

February 11, 2015

MA Gaming Commission
101 Federal Street
23rd Floor
Boston, MA 02110

Re: MGC Hearing 2/19/15
Stakeholders Hearing

Dear Chairman Crosby, Commissioner Cameron, Commissioner Stebbins, Commissioner Zuniga, Commissioner McHugh, Director Durenberger, and General Counsel Blue:

As counsel to the Harness Horseman's Association of New England (HHANE), I would like to raise the following objections and concerns regarding the issues raised in General Counsel Catherine Blue's letter and public notice of January 30, 2015.

The request by the New England Horseman's Benevolent and Protective Association (NEHBPA) to use Race Horse Development Fund (RHDF) monies for such things such as "leases," is clearly beyond the scope of the stated goals & purposes of the Fund, and as such is beyond the scope of authority granted to the Commission under M.G.L. Chapter 23K, Section 60 and 205 CMR 149.02.

In addition, the distribution decided by the Horse Racing Committee was based upon what had been basically an equal amount of race days between Thoroughbreds and Standardbreds. There is now a significant change proposed by Sterling Suffolk Racecourse, LLC (SSR) and the New England Horseman's Benevolent and Protective Association (NEHBPA) in the number of racing days proposed. Penn National's Plainridge Park Casino *must* race 105 days this year, and the thoroughbreds are only requesting a total of 25 - 50

race days. This is a ***material change in circumstance*** which requires a new review by the Horse Racing Committee and a new recommendation by the Committee to the MA Gaming Commission (MGC) before any consideration of any proposal or request made by any group for funds from the RHDF.

In addition, HHANE believes that the authority granted to the MGC under M.G.L. c. 23K, M.G.L. c. 128A, 205 CMR 149, and Chapter 436 of the Acts of 2014 does not extend to the request by Sterling Suffolk Racecourse, LLC (SSR) to stand in the shoes of the New England Horseman's Benevolent and Protective Association (NEHBPA) in requesting funds from the Horse Race Development Fund (HRDF) for purses. SSR is not a Horse Racing Association as defined in 205 CMR 149, & is therefore ineligible to receive distributions from the HRDF.

HHANE also argues that:

205 CMR 149.03 (1) Notice requirements have not been met.

205 CMR 149.03 (2)(a), subsections 1 through 4, inclusive, do not permit any distributions, transfers, or payments to SSR of any kind or for any purpose, since it is not a Horse Racing Association. In addition, pursuant to 205 CMR 149.03 (2)(a)(3), the regulation permits only the consideration of the transfer of the license of the horse racing association to a different horse racing association, which SSR is not.

Under 205 CMR 149.03 (2)(a)(4), HHANE submits that none of the actions within the authority of the MGC contemplated in subsections (a) through (d) include SSR as the "intended beneficiaries of the HRDF," and accordingly, the MGC does not have the statutory or regulatory authority to consider the merits of the request of SSR to request funding from the RHDF for purses.

In addition, HHANE requests that the MGC direct the Horse Racing Committee to reopen the allocation of funds from the HRDF between the Harness Racing Association and the Horse Racing Association due to the likelihood that the harness horse track located at Penn National's Plainridge Park Casino will be the only live racing facility open in 2015. The existing split of HRDF funds was based upon the assumption that there would be live thoroughbred racing during 2015. It is unequitable given the current situation and should be revisited by the Horse Racing Committee and reallocated to better reflect the contributions of the harness horsemen.

I would also like to request that the MGC add me to the distribution list as an interested party going forward.

Thank you for your consideration, and HHANE looks forward to working with the MGC on issues of mutual concern.

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