

**NEW JERSEY RACING COMMISSION
WEDNESDAY, NOVEMBER 16, 2022
NEW JERSEY RACING COMMISSION OFFICE
140 EAST FRONT ST, 8TH FLOOR
TRENTON, NEW JERSEY**

A meeting of the New Jersey Racing Commission ("NJRC" or "Commission") was held on Wednesday, November 16, 2022 at the NJRC's Trenton office located at 140 East Front Street in Trenton, New Jersey.

The following were present:

Pamela J. Clyne, Chairman
Michael J. Arnone, D.D.S., Commissioner (by phone)
Lawrence DeMarzo, Commissioner
Francis X. Keegan, Jr., Commissioner
Charles E. Tomaro, Commissioner
Judith A. Nason, Executive Director
Jeffry Nielsen, Esq., Associate Counsel, Governor's Authorities Unit
Sara Ben-David, Counsel to the Attorney General (by phone)
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 grant of 2023 standardbred permits to conduct racing at New Meadowlands Racetrack ("NMR") and Freehold Raceway; the grant of 2023 thoroughbred permits to conduct racing at Monmouth Park and the Meadowlands (including the special steeplechase permit for racing at Moorland Farm); and the allocation of race dates to the permit holders.
2. Legal advice concerning the distribution of the Casino Simulcasting Special Fund ("CSSF") monies (accumulated in 2021) totaling \$209,253.71.

3. Legal advice concerning the filing of a request with the Horseracing Integrity and Safety Authority (“HISA”), pursuant to 15 U.S.C. §3055(f), to exempt thoroughbred horses from the prohibition of furosemide.
4. Legal advice concerning the request of the permit holders and former permit holder for a one-year extension of N.J.A.C. 13:74-2.4 (OTW Progress Benchmarks) for 2022.
5. Legal advice concerning the settlement agreement in Michael Russo v. NJRC, OAL Docket No. RAC 03721-2021S.
6. Legal advice concerning the settlement agreement in Donald Maiorano v. NJRC, OAL Docket No. RAC 03729-2021S.
7. Legal advice concerning the settlement agreement in Bruce Saunders v. NJRC, OAL Docket No. RAC 05784-2022N.
8. 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 Keegan motioned to adjourn into Executive Session. Commissioner Tomaro seconded the motion. All of the Commissioners voted to affirm. The Commission then adjourned to Executive Session.

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

CONSIDER APPROVAL OF THE EXECUTIVE AND PUBLIC SESSION MINUTES OF THE SEPTEMBER 21, 2022 COMMISSION MEETING.

Commissioner Arnone made a motion to approve the executive and public session minutes of the September 21, 2022 Commission meeting. Commissioner Keegan seconded the motion and all of the Commissioners voted yes.

CONSIDER RATIFICATION OF THE CANCELLATION OF THOROUGHBRED RACING AT THE MEADOWLANDS ON OCTOBER 1, 2022 DUE TO TROPICAL STORM IAN.

Executive Director Nason explained that on September 30, 2022, John Heims, Director of Racing at Monmouth Park, contacted the Commission seeking approval for the cancellation of racing on October 1st at the Meadowlands Racetrack due to Tropical Storm Ian because the forecast called for heavy rain and high winds, which could cause unsafe racing conditions for the thoroughbreds on the turf course. The Executive Director noted that staff approved the cancellation of racing subject to the Commission's ratification at today's meeting.

Chairman Clyne made a motion to ratify the cancellation of racing. Commissioner Keegan seconded the motion and all of the Commissioners voted yes.

CONSIDER THE GRANT OF 2023 STANDARDBRED PERMITS TO CONDUCT RACING AT NEW MEADOWLANDS RACETRACK AND FREEHOLD RACEWAY; THE GRANT OF 2023 THOROUGHBRED PERMITS TO CONDUCT RACING AT MONMOUTH PARK AND THE MEADOWLANDS (INCLUDING THE SPECIAL STEEPLECHASE PERMIT FOR RACING AT MOORLAND FARM); AND THE ALLOCATION OF RACE DATES TO THE PERMIT HOLDERS.

Executive Director Nason stated that the New Jersey Thoroughbred Horsemen's Association ("NJTHA"), NMR, LLC and FR Park Racing, LP have all applied to renew their racing permits for calendar year 2023 and each has filed its request for race dates. She noted that copies of the proposed calendars are available. Executive Director Nason explained that the NJTHA has applied to renew its three permits and has requested a total of 62 thoroughbred race dates. She stated that the NJTHA proposes to race 51 days at Monmouth Park starting on May 13th and ending September 10th; 10 days at the Meadowlands starting September 15th and ending October 14th (Turf only); and 1 day at Moorland Farm on October 21st (pursuant to the special steeplechase permit).

Executive Director Nason pointed out that this is a decrease of 10 days over the race dates requested for 2022. She noted that the NJTHA submitted its written consent to the thoroughbred date request.

Executive Director Nason explained that on October 25, 2022, the Commission, pursuant to N.J.S.A. 5:5-38.2, provided the required notice to the Borough of Far Hills and Bedminster Township regarding the steeplechase meet. She pointed out that the statute grants them 30 days to object. As a result, the Commission cannot act on the special steeplechase permit application at today's meeting and advised the Commission to table action on the special steeplechase permit application until the Commission's next meeting in January.

Executive Director Nason explained that NMR has applied to renew its harness permit and has requested 90 standardbred race dates. She stated that NMR proposes to race 64 days starting on January 6th and ending on August 5th and 26 days starting on September 1st and ending on December 30th.

Executive Director Nason noted that NMR requested the same number of race dates as 2022. The Standardbred Breeders and Owners Association of New Jersey ("SBOANJ") has submitted its written consent to these race dates.

Executive Director Nason explained that FR Park Racing, LP has applied to renew its two harness permits and has requested 85 days. FR Park Racing, LP proposes to race 42 days starting on January 6th and ending on May 27th and 43 days starting on August 25th and ending on December 30th.

Executive Director Nason pointed out that this is the same number of days as requested for 2022 and indicated that the SBOANJ has submitted its written consent to these race dates.

The Executive Director announced that the Commission was opening the meeting to the public to accept comments or questions regarding the requested race dates. No comments or questions were asked by the public.

Executive Director Nason explained that in considering the allocation of race dates, the Commission must consider the four public interest factors set forth in N.J.S.A. 5:5-44 which are: 1) protect the State's revenue; 2) provide for the continuity of year-round racing to promote the racing industry and the employment which it provides; 3) provide recreational opportunities for residents; and 4) maintain and improve the State's competitive position with regard to neighboring racing states.

The Executive Director asked if there is a motion to table action regarding the special steeplechase permit for the Far Hills Steeplechase Meet.

Commissioner Keegan made a motion to table action regarding the special steeplechase permit. Commissioner Tomaro seconded the motion and all of the Commissioners voted yes.

The Executive Director asked if there is a motion to renew all of the permits for 2023 and allocate the race dates requested by Monmouth Park, the Meadowlands (thoroughbred), NMR and Freehold Raceway.

Commissioner Tomaro made a motion to motion to renew all of the permits for 2023 and allocate the race dates requested by Monmouth Park, the Meadowlands (thoroughbred), NMR and Freehold Raceway. Commissioner Keegan seconded the motion and all of the Commissioners voted yes.

CONSIDER APPROVAL OF FREEHOLD RACEWAY'S OFFICIALS, POOLS, POST-TIME, PRICES AND WAGERING FORMAT FOR THE 2023 WINTER/SPRING MEET.

Executive Director Nason stated that the Commission is being asked to approve the racing and wagering format for the standardbred dates allocated to Freehold Raceway. She explained that the winter/spring meet will begin on January 6th and continue through May 27th. First-race post-time will be 12:30 pm. She stated that live racing will take place on Friday and Saturday. Executive Director Nason pointed out that the department heads and wagering format remain the same as those the Commission approved for the 2022 summer/fall meet which is currently taking place at Freehold Raceway.

Commissioner Keegan motioned to approve Freehold Raceway's racing and wagering format for the 2023 winter/spring meet. Chairman Clyne seconded the motion and all of the Commissioners votes yes.

CONSIDER APPROVAL OF NEW MEADOWLANDS RACETRACK'S OFFICIALS, POOLS, POST-TIME, PRICES AND WAGERING FORMAT FOR THE 2023 STANDARDBRED MEET.

Executive Direction Nason stated that the Commission is being asked to approve the racing and wagering format for the standardbred dates allocated to NMR. Executive Director Nason explained that the 2023 standardbred meet will begin on January 6th and continue through August 5th. She explained that the meet will then resume on September 1st and run through December 30th. First-race post-time will be 6:20 pm except for Hambletonian Day on August 5th, which will be 12:00 noon. Executive Director Nason stated that there will be two days of racing on Sunday, January 22nd and Sunday, January 29th. First-race post-time for these two Sundays will be 12:30 pm. She explained that there will be approximately 11 to 13 races on Fridays and Saturdays and 9 to 11 races on Sundays.

Executive Director Nason pointed out that the operating officials and wagering format remain the same as those the Commission approved for the meet, which is currently taking place at NMR with two exceptions. The position of Director of Operations, which has been eliminated, and Assistant Starter will be John DeSimone, Jr.

Commissioner Tomaro motioned to approve the race and wagering format for NMR's 2023 standardbred meet. Commissioner Keegan seconded the motion and all of the Commissioners voted yes.

CONSIDER THE RENEWAL OF LICENSES FOR 2023 FOR THE OFF-TRACK WAGERING FACILITIES ("OTWS") LOCATED IN TOMS RIVER, WOODBRIDGE, BAYONNE, GLOUCESTER TOWNSHIP, HILLSBOROUGH AND EGG HARBOR TOWNSHIP.

Executive Director Nason reported that the Commission received timely applications from the NJTHA, ACRA Turf Club, LLC, Freehold Raceway Off-Track and NMR, LLC to renew their respective off-track wagering licenses for each of the six OTWs for calendar year 2023. She explained that staff reviewed the applications and determined them to be complete and in compliance with N.J.A.C. 13:74-2.3. She stated that each of the licensees remain in good standing with the Commission and that each permit holder is in compliance with the required, minimum number of race dates, which is a condition for renewal of the OTW licenses.

Executive Director Nason explained that draft orders with proposed conditions were provided to the Commissioners and explained that one condition is that any decision to renew the off-track wagering licenses shall be subject to the review and approval of the Attorney General. She noted that staff recommend the renewal of the OTW licenses.

Commissioner Tomaro made a motion that the Commission approve the renewal of each of the off-track wagering licenses and authorize the Executive Director to issue the orders renewing the licenses on the Commission's behalf. Commissioner Keegan seconded the motion and all of the Commissioners voted yes.

CONSIDER THE RENEWAL OF THE ACCOUNT WAGERING LICENSE FOR 2023.

Executive Director Nason reported that the New Jersey Sports and Exposition Authority filed a timely application to renew the account wagering license for calendar year 2023. She explained that staff reviewed the application and determined it to be complete and in compliance with the requirements of N.J.A.C. 13:74-3.2. She stated that the Authority remains in good standing with the Commission. She stated that Darby Development, LLC will continue to manage the account wagering system and TVG Network will continue to provide the platform services. Global Tote, LLC, which was formerly known as Sportech Racing, LLC, will continue to provide the totalizator services for the account wagering system. Executive Director Nason noted that each permit holder is in compliance with the required, minimum number of race dates, which is a condition for renewal of the account wagering licenses.

The Executive Director indicated that a draft Final Determination and Order with proposed conditions was provided to the Commissioners. One condition is that any decision to renew the account wagering license shall be subject to the review and approval of the Attorney General. She noted that staff recommend the renewal of the account wagering license for calendar year 2023.

Commissioner Tomaro moved that the Commission approve the renewal of the account wagering license for calendar year 2023 and authorize the Executive Director to issue the final determination and order on the Commission's behalf. Chairman Clyne seconded the motion and all of the Commissioners voted yes.

CONSIDER APPROVAL OF THE NEW JERSEY PERMIT HOLDERS' REQUESTS TO CONDUCT SENDING AND RECEIVING, INTRA AND INTERSTATE SIMULCASTING WITH RACETRACKS, OTWS AND THE ACCOUNT WAGERING SYSTEM IN 2023 AND TO CONDUCT COMMON POOL AND SEPARATE POOL PARIMUTUEL WAGERING THEREUPON.

Executive Director Nason stated that the permit holders and account wagering licensee submitted requests to participate in intra and interstate simulcasting, both sending and receiving, for calendar year 2023. She explained that the requests seek approval to conduct common and separate pool wagering on the simulcasts and simulcasting approval for the off-track wagering facilities and account wagering system. She further explained that the requests also seek the Commission's consent to the interstate pari-mutuel wagers pursuant to the Interstate Horseracing Act ("IHA"). She stated that staff recommend approval subject to the conditions in Schedules E, F and G.

Commissioner Keegan made a motion to consent to the interstate pari-mutuel wagers, approve the requests to conduct intra and interstate simulcasting and allow pari-mutuel wagering on the signals subject to the conditions in Schedules E, F and G. Chairman Clyne seconded the motion and all of the Commissioners voted yes.

CONSIDER APPROVAL OF THE REQUEST OF THE BORGATA HOTEL, CASINO AND SPA ("BORGATA") TO ACCEPT INTRA AND INTERSTATE SIMULCASTING FROM APPROVED RACETRACKS AND TO CONDUCT INTRA AND INTERSTATE COMMON POOL AND SEPARATE POOL PARIMUTUEL WAGERING IN 2023.

Executive Director Nason stated that the Borgata is seeking approval to receive intra simulcasts from the New Jersey racetracks, to receive interstate simulcasts and to conduct pari-mutuel wagering upon those simulcast signals in calendar year 2023. She explained that the Commission would need to consent to the interstate wagers pursuant to the IHA. She indicated that each permit holder is in compliance with the required, minimum number of race dates, which is a condition for participation in casino simulcasting. The Executive Director stated that staff recommend that the Commission approve the intra and interstate simulcasting and pari-mutuel wagering subject to compliance with the conditions in Schedules B and C.

Chairman Clyne made a motion that the Commission consent to the interstate wagers and approve the request of the Borgata subject to the conditions in Schedules B and C. Commissioner Keegan seconded the motion and all of the Commissioners voted yes.

CONSIDER MONMOUTH PARK'S REQUEST FOR NEW JERSEY RACING COMMISSION CONSENT TO THE ACCEPTANCE OF FIXED ODDS WAGERS ON OUT-OF-STATE RACES IN 2023 AS REQUIRED BY THE INTERSTATE HORSERACING ACT.

Executive Director Nason explained that on October 27, 2022, Monmouth Park filed a request to obtain NJRC consent to fixed odds wagers in 2023 for the list of racetracks included in the Commissioners meeting packet. She stated that Vice President Bill Knauf explained that all contracts authorizing fixed odds wagering will be filed with the Division of Gaming Enforcement ("DGE"), which regulates fixed odds wagering, and the NJRC. She further explained that Mr. Knauf also indicated that Monmouth Park and Betmakers will also obtain all necessary consents required by the Interstate Horseracing Act. She pointed out that fixed odds wagers will be offered at Monmouth Park and through Monmouthbets.com, the online fixed odds wagering platform.

Executive Director Nason explained that the IHA requires racing commission consent to interstate wagers placed on horse races. The IHA requires the consent of the host racing commission in the state where the race is conducted and the off-track racing commission in the state where the wager is accepted. She explained that the NJRC, as the off-track racing commission, would have to consent to the acceptance of fixed odds wagers in New Jersey on races conducted in another state.

Commissioner Tomaro made a motion to consent to the acceptance of fixed odds wagers on out-of-state races as required by the IHA. Chairman Clyne seconded the motion and all of the Commissioners voted yes.

CONSIDER APPROVAL OF GLOBAL TOTE US, LLC TO CONTINUE TO PROVIDE TOTALISATOR SERVICES AND ACT AS THE HUB FACILITY AT THE MOUNT LAUREL DATA CENTER IN 2023 FOR RACETRACKS, THE OTWS, THE BORGATA AND THE NEW JERSEY ACCOUNT WAGERING SYSTEM.

Executive Director Nason explained that Global Tote US, LLC operates the Quantum Data Center in Mount Laurel, NJ where it acts as the hub facility and provides totalizator services for the racetracks, OTWs, the Borgata and the New Jersey account wagering system. She indicated that Global Tote continues to be in good standing with the Commission. She stated that staff recommends approval subject to compliance with the conditions in Schedule D.

Chairman Clyne made a motion to approve Global Tote US, LLC to continue to provide totalizator services and act as the hub facility in 2023 subject to the conditions in Schedule D. Commissioner Keegan seconded the motion and all of the Commissioners voted yes.

CONSIDER THE REQUEST OF THE RACETRACK PERMIT HOLDERS, THE OTWS, THE BORGATA AND THE NEW JERSEY ACCOUNT WAGERING SYSTEM TO CONDUCT ADVANCE WAGERING (FULL OR PARTIAL CARD) ON CERTAIN DESIGNATED RACES OF NATIONAL INTEREST IN 2023.

Executive Director Nason explained that the racetracks, OTWs, account wagering system and the Borgata have sought approval to conduct advance wagering, full or partial card, on certain designated races of national interest in 2023. She indicated that the list of these races have been provided to the Commissioners and explained that staff recommend approval subject to two conditions:

- 1) No advance wagering shall commence until the program information has been received from the host track and is approved by the Supervisor of Mutuels; and
- 2) All wagering shall be in compliance with the common pool procedures and rules of this Commission.

Commissioner Keegan made a motion to approve the requests to conduct advance wagering on the designated races of national interest in 2023 subject to the two conditions recommended by staff. Chairman Clyne seconded the motion and all of the Commissioners voted yes.

CONSIDER THE REQUEST OF THE RACETRACK PERMIT HOLDERS, THE OTWS, THE BORGATA AND THE NEW JERSEY ACCOUNT WAGERING SYSTEM TO OFFER CERTAIN DESIGNATED SPECIAL WAGERS OF NATIONAL INTEREST AND TO CONDUCT ADVANCE WAGERING IN 2023.

Executive Director Nason explained that the racetracks, OTWs, account wagering system and the Borgata have sought the Commission's approval to offer and conduct advanced wagering on special wagers of national interest in 2023. She indicated that the special wagers have been provided to the Commissioners and explained that staff recommend approval subject to compliance with the conditions in Schedule F and H.

Executive Director Nason asked if there was a motion to approve the special wagers of national interest subject to the conditions in Schedule F and H.

Commissioner Tomaro moved that the Commission approve the request to offer special wagers of national interest and to conduct advance wagering on those wagers subject to the conditions set forth in Scheduled F and H. Commissioner Keegan seconded the motion and all of the Commissioners voted yes.

Executive Director Nason asked if there was a motion to authorize the Executive Director to consider and approve future requests in calendar year 2023 subject to the conditions in Schedule F and H.

Commissioner Keegan made a motion that the Commission authorize the Executive Director to consider and approve, in calendar year 2023, any future requests to offer special wagers of national interest and to conduct advance wagering upon them subject to the conditions in Scheduled F and H. Chairman Clyne seconded the motion and all of the Commissioners voted yes.

CONSIDER THE DISTRIBUTION OF THE CASINO SIMULCASTING SPECIAL FUND MONIES (ACCUMULATED IN 2021) TOTALING \$209,253.71.

The Executive Director explained that at the September 21, 2022 meeting, the Commission closed the record and appointed Chairman Clyne, Commissioner Keegan and Commissioner Tomaro to the CSSF committee to consider the requests and report back with their recommendations for the distribution of these monies. She stated that the committee met on October 20, 2022, to discuss the submission from the permitholders and the horsemen's associations.

Executive Director Nason then summarized the committee's findings and recommendations. She reported that each of the racetracks requested monies pursuant to N.J.S.A. 5:12-205(d)(1) and N.J.S.A. 5:12-205(d)(2). She stated that Monmouth Park requested "the most significant share of available CSSF monies." Freehold Raceway requested "a reasonable portion of available funds." NMR requested "an appropriate portion" of the monies. Executive Director Nason explained that the committee considered category N.J.S.A. 5:12-205(d)(1) (a racetrack can demonstrate that its "financial well-being has been negatively affected by casino simulcasting") and also considered N.J.S.A. 5:12-205(d)(2) (the Commission finds the racetrack "to be financially distressed"). She pointed out that the committee found that all three racetracks should qualify under both N.J.S.A. 5:12-205(d)(1) and N.J.S.A. 5:12-205(d)(2).

The Executive Director explained that regarding N.J.S.A. 5:12-205 (d)(1), based upon the racetrack's submissions, the committee recommends that the Commission find that each racetrack has demonstrated that its financial well-being has been negatively affected by casino simulcasting. She further explained that in considering the submissions of the racetracks, the committee did not agree with Monmouth Park's assertion that it was more negatively affected by casino simulcasting than the other two racetracks. The committee found that Monmouth Park did not submit data in support of that assertion.

Executive Director Nason explained that regarding N.J.S.A. 5:12-205(d)(2), the committee recommends that the Commission find that each racetrack has demonstrated that it is financially distressed. In reaching its finding, the committee considered that Freehold Raceway reported a net loss of \$5.3 million from track operations. Although the NMR saw a combined net income of \$4,691,000 in 2021, its racing operations lost \$4,395,000, excluding sport wagering, which has decreased since New York began online sports wagering. Monmouth Park reported that racing operations experienced a loss of approximately \$3.3 million in 2021 and noted continuing debt obligations to the Sports and Exposition Authority that exceed \$9 million through 2024.

Executive Director Nason reported that as a result, the committee recommends that the Commission determine that all three racetracks qualify to receive CSSF monies pursuant to N.J.S.A. 5:12-205(d)(1) and N.J.S.A. 5:12-205(d)(2). She explained that the committee recommends, based upon what the Commission has done in prior years, that 80% (\$167,402.97) of the CSSF monies be distributed equally among the three racetracks. She explained that 80% of the CSSF monies would result in \$55,800.99 being distributed to each of the three racetracks.

The Executive Director explained that the committee then considered the next priority category. N.J.S.A. 5:12-205(d)(3) (horsemen's organization which will use the money to fund a project that the Commission determines will be "beneficial to the racing industry"). She explained in its submission, the SBOANJ requested "a fair distribution" of the remaining funds, which will be used for the Health and Welfare Trust and to support the Backstretch Community Assistance Program. She stated that the SBOANJ indicates that it would be willing to distribute approximately 12% of the funds it receives to the Standardbred Retirement Foundation and approximately 3% to Horse Rescue United. She explained that the NJTHA requested 5% of the CSSF monies, which will be used for health programs that include dental, prescription and eyeglasses as well as sponsoring a weekly health clinic. In addition, the Thoroughbred Breeders' Association of New Jersey ("TBA") requested \$41,850.00 that it will use for the distribution of its 2022 New Jersey-bred incentive program.

Executive Director Nason explained that the committee found, and recommends that the Commission find, that all three horsemen's organizations have identified projects that are beneficial to the horse racing industry. She explained that the committee recommends that the remaining 20% (\$41,850.74) of the CSSF monies be divided equally by breed. She stated that this distribution is consistent with what the Commission has done in prior years.

Executive Director Nason explained that the committee recommends that the Commission distribute \$20,925.37 to the SBOANJ; \$10,462.69 to the THA; and \$10,462.68 to the TBA. The committee recommends that the NJTHA receive the extra penny this year. She explained that the committee recommends that the Commission determine that the SBOANJ shall use \$17,786.56 for the health benefit program, \$2,511.04 for the Standardbred Retirement Fund and \$627.77 for Horse Rescue United. The Executive Director explained that the committee recommends that the Commission direct that the monies distributed to the NJTHA shall be used to fund the health, dental, prescription and eyeglass benefit programs identified in the THA's submission and direct that the monies distributed to the TBA shall be used for its 2022 New Jersey-bred incentive program.

Executive Director Nason stated if the Commission agrees with these recommendations, no monies would remain for distribution pursuant N.J.S.A. 5:12-205(d)(4), the last category, which is all racetracks on an equal basis.

Executive Director Nason then asked Chairman Clyne, Commissioner Keegan and Commissioner Tomaro if she accurately summarized the committee's determinations, findings and recommendations. Chairman Clyne, Commissioner Keegan and Commissioner Tomaro concurred that the Executive Director accurately summarized the committee's determinations, findings and recommendations.

Commissioner DeMarzo made a motion to adopt the findings of the CSSF committee and to distribute the CSSF monies accumulated in 2021 as recommended by the committee. Commissioner Keegan seconded the motion and all of the Commissioners voted yes.

Executive Director Nason thanked Commissioner Tomaro for serving on the CSSF committee. She also thanked Deputy Director John Tomasello for overseeing the CSSF process to ensure timely requests are filed and circulated and for working with the committee to record the Commissioners' findings and recommendations.

CONSIDER APPROVAL OF THE 2023 BACKSTRETCH ADVISORY COMMITTEE BUDGET.

Executive Director Nason explained that N.J.S.A. 5:5-44.8 creates a Backstretch Benevolency Programs Fund, which is funded by designated charity race days and monetary penalties imposed by the Commission for statutory and regulatory violations. In addition, the NJTHA and SBOANJ both provide financial assistance to the program, which is used to promote the health, safety and welfare of backstretch employees.

She explained that the Backstretch Advisory Committee met by telephone on November 3, 2022, and voted to approve a 2023 budget for submission to the Commission. The proposed budget is \$197,225, which remains unchanged from the budget the Commission approved last year.

The Executive Director explained that the Backstretch Benevolency Program provides extremely worthwhile programs and services to backstretch employees, which include counseling, health clinics, screenings and educational programs. In 2022, the program hosted 23 full medical clinics, 9 mobile health screenings, and 5 clinics for flu shots and/or COVID-19 vaccines or boosters.

The Executive Director explained that staff recommend approval of the 2023 budget totaling \$197,225 and recommend equal quarterly payments of \$49,306.25 be made starting on or about January 1, 2023.

Commissioner Tomaro made a motion to approve the budget with equal quarterly payments starting on or about January 1, 2023. Commissioner Keegan seconded the motion and all of the Commissioners voted yes.

CONSIDER THE FILING OF A REQUEST WITH THE HORSERACING INTEGRITY AND SAFETY AUTHORITY, PURSUANT TO 15 U.S.C. §3055(F), TO EXEMPT THOROUGHBRED HORSES FROM THE PROHIBITION OF FUROSEMIDE.

Executive Director Nason explained that starting on January 1, 2023, the Horseracing Integrity and Safety Act, 15 U.S.C. §3055(d) (the “Act”), prohibits the administration of any prohibited or otherwise permitted substance to a covered horse within 48 hours of its next racing start. This prohibition includes the use of furosemide, which is commonly known as Lasix.

Executive Director Nason explained that the Act allows State racing commissions to request a three-year exemption from the prohibition of furosemide as long as an exemption is not requested for two-year-old covered horses or covered horses competing in stakes races. She explained that during this three-year exemption period, the Act requires that HISA shall convene an advisory committee comprised of horseracing anti-doping and medication control industry experts to conduct a study on the use of furosemide on race horses and submit a report that includes recommended changes, if any, to the furosemide prohibition.

The Executive Director indicated that the Commission’s rules, at N.J.A.C. 13:70-14A.9, currently allow furosemide on race day. She explained that the Act’s prohibition of furosemide will preempt the Commission’s rule unless the NJRC requests an exemption.

Executive Director Nason informed the Commission that Dennis Drazin, CEO and Chairman of Darby Development, LLC, has requested, on behalf of the thoroughbred permit holder, that the NJRC file a request for an exemption.

She explained that it is anticipated that most, if not all, State racing commissions will request an exemption from the furosemide prohibition. The Executive Director noted that so far, the racing commissions that have reportedly decided to request an exemption from the furosemide prohibition include those located in Kentucky, New York, California, Pennsylvania and New Mexico.

The Executive Director informed the Commission that the American Association of Equine Practitioners and the North American Association of Racetrack Veterinarians have both stated support for the use of furosemide as being a necessary treatment for Exercise-Induced Pulmonary Hemorrhage (“EIPH”) in racehorses.

Executive Director Nason noted that staff recommend that the Commission request the exemption from the prohibition of furosemide.

Commissioner Keegan made a motion to approve a request for a three-year exemption from the prohibition of furosemide starting at the beginning of Monmouth Park’s 2023 meet. Chairman Clyne seconded the motion. The Commissioners voted yes with the exception of Commissioner DeMarzo who abstained.

CONSIDER THE REQUEST OF THE PERMIT HOLDERS AND FORMER PERMIT HOLDER FOR A ONE-YEAR EXTENSION OF N.J.A.C. 13:74-2.4 (OTW PROGRESS BENCHMARKS) FOR 2022.

Executive Director Nason explained that the statute N.J.S.A. 5:5-130 requires that the permit holders make progress on an annual basis in opening new off-track wagering facilities. The statute mandated that the Commission adopt rules setting forth progress benchmarks for each off-track wagering licensee to follow for the timely and expeditious establishment of each OTW.

She explained that, in response, the NJRC adopted N.J.A.C. 13:74-2.4. This rule requires that each permit holder and the former permit holder for Atlantic City Race Course must file an application with the Commission seeking an initial off-track wagering license to open a new OTW by December 31, 2022. She stated that the rule also requires each permit holder to demonstrate that the proposed OTW is in a suitable location, the permit holder has obtained an ownership or leasehold interest in the property and several other factors.

Executive Director Nason pointed out that N.J.A.C. 13:74-2.4(c) allows the permit holders to request a one-time, one-year extension of the requirements of the rule. Each permit holder and the former permit holder for Atlantic City Race Course has filed a request to use this extension for 2022. If the requests are granted, each permit holder must file an application to open a new OTW and meet the other requirements of the rule by December 31, 2023. She explained that no additional extensions are available to the permit holders.

Executive Director Nason stated staff recommend that the Commission grant the requests to utilize the one-time, one-year extension for 2022.

Chairman Clyne made a motion to grant the requests to use the one-year extension for 2022. Commissioner Keegan seconded the motion and all of the Commissioners voted yes.

CONSIDER THE SETTLEMENT AGREEMENT IN MICHAEL RUSSO V. NJRC, OAL DOCKET NO. RAC 03721-2021S.

Executive Director Nason explained that on November 14, 2020, the horse "Howmac Napoleon", trained by Michael Russo, finished second in the fourth race at Freehold Raceway. Post-race testing discovered the presence of dextrophan. She noted that split sample testing was not requested. She explained that the Board on Judges conducted a hearing on March 18, 2021 and imposed a 15-day suspension, \$500 fine, disqualified the horse and ordered loss of purse and 2 Multiple Medication Violation ("MMV") points for violation of N.J.A.C. 13:71-23.1, N.J.A.C. 13:71-23.6 and N.J.A.C. 13:71-23.7.

Executive Director Nason explained that the trainer appealed the decision and the matter was transmitted to the Office of Administrative Law ("OAL"). She indicated that the parties have negotiated a proposed settlement agreement. Pursuant to the proposed settlement, the trainer would serve a 10-day suspension, pay a \$500 fine, forfeit the purse money, accept ½ MMV point and withdraw the appeal. The trainer would have a record of violating N.J.A.C. 13:71-23.1,

N.J.A.C. 13:71-23.6 and N.J.A.C. 13:71-23.7. Executive Director Nason stated that staff recommend approval of the settlement agreement.

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

CONSIDER THE SETTLEMENT AGREEMENT IN DONALD MAIORANO V. NJRC, OAL DOCKET NO. RAC 03729-2021S.

Executive Director Nason explained that on November 13, 2020, the horse “Lakota”, trained by Donald Maiorano, finished second in the ninth race at Freehold Raceway. Post-race testing discovered the presence of dextroamphetamine. She noted that split sample testing was not requested. She explained that the Board on Judges conducted a hearing on March 18, 2021 and imposed a 15-day suspension, \$500 fine, disqualified the horse and ordered loss of purse and 2 MMV points for violation of N.J.A.C. 13:71-23.1, N.J.A.C. 13:71-23.6 and N.J.A.C. 13:71-23.7.

She explained that the trainer appealed the decision and the matter was transmitted to the OAL. The parties have negotiated a proposed settlement agreement. Pursuant to the proposed settlement, the trainer would serve a 10-day suspension, pay a \$500 fine, forfeit the purse money, accept ½ MMV point and withdraw the appeal. The trainer would have a record of violating N.J.A.C. 13:71-23.1, N.J.A.C. 13:71-23.6 and N.J.A.C. 13:71-23.7. Executive Director Nason indicated that staff recommend approval of the settlement agreement.

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

CONSIDER THE SETTLEMENT AGREEMENT IN BRUCE SAUNDERS V. NJRC, OAL DOCKET NO. RAC 05784-2022N.

Executive Director Nason explained that on April 1, 2022, the horse “Rable”, trained by Bruce Saunders, finished third in the eleventh race at NMR. Post-race testing discovered the presence of naproxen. She noted that split sample testing was not requested. She explained that the Board on Judges conducted a hearing on June 2, 2022 and imposed a 15-day suspension, \$500 fine, disqualified the horse and ordered loss of purse and ½ Multiple Medication Violation (“MMV”) points for violation of N.J.A.C. 13:71-23.1, N.J.A.C. 13:71-23.6, N.J.A.C. 13:71-23.7 and N.J.A.C. 13:71-23.8.

The Executive Director stated that the trainer appealed the decision and the matter was transmitted to the OAL. She indicated that the parties have negotiated a proposed settlement agreement. Pursuant to the proposed settlement, the trainer would serve a 10-day suspension, pay a \$1,000 fine, forfeit the purse money, accept ½ MMV point and withdraw the appeal. The trainer would have a record of violating N.J.A.C. 13:71-23.1, N.J.A.C. 13:71-23.6, N.J.A.C. 13:71-23.7 and N.J.A.C. 13:71-23.8. Executive Director Nason indicated that staff recommend approval of the settlement agreement.

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

AGENDA ITEMS FOR DISCUSSION AND INFORMATION

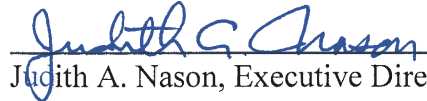
Executive Director Nason indicated Part A of the formal agenda had been concluded and stated Part B contains items for discussion or information.

The Executive Director announced that the list of the 2023 Commission meeting dates are available. The Commission will meet on January 25th, March 22nd, May 24th, July 19th, September 20th and November 15th. The Executive Director acknowledged the availability of the breakdown of New Jersey wagering on the Far Hills Steeplechase Meet on October 15th and the Breeders' Cup at Keeneland on November 4th and 5th.

The Executive Director asked if anyone would like to comment or bring new business to the Commission's attention. Hearing none, the Executive Director thanked everyone for attending the meeting and asked if there was a motion to adjourn.

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

ATTEST:



Judith A. Nason, Executive Director