

NEW JERSEY RACING COMMISSION
WEDNESDAY, MAY 24, 2023
MONMOUTH PARK
“LIBRARY ROOM”
OCEANPORT, NEW JERSEY

A public meeting of the New Jersey Racing Commission (“NJRC” or “Commission”) was held on Wednesday, May 24, 2023 in the “Library Room,” located at Monmouth Park racetrack in Oceanport, New Jersey.

The following were present:

Michael J. Arnone, D.D.S., Commissioner
Lawrence DeMarzo, Commissioner
Francis X. Keegan, Jr., Commissioner
Charles E. Tomaro, Commissioner
Glen Vetrano, Commissioner
Judith A. Nason, Executive Director
Tom Holl, Esq., Associate Counsel, Governor’s Authorities Unit
Sara Ben-David, Counsel to the Attorney General
SDAG George Cohen

Executive Director Nason read the following resolution:

This meeting today conforms with the “Open Public Meetings Act” and as per the requirements of the statute, notification of this meeting has been filed with the Secretary of State and with the following newspapers: Daily Racing Form, Bergen Record, Asbury Park Press, Courier-Post and the Star Ledger.

WHEREAS, in order to protect the personal privacy and to avoid situations wherein the public interest might be disserved, the Open Public Meetings Act permits bodies to exclude the public from that portion of a meeting at which certain matters are discussed.

NOW, THEREFORE, BE IT RESOLVED that consistent with N.J.S.A. 10:4-12(b), the Commission will now adjourn to executive session to obtain legal advice protected from disclosure by the attorney-client privilege on the following matters:

1. Legal advice concerning the initial decision in Travion Lamar Jones v. New Jersey Racing Commission, OAL Docket No. RAC 01892-22.

2. Legal advice concerning the settlement agreement in Cody Wade Axmaker v. New Jersey Racing Commission, OAL Docket No. RAC 03789-22.
3. Legal advice concerning the settlement agreement in Michael Annunziata v. New Jersey Racing Commission, OAL Docket No. RAC 02684-21.
4. Legal advice concerning the ratification of a Services Agreement between the Horseracing Integrity and Safety Authority and the New Jersey Racing Commission.
5. Other legal advice.

Discussion of the above matters falls within the exceptions under the law; specifically, matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the Commission's attorney to exercise his ethical duties as a lawyer, and/or matters involving pending or anticipated litigation.

Commissioner Arnone motioned to adjourn into Executive Session. Commissioner Tomaro seconded the motion. All of the Commissioners voted to adjourn.

Commissioner DeMarzo made a motion to adjourn from Executive Session into the Public Session. Commissioner Keegan seconded the motion and all of the Commissioners voted yes.

CONSIDER APPROVAL OF THE PUBLIC AND EXECUTIVE SESSION MINUTES OF THE MARCH 22, 2023 MEETING

Commissioner Vetrano made a motion to approve the public and executive minutes of the March 22, 2023 Commission meeting. Commissioner Tomaro seconded the motion and all the Commissioners voted yes.

CONSIDER THE ADOPTION OF A RESOLUTION IN TRIBUTE TO PAMELA J. CLYNE

Executive Director Nason announced that Chairman Clyne resigned from the Commission on April 15th because she is moving to another state. The Executive Director read the following, proposed Resolution for the Commission's consideration.

WHEREAS, Pamela J. Clyne was appointed as a Commissioner of the New Jersey Racing Commission on June 28, 2012 and thereafter served as Chairman from April 17, 2014 to April 15, 2023;

WHEREAS, Pamela J. Clyne has been a passionate and tireless advocate dedicated to the advancement of equine welfare and the protection of horses that race in this State;

WHEREAS, during her tenure, Pamela J. Clyne earned the respect and admiration of the Racing Commissioners, Racing Commission staff and the racing community;

WHEREAS, the members and staff of the Racing Commission will deeply miss her professionalism, compassion, good humor, insight and wisdom;

NOW, THEREFORE, BE IT RESOLVED that the members and staff of the New Jersey Racing Commission pay tribute to Pamela J. Clyne for her long and distinguished term of public service, for her steadfast dedication to maintaining the highest level of integrity within New Jersey's horse racing industry and for the steady leadership and unwavering professionalism she displayed in her many years as Commissioner and Chairman.

BE IT FURTHER RESOLVED that on the 24th day of May 2023, this Resolution shall be recorded upon the permanent record of the New Jersey Racing Commission and a copy, signed by the members of the Racing Commission, shall be presented to Pamela J. Clyne in further appreciation of her devoted service to the New Jersey Racing Commission and the State of New Jersey.

Commissioner Vetrano stated that he recently spoke with Chairman Clyne to thank her for her service.

Commissioner Vetrano motioned to approve the Resolution for Pamela J. Clyne. Commissioner DeMarzo seconded the motion and all of the Commissioners voted yes.

CONSIDER THE INITIAL DECISION IN TRAVION LAMAR JONES V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 01892-22

Executive Director Nason explained that on December 9, 2021, State Police detectives were conducting a barn search of Travion Lamar Jones' ("Petitioner") stabling facility after a horse he trained tested positive after the 2nd race at Freehold Raceway on November 12, 2021. During the barn search, Petitioner was uncooperative, locked his vehicle and refused to allow the State Police to complete the inspection.

She stated that on December 21, 2021, the Board of Judges at Freehold Raceway conducted a hearing and determined that Petitioner became extremely confrontational with the State Police detectives, failed to cooperate, disturbed the peace and threatened other licensees on the farm. Finding that Petitioner violated N.J.A.C. 13:71-1.7, -7.29(a) 9 and 13, -23.12, -26.5 and -26.7, the judges imposed a 1-year suspension and \$5,000 fine.

Executive Director Nason explained that Petitioner appealed and the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. At the OAL, Petitioner failed to appear at a telephone conference on April 17, 2023 and did not submit an explanation for his failure to appear. Petitioner had also failed to appear at a previous telephone status conference on February 2, 2023 and also failed to submit a response to the NJRC's discovery request.

On April 28, 2023, ALJ Susan M. Scarola issued an initial decision dismissing Petitioner's appeal based upon his failure to appear at the status conference and his failure to provide a reasonable explanation.

The Executive Director indicated that the initial decision is before the Commission to adopt, reject or modify. Staff recommend adoption of the initial decision.

Commissioner Vetrano made a motion to adopt the initial decision. Commissioner Arnone seconded the motion and all of the Commissioners voted yes.

CONSIDER THE SETTLEMENT AGREEMENT IN CODY WADE AXMAKER V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 03789-22

Executive Director Nason explained that on or about May 9, 2021, the horse "Wishful," trained by Cody Wade Axmaker ("Petitioner") died while stabled

on the grounds of Monmouth Park. The necropsy indicated that the horse died of symptoms that are consistent with an overdose of clenbuterol.

She stated that the Board of Stewards conducted a hearing on December 7, 2021 and determined that Petitioner possessed a jug of clenbuterol in his stabling area at Monmouth Park that may have been labeled Aloe Vera. The stewards further determined that Petitioner instructed his stable employee to administer Aloe Vera to the horse "Wishful" on or about May 4, 2021. As already mentioned, the horse died on the grounds of Monmouth Park on May 9, 2021.

Finding that Petitioner failed in his duty as trainer to protect and guard the horse against the administration of clenbuterol, the Board of Stewards concluded that Petitioner violated N.J.A.C. 13:70-14A.6(d), the Trainer Responsibility rule, and N.J.A.C. 13:70-14A.8 for his possession of drugs. On February 16, 2022, the Board issued Ruling No. 22MON3, which imposed a 2-year suspension and a \$5,000 fine.

Executive Director Nason explained that Petitioner appealed and the matter was transmitted to the OAL as a contested case. Counsel for the parties have negotiated a proposed settlement agreement. Pursuant to the proposed terms, Petitioner would agree to serve a 1-year suspension, pay a \$25,000 fine, withdraw his appeal and waive his right to a hearing. He would have a record of violating N.J.A.C. 13:70-14A.6 and -14A.8.

Executive Director Nason indicated that the decision whether or not to accept the terms of the proposed settlement agreement lies within the Commissioners' discretion. Staff recommend approval of the proposed settlement agreement.

Commissioner Keegan made a motion to approve the settlement agreement and Commissioner Arnone seconded the motion and all of the Commissioners voted yes.

CONSIDER THE SETTLEMENT AGREEMENT IN MICHAEL ANNUNZIATA V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 02684-21

Executive Director Nason explained that on November 6, 2020, the horse "Milady Denver A," trained by Michael Annunziata ("Petitioner"), won the eighth race at Freehold Raceway. The horse's post-race urine sample tested positive for dextrorphan.

The Board of Judges at Freehold Raceway conducted a hearing and determined that Petitioner violated N.J.A.C. 13:71-23.1, -23.6 and -23.7. The

judges imposed a 15-day suspension, \$500 fine, disqualification of the horse, loss of purse and 2 MMV points.

Executive Director Nason explained that Petitioner appealed and the matter was transmitted to the OAL as a contested case. Petitioner and counsel for the Commission negotiated a proposed settlement agreement, which is before the Commissioners for consideration. Pursuant to the proposed terms, Petitioner agrees to serve a 7-day suspension, pay a \$500 fine, forfeit the purse monies, accept one-half MMV point, withdraw his appeal and waive his right to a hearing. He would have a record of violating N.J.A.C. 13:71-23.1, -23.6 and -23.7.

The Executive Director indicated that the decision whether to accept the terms of the proposed settlement agreement lies within the Commissioners' discretion. Staff recommend approval of the proposed settlement agreement.

Commissioner Keegan made the motion to approve the settlement agreement and Commissioner Vetrano seconded the motion and all of the Commissioners voted yes.

CONSIDER THE PROPOSAL OF N.J.A.C. 13:74C-1.1 ET SEQ. (EXCHANGE WAGERING)

Executive Director Nason explained that before the Commission is a Notice of Proposal to re-propose the exchange wagering rules that were originally set forth at N.J.A.C. 13:74C-1.1.

She reminded the Commission that exchange wagering was offered in New Jersey from 2015 to 2020. Exchange wagering is a form a parimutuel wagering where patrons can offer wagers at set odds that can be accepted by other patrons. New Jersey's exchange wagering system ceased to operate on September 30, 2020 when Betfair US, LLC, the exchange wagering services agent, withdrew from the project. Darby Development, LLC, who is the exchange wagering management agent, has expressed an intention to seek a new services agent to reopen the New Jersey exchange.

Executive Director Nason explained that the exchange wagering rules at N.J.A.C. 13:74C expired on April 20, 2022. If the Notice of Proposal is approved, the Commission would then begin the rulemaking process by publishing the re-proposal of these rules in the New Jersey Register for public comment.

CONSIDER RATIFICATION OF A SERVICES AGREEMENT BETWEEN THE HORSERACING INTEGRITY AND SAFETY AUTHORITY AND THE NEW JERSEY RACING COMMISSION

Executive Director Nason reminded the Commissioner that in 2022, Commission staff negotiated a services agreement with HISA which the Commissioners ratified at the July 20, 2022 public meeting. By its terms, the agreement expired on December 31, 2022.

She stated that Commission staff have negotiated an extension of the agreement through December 31, 2023 and the extended agreement is before the Commissioners for ratification or rejection.

In the agreement, the Commission agrees to provide the services of its regulatory veterinarians, who will continue to perform the services they performed at Monmouth Park in June 2022 and thereafter and to undertake reasonable efforts to carry out the duties and responsibilities of the Regulatory Veterinarian/Lead Veterinarian in HISA's racetrack safety rules. The Commission also agrees to provide the services of its stewards to enforce HISA's racetrack safety rules, conduct hearings for violations that occur in New Jersey and perform other specified duties.

In return, HISA agrees to compensate the Commission for the actual cost and expenses incurred by the NJRC in providing the services performed by its veterinarians and stewards. HISA also agrees to indemnify the Commission and its employees from claims, loss, liability and costs connected with the services provided.

Executive Director Nason reiterated that the agreement requires ratification or rejection by the Commission. Staff recommend ratification of the agreement.

Commissioner Arnone made the motion to ratify the agreement. Commissioner Tomaro seconded the motion and all Commissioners voted yes.

ITEMS FOR DISCUSSION AND INFORMATION

Executive Director Nason acknowledged receipt of the Standardbred Breeders and Owners Association of New Jersey, Inc. audited financial statements for the year ended December 31, 2022.

The Executive Director acknowledged receipt of the Thoroughbred Horsemen's Association combined financial statements for the years ended December 31, 2021 and December 31, 2020.

The Executive Director advised that copies were available of the breakdown of New Jersey wagering on Kentucky Derby day, May 6, 2023.

Executive Director Nason advised that the next scheduled Commission meeting is July 19, 2023, which will also be at Monmouth Park.

Finally, the Executive Director asked if anyone would like to comment or bring new business to the Commission's attention. No one commented or raised new business.

Commissioner Keegan moved that the meeting be adjourned. Commissioner Tomaro seconded the motion and all of the Commissioners voted yes.

ATTEST:



Judith A. Nason, Executive Director