite Here International Union setting forth allegations regarding Christopher Carney (George Carney's son) and his alleged illegal gambling activities and debts. Christopher Carney continues to be involved in MAS and has been identified in various media outlets as an executive and leader at MAS. The NEHBPA believes that the Investigations and Enforcement Bureau should conduct a complete investigation of these allegations prior to funding this meet. To the extent Christopher Carney and/or entities with which he is associated would be disqualified from being involved in state sanctioned gaming, the Commission should determine whether it appropriate to license MAS under the circumstances.
5. The NEHBPA represented the local horsemen in 2001 when thoroughbred racing was last conducted at the Brockton Fairgrounds. Despite the efforts of the NEHBPA to work with track ownership to minimize the hazards of racing, there was a tragic accident during the fourth race, two horses broke down and had to be euthanized and a jockey was injured. The NEHBPA continues to express its concerns about safety issues and notes that MAS has continued to refuse to address safety issues with the NEHBPA.
6. The NEHBPA is not aware of any effort being made by MAS to secure Jockey Insurance and believes it will be exceedingly difficult to secure a policy. Under Massachusetts law, owners and trainers may have personal liability for injuries sustained by jockeys who are injured when riding their horses. So in light of the increased probability of injury caused by the "bullring" track, tight turns and narrow width, the NEHBPA questions whether any owners or trainers will accept the liability and race at Brockton if a meet is attempted without jockey insurance. Especially because the likelihood of securing this insurance on short notice is remote, the NEHBPA suggests the Commission defer any further approvals until and unless a policy issues.
7. MAS has recently advised the Commission it does not intend to simulcast in 2016. This decision appears to have been made after litigation was filed by the NEHBPA against MTHA and MAS which alleges, inter alia, that the MTHA has few if any members that are Horsemen and has entered into a purse agreement with MAS that gives away all revenue and fails to protect the interests of Horsemen. MAS has defended this litigation by arguing in the US District Court lack of jurisdiction because MAS will not be simulcasting. The refusal to simulcast deprives the Horsemen of revenue that inures to a significant degree to their benefit or otherwise would be available to offset administrative expenses.

8. Finally, the NEHBPA suggests the position of the Commission that MAS will determine which Horsemen's group it will bargain with is contrary to long established law that permits labor groups to select their bargaining agents and to decisions of the United States Courts interpreting the Interstate Horse Racing Act that establish that the NEHBPA is the appropriate bargaining agent as the recognized representative of Horsemen until such time as a meet is conducted and the Horsemen at the meet elect a different representative. The NEHBPA believes that the present position of the Commission to simply accept the Purse contract between MAS and MTHA operates to disenfranchise the horsemen and condones an illegal contract that deprives horsemen of all rights and benefits.

The NEHBPA respectfully requests that the MGC carefully consider the above matters in its deliberations relative to the requests of MAS and MTHA for distributions from the race horse development fund.

Very truly yours



Frank J. Frisoli, Esq.
General Counsel, NEHBPA

Reilly, Janice (MGC)

From: MGC Website <website@massgaming.com>
Sent: Tuesday, August 09, 2016 7:21 AM
To: MGCcomments (MGC)
Subject: Contact the Commissioner Form Submission

Name

Rich Ansel

Email

richansel@yahoo.com

Subject

Brockton Horseracing

Questions or Comments

I think the commission should release funds that could be used to make the improvements needed, to get the Fairgrounds track operational. This area lost greyhound racing, missed out on the slots license and the SE area casino license. It does appear from my perspective, that we just don't matter to some members of your commission. I have no financial interest, other than to see an economic boost to this area. I moved to SE Ma. twenty yrs. ago and am originally from Pennsylvania.

August 7, 2016

Kevin & Susan Clark
142 Heritage Lane
Weymouth, MA 02189
781.858.6483

The Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

Attention Commissioners,

In attending the 2001 Brockton Fairgrounds Live Racing, I witnessed devastating events that do not accurately represent the professional thoroughbred horse racing community. Due to the refusal of the track owner to improve the racing surface cushion, despite the constant complaints from the NEHBPA, the number of injuries were far more extensive than the reported two euthanized horses. Yet the push for live racing continues at Brockton, even though safety concerns have not been addressed. Some of the safety concerns are, but not limited to, a short track, extremely tight turns and exceptionally poor track surface cushion.

Currently, Brockton is a 4 furlong track, with a shoot making it 4 1/2 furlongs. *The Provisions of Gaming & Betting Act of 1912*, states that the circumference of a track should *not be less* than 6 furlongs, measured 1 yard outside of the running rail and a lot of data based scientific improvements have changed professional racetrack designs and operating conditions since 1912.(Stubbs & Neylan 2002). For better racing conditions, the track should be 25 meters wide so that it doesn't limit the movement for the horses. This width will minimize injuries and deaths. A narrow width track, such as Brockton's, accounts to the maladaptive racing conditions and its overall suitability. The increased radius of a turn is directly related to the furlongs and width of the track. The larger the radius, the larger the turns, which increases better racing conditions, less injuries, deaths, and legal ramifications for horse owners, trainers and the track owner. The current turns at Brockton are too tight, and not wide enough for the horses to be able to maneuver around. Taking all this into consideration, and then applying it to the physical needs of the horse, or the horse's balance, the small radii of the track will affect the wellbeing of the horse's ankles. If the horse's ankle is compromised, so is the horse, the jockey, and other horses and their riders.

According to <http://www.peta.org/issues/animalsinentertainment/horseracing/>, 1 horse in every 22 races has an injury, and 3 horses a day dies from ***bad racing practices***. PETA is currently moving to persuade regulators to implement racing

regulations that would not allow a track such as Brockton's to exist. Allowing racing at Brockton Fairgrounds, in the absence of substantial safety improvements, would bring attention to the PETA Organization, and dissuade track employees who may want to seek a job there. To prevent this, a thoroughbred track must adhere to state of the art safety designs and racing conditions.

Given our current situation, in which I have been raising my 2 grandchildren, we were forced to remain in Massachusetts to race for all allotted racing days. So our drive and focus has been to build a lasting racing industry in Massachusetts that breathes vibrancy and pride back into the community. Myself and my husband, licensed trainer, Kevin Clark Sr., have been racing for over 30 years. For the majority of our racing career we maintained 30 to 35 horses independently. Like most well respected horseman, we minimized our horses as racing purses declined and the number of race day were reduced.

Our hope is that the building and developing of a new state of the art Horse Park becomes a reality. Then we can return to our passion, thoroughbred horse racing. Given this hope, my fear and concern is that by allowing racing at Brockton, without necessary safety improvements, there will be an increase in injuries, which will smear racing and give a black eye to the industry. This information can be provided to you by Dr. Alex Lightbown. At Suffolk Downs, Alex trained under Dr. Sheehan, and his opinion was that Brockton Fair Grounds was not a safe track to race horses.

As referenced above, if one injury occurs, PETA will demand legal action, the closing of the track, and will come after the horsemen and the Massachusetts Gaming Commission. This held true in 2001, when PETA was raising concern in regards to racing conditions, but with the numerous injuries causing a lack of owners willing to race their horses at Brockton, the meet was cancelled.

I thank you for your time and immediate attention, and hope that we can collaborate further to find a more safe and useful plan, such as the recently proposed Horse Park.

Regards,

Susan Clark

Cited Sources:

- Stubbs, A. K., and J. J. Neylan. *Racetrack Management A Manual for Racecourse Managers*. Vol. W02/002. Barton: Rural Industries Research and Development Corporation., 2002. Print.
- Retrieved on 07 Aug 2016 <http://www.peta.org/issues/animalsinentertainment/horseracing>

3.b

3.c



TO: Steve Crosby, Chairman
Gayle Cameron, Commissioner
Lloyd Macdonald, Commissioner
Bruce Stebbins, Commissioner
Enrique Zuniga, Commissioner

FROM: Alexandra Lightbown, Director of Racing

CC: Edward Bedrosian, Executive Director
Catherine Blue, General Counsel

DATE: August 8, 2016

RE: Additional Suffolk Downs Key Operating Personnel and Racing Officials

Dear Commissioners:

Suffolk Downs' Chief Operating Official Chip Tuttle submitted two new requests for approval of their Key Operating Personnel and Racing Officials dated July 28th and August 5, 2016. Using the delegation by the Massachusetts Gaming Commission to the Director of Racing for this situation due to its time-sensitive nature, I approved them until the next Commission meeting, at which time it is placed on the agenda for the Commissioners to vote on the request.

Recommendation: That the Commission approve the request of Suffolk Downs to approve their July 28th and August 5, 2016 list of Key Operating Personnel and Racing Officials, pending satisfactory completion of their background checks by the Massachusetts State Police.



Massachusetts Gaming Commission

101 Federal Street, 12th Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com



August 5, 2016

Alexandra Lightbown, DVM
Director of Racing and Chief Veterinarian
Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

Dear Dr. Lightbown:

Sterling Suffolk Racecourse LLC respectfully requests approval of the following racing official for the August 6, 2016 race date:

RACING OFFICIAL

DR. MICHAEL DUGGAN, DVM – Veterinarian

Thank you for your consideration of this matter.

Very truly yours,

Chip Tuttle
Chief Operating Officer

Telephone: 617-567-3900
525 McClellan Highway, East Boston, Massachusetts 02128

Made in Massachusetts



July 28, 2016

Alexandra Lightbown, DVM
Director of Racing, Chief Veterinarian and Operations Manager
Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

Dear Dr. Lightbown:

Sterling Suffolk Racecourse LLC respectfully requests approval of the following key operating personnel and racing officials for the August 6 and 7, 2016 race dates:

KEY OPERATING PERSONNEL

TONY BENTLEY – Track Announcer

RACING OFFICIALS

TOM CREEL – Steward

JOHN PIMENTAL – Outrider

Please note John Morrissey and TD Thornton will not be available on said dates and we are adding the above Outrider.

Thank you for your courtesy and cooperation in this matter.

Very truly yours,

Chip Tuttle
Chief Operating Officer

Telephone: 617-567-3900
525 McClellan Highway, East Boston, Massachusetts 02128

Made in Massachusetts

3.d



Division of Racing

TO: Steve Crosby, Chairman
Gayle Cameron, Commissioner
Lloyd Macdonald, Commissioner
Bruce Stebbins, Commissioner
Enrique Zuniga, Commissioner

FROM: Douglas O'Donnell, Senior Financial Analyst

CC: Alexandra Lightbown, Director of Racing
Edward Bedrosian, Executive Director
Catherine Blue, General Counsel

DATE: August 8, 2016

RE: Suffolk Downs Request for NYRabets-ADW Approval

Dear Commissioners:

Suffolk Downs' Chief Operating Official Chip Tuttle has submitted a request for approval to contract with NYRabets, a provider of advanced-deposit wagering services.

Recommendation: That the Commission approve the request of Suffolk Downs to enter into a contract with NYRabets, a provider of advanced-deposit wagering. Currently, NYRabets is licensed with twenty States throughout the Country.



Massachusetts Gaming Commission

101 Federal Street, 12th Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | www.massgaming.com



August 5, 2016

Alexandra Lightbown, DVM
Director of Racing and Chief Veterinarian
Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

Dear Dr. Lightbown:

Sterling Suffolk Racecourse LLC respectfully requests approval of NYRAbets, a provider of advanced-deposit wagering services on behalf of Suffolk Downs.

Thank you for your consideration in this matter.

Very truly yours,

Chip Tuttle
Chief Operating Officer

Telephone: 617-567-3900
525 McClellan Highway, East Boston, Massachusetts 02128

Made in Massachusetts

August 8, 2016

Mr. Chip Tuttle
Chief Operating Officer
Sterling Suffolk Racecourse, LLC
111 Waldemar Avenue
East Boston, MA 02128

Dear Mr. Tuttle:

Re: Account Wagering

This letter represents the material terms of our agreement with Sterling Suffolk Racecourse LLC, doing business as Suffolk Downs, (the "Track") concerning:

- i. The terms on which NewCo Ventures North America, LLC d/b/a NYRabets ("NYRabets") will offer wagering, on a non-exclusive basis, on races conducted by the Track ("Suffolk Content") to the account holders of NYRabets; and
- ii. The terms on which NYRabets will operate its account wagering system within the Commonwealth of Massachusetts on behalf of the Track.

NYRabets and the Track hereby agree as follows:

I. Grant of License

The Track hereby grants to NYRabets a non-exclusive license to use for wagering and Internet video streaming purposes the Suffolk Content in connection with NYRabets's national account wagering business. The Track also grants a non-exclusive license to use the audio-visual signal of the Suffolk Content to be broadcast for Internet video streaming purposes only through NYRabets satellite network.

II. Taxes and Fees

A. Host Fees.

1. **Massachusetts Wagers.** With respect to wagers facilitated by NYRabets that are placed by Massachusetts residents on races conducted by the Track, NYRabets shall pay a host fee to the Track equal to 6.50% of such handle.

2. All Other Wagers. Except as provided above, with respect to wagers facilitated by NYRAbets on races conducted by the Track, NYRAbets shall pay a host fee to the Track equal to 6.00% of such handle.

B. Source Market Fee. With respect to all wagers facilitated by NYRAbets that are placed by Massachusetts residents, NYRAbets shall pay to the Track a source market fee equal to 5.00% of such handle. NYRAbets shall have no obligations to pay pari-mutuel taxes and other statutory deductions except for positive breakage, associated with the facilitation of such wagers placed by Massachusetts residents.

C. Cumulative Nature of Payments. The host fee and source market fee described above are cumulative, so to the extent both fees are applicable to a given wager facilitated by, then both fees shall be paid. Notwithstanding the preceding sentence, with respect to wagers facilitated by NYRAbets that are placed by Massachusetts residents on content generated by any racetrack, to the extent the source market fee payment described in Section III (B) would cause the sum of the applicable host fee and source market fee to exceed the gross takeout for win, place or show wagers, then the source market fee on such wagers shall be reduced by an amount equal to such excess.

III. Reporting Requirements

NYRAbets shall submit to the Track, on a monthly basis on or before the tenth day of each month: (A) a statement of the total handle wagered by NYRAbets account holders who are Massachusetts residents, including (1) an accounting of the wagers facilitated via the telephone based upon the proximity of such account holder to the Track (2) an accounting of the wagers facilitated via the Internet based upon the proximity of such account holder to the Track, (3) an accounting of the wagers facilitated via the telephone based upon the host track and (4) an accounting of the wagers facilitated via the Internet based upon the host track; (B) a statement of the total handle wagered by all NYRAbets account holders on the Suffolk Content, including an accounting of the wagers facilitated from such account holders based upon their residence; and (C) a statement of the total handle wagered by NYRAbets account holders via the NYRAbets promotional booth located at the Track.

IV. Payment Terms

NYRAbets shall pay all applicable host fees. Fees and payments due for a calendar month shall be paid on or before the tenth day following the end of such calendar month. NYRAbets shall pay all applicable source market fees, and NYRAbets and the Track shall reconcile any amounts owed based upon deposits/withdrawals by account holders made in person at the Track, on a quarterly basis. Fees and payments due for a calendar quarter shall be paid on or before the tenth day following the end of such calendar quarter.

V. Changes in Regulation

The payment of any host fee and source market fee shall be subject to immediate renegotiation in the event that any state passes any legislation or puts in place any regulatory provisions that provide for taxes or statutory deductions in respect of, or that regulate the host or territorial fee that can or must be paid in respect of, wagers that are facilitated by the transmission of wagering information from persons residing in that state or in respect of races run at tracks located in that state.

VI. Regulatory Co-operation

The Track and NYRabets agree to cooperate and assist the Track in obtaining and maintaining licensing (and any renewals thereof) as a provider of account wagering services in Massachusetts with NYRabets as the Track's authorized service provider.

VII. Definitive Agreement

NYRabets contemplates that NYRabets and the Track will enter into a definitive agreement based on the terms and conditions set forth in this letter agreement. Until such time as such definitive agreement is executed, the terms and conditions of this letter agreement shall govern the rights and responsibilities of all of the parties hereto.

VIII. Term

The term of this letter agreement or any definitive agreement that may be subsequently executed shall commence on August 8, 2016 and end three years thereafter, provided, however, such agreement shall automatically renew on the same terms and conditions for one year periods thereafter, unless either NYRabets or the Track provides notice of termination at least 60 days prior to the date of expiry of such initial term or renewal year.

IX. Confidentiality

It is agreed by the Track that this letter agreement will be kept confidential, except that NYRabets and the Track, as part of the licensing and approval process that may be required by the Massachusetts Racing Commission, will be entitled to disclose this letter agreement to such racing commission.

X. Future Relationship.

NYRabets looks forward to working with the Track in a mutually beneficial manner in developing and growing the account wagering and television broadcast relationship created by this letter agreement.

Yours very truly,

NewCo Ventures North America, LLC d/b/a NYRABets

By: 

Tony Allevato
President

Acknowledged and agreed to as of _____, 2016:

Sterling Suffolk Racecourse, LLC

By: _____

Chip Tuttle
Chief Operating Officer