State of New Jersey
COMMISSION OF INVESTIGATION
28 WEST STATE STREET
CN 045
TRENTON, N.J. 08625
(609) 292-6767

NOTICE
October 7, 1986

With the attached letter (and recommendations), the SCI concludes its inquiry into the regulation of horse racing in New Jersey. The letter notes the many regulatory improvements the New Jersey Racing Commission both achieved and tried to achieve during the course of the SCI investigation and lists remaining areas of reform that the Racing Commission is urged to address.

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New Jersey Racing Commission
Hughes Justice Complex
Trenton, New Jersey 08625

Dear Commissioners:

The State Commission of Investigation (SCI) began its inquiry into horse racing in 1983 at the request of the Attorney General's office. Thereafter several hundred individuals from all areas of the industry were questioned in the field and at private hearings at the SCI. More than 300 exhibits were compiled. Among some 80 witnesses who testified under oath during 1984 and 1985 were the members of your Commission who were in office during that time and key administrative officials.

Your Commission cooperated fully with the SCI's inquiry. Similarly, the SCI's investigative staff—seeking the fullest assessment possible of racing conditions—was also candid in its review of problems, and possible solutions, during executive session interviews. (A number of these problems had remained unresolved since they were cited in two separate studies in 1977). Such foreknowledge of the SCI's major concerns, we believe, led your staff to undertake extensive remedial action even as the investigation proceeded. As a result, your Commission has made important, if recent, progress in such areas of SCI investigative emphasis as horse and human drug controls, veterinarian activities, licensure, clocking, horse death reporting, State (rather than race track) appointments of stewards and other racing officials, among other regulatory reforms. In addition, the rejection by the Legislature of your efforts to obtain budget funds for fulfilling sensitive responsibilities in licensure, security and policing, and fiscal integrity, has been a matter of public record during the past few years. As with the reforms you have already set in motion, your funding proposals also reflected the SCI's investigative findings. Overall the Racing Commission's self-improvement activities have been sufficiently redemptive to permit this agency to conclude its formal investigation by means of this summary letter and recommendations.

The SCI is foregoing a formal report primarily because your Commission is confronted, due to circumstances beyond its control, with significant changes in New Jersey's racing industry that have complicated both the regulatory process and efforts to improve it. The Sports and Exposition Authority, following enactment of enabling legislation in 1984, purchased the Monmouth Park race track in 1985, leaving only three of New Jersey's five tracks privately owned. Garden State Park reopened in Cherry Hill in 1985 on the site of a disastrous race track fire—but the splendor of this new facility has been tarnished by deficits in its fiscal operation. (The tiny Freehold harness track, another fire victim, also was rebuilt and reopened). Simulcasting, restored to legality in 1985, was utilized as a potentially profitable sideline by the tracks even while its eventual impact, good or bad, remained questionable. And, in a move that might affect the regulatory efforts of your Commission, New Jersey's track operators in 1985 formed an independent Council of Horse Racing to promote common interests in racing matters. Meanwhile, a decline in race track attendance and betting handles (which is also being experienced in other states) became so pronounced that even

the customarily affluent Meadowland's racing operation suffered unprecedented profit cutbacks. Except for simulcasting revenues, Monmouth Park would have suffered a deficit and the Atlantic City Racing Association might have gone bankrupt.

Further, the Racing Commission itself was enlarged from four to seven members and several commissioners who had been in office during the SCI's inquiry are no longer sitting. Hence, a majority of the agency's expanded membership will have had no responsibility for regulatory lapses on which the inquiry focused, including those which have undergone correction. The SCI believes that your expanded Commission should be given the opportunity of a fresh start toward extending the corrective programs already initiated and implementing such other reforms as will be suggested in this letter.

We strongly urge that you continue seeking appropriations to finance improvements necessary to preserve the integrity of the regulatory process. Copies of this letter are being submitted both to the Legislature and to appropriate executive branch officials with the hope that your requests for funds to complete a computerized licensing project and to more adequately carry out other fiscal and operational security and inspection programs will be reconsidered. A listing of some of the rejected budget requests suggests their importance in assuring the racing industry's public credibility. Your Commission, for example (in line for the most part with reform proposals the SCI had already reviewed with you or your executives), unsuccessfully sought funding for new inspector positions to assure the fiscal integrity of expanding simulcasting operations, as well as funding of a program to make mutuels supervisors and supporting accountants permanent State employees who would also conduct internal audits at the various tracks. Additional inspectors were also sought, in vain, for an expanded Horse Farm Inspection Section (after our probe revealed that your Commission could afford to hire only one inspector to investigate perhaps as many as 1,000 horse farms). Additional investigators were sought, also in vain, to accommodate the need for more detailed background checks of applicants for licensure. Funds to complete a computerized licensing project were refused—even though a staff of only four people has been burdened with the task of investigating upwards of 40,000 licenses and renewals annually. Further, the Legislature appropriately converted more than a score of sensitive racing jobs, such as stewards, judges, etc., from track employees to Racing Commission employees—but then refused a Commission request to fully implement that transition from private to State employment.

To such an extent did the Racing Commission press for improved procedures that many if not most of the more practical reforms proposed 10 years ago by the Attorney General's and the Legislature's investigative reports were—at long last—implemented during the period of the SCI probe. The record thus confirms that an acceptable attempt at self-improvement has been made. The SCI hopes that it will not take yet another decade to resolve remaining problems, as specified below, and alerts you at this point to our intention to maintain an active interest in your progress.*

Tighten Ethics Code

Your Commission, of course, should be just as concerned about the appearance of conflicts of interest as about actual conflicts. However, several issues arose during the SCI's inquiry that indicated otherwise.

One issue involved former Commissioner (and former Chairman) George J. Minish, even though he made it known to the Senate Judiciary Committee at the time of his appointment. Minish became secretary-treasurer of Garden State Standardbred Sales Co. (GSSS), a horse dealer, in 1978. He represented this company in obtaining a contract with the Sports Authority to hold horse auctions there and subsequently began receiving investment income from the company. When he

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*For easy reference, topics reviewed in this letter include—page 2 Tighten Ethics Code (Ban Wagering by Commissioners 3, Eliminate Free Passes 3), p. 3 Regulatory Timidity (Stable Gate Security Lapse 3, Can Tracks Be Audited 4), p. 5 Depoliticize The Mutuels Supervisory Process, p. 6 Horsemen's Funds Need Auditing, p. 7 Other Security Problems, p. 7 Horse Deaths, p. 8 Drugs (Drugs in Horses 9, Drugs in Humans 9), p. 10 Clocking Reforms, p. 10 Additional Licensing Proposals, p. 11 Future of Racing.

was appointed to the Racing Commission in 1980 he resigned as a GSSS officer and nominally transferred his shareholder interest to his wife. During his tenure on the Commission, Minish's law firm represented GSSS and he interceded for GSSS with officials of the Authority. He also reviewed the construction plans for Garden State Park that included an indoor pavilion in which GSSS hoped to auction horses. This topic was discussed at a corporate meeting which Minish attended. Minish did nothing illegal, since the Racing Commission does not license persons or entities conducting horse sales—although such track-located auction sales should be subject to licensure. Even if that action is not taken, the Commissioners' Code of Ethics should explicitly provide that any appearance of a possible conflict of interest is unacceptable.

Ban Wagering by Commissioners

The SCI also believes that the Commission should prohibit its members and executives from wagering at any time on horse races at the tracks it regulates. Former Executive Director Harold G. Handel told the SCI that most other states prohibit racing commissioners from wagering. Several Commissioners conceded to the SCI that they were uncomfortable about betting. One said his wife bets for him because "I just don't think it's right for me" to do so. It would be even more of an "appearance problem" were he to win a trifecta bet, he said, adding, "It would be a hell of a mess." The SCI urges that any prohibition against wagering by Commissioners and their staff should be extended to on-duty mutuel window tellers.

Eliminate Free Passes

Similarly, the unseemly practice of issuing hundreds of clubhouse passes to each racing commissioner to dispose of as he wishes should be discontinued. Several commissioners indicated they would favor such a ban because the burden of distributing free passes to relatives and friends, and friends of friends, was a "headache." According to testimony at the SCI, reports persist of clandestine selling of these passes by those who receive them from the Commissioners. Since such passes are issued according to law, a repealer should be enacted to eliminate a practice that is inappropriate at best and a possible threat to track security at worst.

Regulatory Timidity

One question raised by the SCI's inquiry concerns the Racing Commission's apparent timidity in exercizing its regulatory powers—particularly on certain issues that might intrude on the quasi-public racing domain of the Sports and Exposition Authority or into the corporate precincts of the three private tracks. It appeared from the testimony of some witnesses that progress in effecting certain fiscal and security reforms has been impeded by such irresolute governance. Although the Racing Commission's mixed pot of public-private oversight responsibilities no doubt has generated jurisdictional problems from time to time, there is little or no evidence that the Commission has aggressively tried to alleviate such problems. Indeed, although the Commission is assigned to the Law and Public Safety Department of State government for compelling reasons, it is not obvious to the SCI why the Commission fails to seek the opinion of the Attorney General more often on questions pertaining to its regulatory reach.

The SCI's inquiry also exposed other oversight deficiencies that seemed to result from the Commission's ambivalence as a regulator, including the fact that it must also act as an industry promoter. There were indications of timidity in the Commission's failure to aggressively seek legislative improvements—such as, to cite only one example, the State Police-verified need for a law making the possession at a race track of electrical devices, commonly known as "joints" or "prods," a criminal violation.

Stable Gate Security Lapse

The Commission's inability, to date, to force the Meadowlands and Cherry Hill tracks to eliminate a serious structural threat to internal security appears to be a prime example of a lack of regulatory vigor under the conditions cited above. In each case the Commission's administrative

(and licensing) office, a public premises, is inside a stable gate that is supposed to safeguard the track's "backside" where horses, jockeys, stable hands and the like are concentrated. As a result, anyone—including potential race fixers, drug carriers and other undesirables—can gain access to the stables on the pretext of applying for a license. The Commission's executives confirmed the existence of this security problem but testified that their requests to the Sports Authority and Garden State Park to relocate the gates or offices were in vain.

In the case of the Meadowlands facility, the Commission's efforts have been of several years duration but no confrontation has ever occurred, apparently because of a supposed jurisdictional question. This was pointed out by the Commission's former Executive Director Handel, who recalled pleading "repeatedly" for a relocation of either the office or the stable gate. Handel in his SCI testimony contended: "We have some limitations on our powers with the Sports Authority for the simple reason [that] their legislation prohibits other state agencies from telling them how to make repairs [and] changes in the physical plant, so we have to do that by negotiation. . ." One Commissioner made similar comments, observing that if a security problem represented other than a direct rule violation, and concerned the physical plant, "I don't think we do" have the authority to act.

Similar testimony came from other witnesses with respect to the security problems posed by the licensing office site at Garden State Park. The Commission, which reviewed and approved the reconstruction plans for Garden State, requested relocation of the licensing office but to no avail. Handel told the SCI the security threat was less at Cherry Hill than at the Authority's track and that be believes it would ultimately be resolved. On the overall topic he observed: "I think any security lapse that came to our attention, that we felt dissatisfied with, with the exception of certain things at the Sports Authority, we can compel a track to change." In the SCI's opinion, one way to "compel" any permit holder to obey the Commission's orders would be to move to revoke the permit, for cause, which is certainly within the Commission's regulatory sweep whether the track is public or private. The recommendation here is that your Commission forthwith enlist the Attorney General's assistance (even though he is an ex officio member of the Sports Authority's governing board) in forcing an elimination of these stable area security weaknesses at the Meadowlands and Cherry Hill tracks.

Can Tracks Be Audited?

Testimony also indicated that the Commission was uncertain about its power to audit the fiscal operations of permit holders. Considering the favorable tax treatment granted to the tracks (at considerable cost to State racing revenues) and laws requiring the Commission to rely on the tracks to assume more than a million dollars of its annual budget, the SCI believes that the Commission should require an intensive annual audit of each track's fiscal operations. It seems to be a matter of common sense that the Commission should possess sufficient data by which it can assess any reluctance by a permit holder to respond to regulatory directives because of an assumed cost hardship. Your Commission should be able to determine, for example, if any such hardship is a fact and, if so, whether mismanagement is a cause. Yet, contrary to the SCI's view, the theme persists that the Commission's power to audit the books of a track are limited by law. Indeed, former Executive Director Handel testified that such a fiscal review seemed to be "arguable":

Q. If the State of New Jersey is reducing its share or has been reducing the share of its take-out [from] the tracks, isn't it incumbent upon the State to review the tracks' finances? I mean a detailed review?

A. That's an arguable point. The decision each year to grant relief, remember, is a legislative decision. . . The horsemen and race tracks were able to convince the legislature rightly or wrongly that it's necessary. Now, [racing] should no longer be looked at as an industry that provides revenue but as a major employment industry in the state, and green acres, and that seems to be an issue the Legislature believes in.

Commissioner William E. Marfuggi, recently resigned, testified that a certified audit provided by a track should be a sufficient representation of its finances but that "if there's a question, about it, perhaps there should be someone from the Treasurer's office to go in." Another Commissioner, present Chairman Stuart O. Goldsmith, indicated he felt tracks could not be subjected to outside audits except "for cause." But Commissioner Eugene Jacobson was more explicit about his perception of the Commission's apparent regulatory limitations:

> . . . we do not have the authority to audit for operational factors. We have a right to look into the—get their statements, accept their statements, but I do not recall . . . whether we have the authority. I think we can hire somebody if we are suspicious of some particular thing, which involves racing. I don't think it can be done on the fact that it's a private industry, whether we can go in there and audit to see whether they are using the money for other things other than the race track. I don't think we have the authority to do that.

Jacobson added that, while he felt the Commission's regulatory authority needed reenforcing on a number of respects, he was uncertain whether it should have the power to audit track finances. However, he added that "if we had the authority," such audits should be conducted by independent "outside" accountants employed by the Commission. The SCI agrees.

Depoliticize the Mutuels Supervisory Process

As noted previously, the Racing Commission requested—in vain—budget funds with which to convert the track-based employees of the politically appointed Supervisor of Mutuels to State employees (in addition to additional inspector-verifiers to monitor the simulcasting betting handles). However, much more drastic steps need to be taken to eliminate the potential for conflicts of interest and inefficiency generated by second-hand oversight of the pari-mutuel computer process. According to testimony, the present statutory setup—requiring the appointment of an outside accounting firm to supervise the mutuels—dates back to the outset of racing when the pari-mutuel operation was monitored manually. The SCI was told that the accounting firm acting as Supervisor of Mutuels does little but receive certification of computer data from accountants who, as one witness testified, "supervise the mutuels for the Supervisor of Mutuels." Since the CPA firm is a political designee of the Administration, the Commission merely makes the appointment and provides what little educational updating the process requires. Whatever accounting work is needed is produced by the veteran auditors who have worked for years for various accounting firms who received the political plums, moving from one company's payroll to another in accordance with changes in gubernatorial political fortunes. The SCI believes this politicizing of the computerized mutuels operation should be eliminated. Instead, your Commission should set up a permanent, Commission-paid staff of accountants which would more closely audit the process as well as undertake other accounting assignments such as inspecting the fiscal books of the race tracks. Funding for such a program should be available—the CPA accounting firm of Peat, Marwick and Mitchell in 1985 received almost $165,000 from the various tracks (at $230 per racing day). Out of this sum it paid several auditors to do the actual supervising (which entails little more than assuring that cash received and paid out matches the data on the computers' tally sheets).

The background of both the appointment of a Supervisor of Mutuels and the people doing the actual day-to-day work is significant. For example, Edgar Wittmer, Sr., is one of several accountants who became an employee of Peat, Marwick in 1983 when the Commission accepted a recommendation from the Governor's office and named that firm as Supervisor of Mutuels. Wittmer has been described by all witnesses as a most knowledgeable expert in this area—for good reason. In the 1950's he worked for the accounting firm of Puder and Puder when it obtained the political appointment. When that appointment switched to the Touche Ross company in the late 1960's, Wittmer was hired by Touche Ross. He worked for that company until the 1970s, when the firm of Mortenson, Fleming, Grizzetti and Boiko got the appointment, and hired him. Wittmer and his associates do most of the work. He has no office at Peat, Marwick and the firm does not review his work per se. On an almost humorous note, the testimony demonstrated that Wittmer has taught

the mutuels process to each of the accounting firms that has employed him to "help" supervise the mutuels. It quickly became apparent to the SCI that without the expertise of Wittmer and his associates, any newly appointed accounting firm would find it difficult to function in its designated supervisory role.

When asked why a large accounting firm, which knows nothing about supervising mutuels, and which, in fact, does not actually supervise the mutuels, is hired for such a slight purpose, witnesses gave some interesting responses. One commissioner told the SCI the selection is by "whatever party is in power at the time" and "to the victor goes the spoils." Another commissioner told the SCI "we are buying a reputation" to bolster the credibility of the wagering system. From an employee of the Racing Commission the SCI learned that Peat, Marwick was "providing [its] name and integrity to the Racing Commission."

As former Executive Director Handel himself recommended, your Commission should hire its own CPA and put all auditors on its own payroll with a much expanded fiscal auditing role. The SCI's inquiry confirmed the need for much closer monitoring of race track pari-mutuels departments than presently exists. Our investigation revealed, for example, that one mutuel clerk, according to race track records, had won 68 trifecta races ($132,000) in 1983 and 1984 at one track, plus $27,000 in winnings during 1984 at a simulcasting track. Some race track-savvy witnesses speculated that he was a "10 percenter" who cashed in another individual's win tickets for a fee to reduce the actual winner's tax liability. The supervisor of mutuels at one race track does monitor such winnings of clerks on his own and his initiative is highly commendable. In one instance, track management came to the SCI for help with this problem.

The SCI therefore urges your Commission to undertake the following reforms:

1) The Supervisor of Mutuels should be an employee of the State and paid by the State. However, if tradition prevails and the system of appointing an outside firm continues, the appointment should at the very least be made in accordance with State bidding laws. There should be no arbitrary appointments based on political favoritism.

2) Pari-mutuel computer log tapes, which are retained for only six months, should be preserved for at least five years (the period of the criminal statute of limitations). State Police testified that investigations of embezzlements and other race track crimes, in other jurisdictions, have been seriously impeded because essential evidence in the form of log tapes was no longer available.

3) Under no circumstances should overages—excess wagering receipts—be paid to mutuel clerks or to any other track employees. This practice not only encourages employees to take advantage of patron errors but, even worse, it encourages bilking of patrons.

4) Mutuel employees should be prohibited from betting during their working shifts. This would eliminate betting with cash from the receipts drawer, a highly questionable practice.

5) The Commission should monitor the winnings of mutuel clerks on a daily basis if they are permitted to continue wagering while at work.

Horsemen's Funds Need Auditing

During the course of its investigation, the SCI examined the Standardbred Breeders and Owners Association of New Jersey (SBOA) and the New Jersey division of the Horsemen's Benevolent and Protective Association (HBPA). In addition, the Commission inquired about the horse breeding programs administered by both the Department of Agriculture and the Racing Commission. With respect to these programs, the SCI not only urges more stringent auditing reviews but also that your Commission determine whether it would be more efficient and economical to assign all such breeding programs to a single agency for administrative purposes.

The SCI examined the medical, dental, pension and other benevolence programs of the HBPA and SBOA. These funds differ in terms of the category of horsemen eligible for benefits as well as the nature and type of benefits that are provided. Both organizations receive statutorily mandated

payments from the race tracks, representing a percentage of purse monies. There is little statutory guidance except that the money is to be allocated "for programs designed to aid the horsemen" in each organization. In *Jordan v. Horsemen's Benev. & Protect. Ass'n.,* 90 *N.J.* 422 (1982), Supreme Court Justice Stewart G. Pollock observed pointedly that the "apparent purpose of the legislation is to provide for the welfare of horsemen and not HBPA." Although annual audited financial statements must by law be filed with the State Treasurer and the Commission, a more stringent, independent fiscal assessment is necessary. The Supreme Court assumed that the Commission and State Treasurer were reviewing all expenditures of the HBPA, particularly such items as overhead, entertainment and travel, to be certain that these charges are related to the benefit programs. However, the only review of expenditures that does take place is cursory. When former Director Handel testified, he indicated that your Commission was drafting regulations and procedures for these horsemen's organizations to follow. It is the SCI's understanding that such guidelines have yet to be promulgated.

You should be aware that the SCI referred to the Attorney General's office a case of flagrant and prolonged falsification of benefit claims, forgery of benefit checks and embezzlement at the HBPA. While the details of this activity cannot be divulged here, the fraudulent transactions confirm the necessity for more aggressive monitoring of the manner in which these horsemen's groups are utilizing the monies received by them. With regard to closer auditing of breeding programs, you may recall press reports about the former secretary of the Sire Stakes program who pled guilty to embezzlement in 1985.

Other Security Problems

As with racing operations in other states, New Jersey's tracks are confronted with an array of persistent security problems that require constant evaluation and control. For example, testimony was recorded at the SCI about the poor quality of certain guards and laxity in their work, particularly in the supposedly segregated paddock areas where fraudulent activities are most likely to occur. The SCI heard testimony that the Commission can not tell the tracks who to hire but, since licensure of such employees is the Commission's responsibility, it should establish more demanding criteria for employment and utilize its licensure and background investigation powers to enforce adherence to such job guidelines.

The SCI's probe produced evidence that at one time supervision of the jocks' quarters at one track was so loose that illegal betting (via valets, porters and others), overweight infractions and drinking of alcoholic beverages were commonplace. One way to prevent illegal wagering by jockeys, particularly in the races in which they are competing, would be to require all jock quarters' personnel, who often improperly place bets for jockeys, to wear uniforms that would make them easily identifiable at the betting windows.

Also, the procedures for drawing for post positions should be more formalized and less vulnerable to manipulation (racing lore indicates that the closer to the rail a post position is the better the chance of winning). The looseness with which the selection of post positions is conducted, as the SCI's probe amply confirmed, may reflect the pressures being faced at the race tracks to fill the racing cards. At the very least the Commission should require the use of mechanical equipment similar to what the state lottery employs in order to assure the integrity of the draw for post positions.

Horse Deaths

Although the Racing Commission now requires a more detailed reporting procedure for horse deaths, the promulgation of guidelines and availability of report forms do not in themselves assure proper monitoring and other enforcement follow-through. The Commission informed us that certain steps were under way at some tracks, including the Meadowlands, to promote quicker and more effective testing of stricken animals for illegal drugs. However, the SCI knows of no track with any kind of adequate facility for necropsies—a lack which should be remedied. Forensic veterinary

pathologists are generally not available, either, and what autopsies are conducted have, according to testimony, taken place outdoors under the most primitive conditions.

One relatively simple reform would be to perform toxicology tests on horses that die at the tracks. This was discussed with a number of witnesses, all of whom agreed that such tests could be easily implemented. For example, State Steward Samuel Boulmetis testified that toxicology tests should be done if a horse dies so the cause of death might be immediately established. Gary Fichter of the Thoroughbred Racing and Protective Bureau felt that all horses that die at a race track, whether or not as a result of a race, should be tested. Captain William Napierski, then Chief of the State Police Equine Testing Bureau, recommended post-mortem examination of horses as well as urine and blood toxicolgy tests during his SCI testimony. He estimated the costs for such tests at $25 per sample and said they could be performed within the existing resources of the State Police forensic bureau.

Your Commission's Bruno Verducci, who is in charge of security, told the SCI he had recommended years ago that "should a horse go down on the track, I would desire that the attending vet take out a vial of blood from the animal and send it through to our forensic lab for examination." Verducci articulated the importance of a closer check on horse deaths in terms of the public's perception of integrity in the horse racing industry:

> . . . when we saw a number of horses breaking down, I felt that to, again, insure the integrity of racing, that a safety valve in that particular area be developed so that we can say, okay, sure, we took a vial of blood, the lab will now say we analyzed that blood, it was clean . . . I look at it as an integrity feature. We're a high-profile industry, as you know. The more safety valves, the more upfront we are, the better off we will be.

Because of the distance (about 35 miles west of Philadelphia) to the New Bolten Center of the University of Pennsylvania School of Veterinary Medicine, where many carcasses are sent for autopsies, the Commission should require that a cold-storage vehicle be available at each track to guarantee that a dead horse is transported to the Center in sufficient time for a meaningful examination. New Bolten veterinarians testified at the SCI that many animals from New Jersey were brought in too late for any kind of a productive necropsy.

Drugs in Horses and Humans

The Racing Commission has made significant strides in controlling drugs. A number of witnesses endorsed New Jersey's drug testing program as the best in the nation. The Commission's staff appears to be working well with the State Police testing experts. Despite the Commission's drug control progress, the SCI wishes to make available some of its investigative findings in this area. Since the betting public is entitled to the highest integrity from the industry, illegal drug use in racing animals and people cannot be tolerated. Former Executive Director Handel was aware of the overall drug dilemma when he testified:

> Well, there are two very separate problems. In the horse industry, I think the major problems that every laboratory and racing commission around the country face are the non-F.D.A.-approved drugs that find their way onto the tracks. And I was just reading an article this morning before I came over, the red flag that's out for the rest of this year and next year already are the things the kids are taking, designer drugs. Some of the more sophisticated synthetic heroin type drugs and morphine derivatives that have been found in race horses can now be made in basements that simply, and that is going to be a major, major enforcement problem.
>
> With humans, I don't think there's really been enough of a law enforcement effort over the years to view the people on the backstretch of race tracks as significant enough members of society to warrant trying to get more of the drug dealers in that closed little world and to try, you know, to do more about enforcing the drug laws as it pertains to humans in that social strata.

Drugs in Horses

It is true that, with the large number of horses tested for drugs in New Jersey, only a relatively small number is found to be drugged. However, the failure to detect a significant number of positives, given the large sampling, does not necessarily mean illicit drugs are not being used. Several witnesses told the SCI that a major difficulty is the laboratories' inability to detect new (and mostly imported) drugs. They noted that only when specific drugs are the test objectives can a drug's presence be established. It was the consensus of those witnesses that there is far wider use of drugs in horses in New Jersey than is reflected by drug test statistics. Such a comment is not intended as criticism of either the testing laboratories or the Racing Commission because much of it cannot be helped. New drugs are constantly being developed, some so powerful that only small amounts need to be injected—so small, indeed, that tests will not reveal them. In addition, unless testing personnel know what drugs are involved and how to test for them, the substances can remain undetected. The SCI repeatedly heard testimony that "the horsemen are one step ahead [of drug detection]."

The testimony of Captain William Napierski, then Chief of the State Police equine testing authority, was enlightening:

Q. Is there any problem today in detecting drugs? Do you feel that there are drugs utilized, perhaps utilized in the horses, that you are not able to detect at this time?
A. Definitely. There are many medications, and there are new medications coming out on the market practically every day of the week. And until we receive technical data and until we receive methods of analyzing these [urine] samples for these particular drugs, there's a possibility drugs are being used that we are unaware of.

Q. Would you say the horsemen are ahead of you?
A. Certain ones are, yes, definitely. They—in fact, some trainers are better than veterinarians. They know more about medication than the veterinarians do.

Q. Is it, and over the years does it appear to be, a constant race where you're detecting certain type of drugs and then maybe there's a switch to the use of a different type of drugs? Is it that sort of a trend?
A. Yes. What happens is they'll for some reason get to a particular drug. As they get to a particular drug, and they start using that drug, until the laboratories, not only New Jersey but the laboratories involved with detecting race-fixing or anything of that nature, are able to detect the medication in the urine sample or in a blood sample of the horse and once we call it positive, they drop that drug and then switch to another one and pick up another one somewhere along the line.

Law enforcement witnesses, including Captain Napierski, complained that the drug control statutes are ineffective in curbing the use in horses of drugs that are newly imported, that are not on the Federal Drug Administration's classification of illicit drugs, or that are supposed to be utilized for experimental purposes only. Therefore, the SCI urges you to press for amendments that will eliminate these statutory loopholes.

Drugs in Humans

A number of witnesses, including law enforcement and security personnel, racing commissioners and horsemen, felt there is a serious problem with drug abuse among the stable area people and that the problem is getting worse. Certainly in testing jockeys and drivers, your Commission has made an important advance. Nonetheless, the SCI heard that drug dealing is a particularly serious problem in the backstretch. One witness who spoke articulately about the problem was Security Director Verducci. He told the Commission ". . . the biggest problem that I feel in racing, in general, is the proliferation in the use of human drugs on the backside of a race track." He urged a multifaceted effort to curb drug use, including more educational programs, more aggressive law enforcement and better rehabilitation programs. The SCI is in full agreement.

Clocking Reforms

Your Commission commendably has strengthened the procedure for clocking horses prior to races and for reporting of clocked speeds for the benefit of bettors. However, the SCI heard considerable testimony about the inaccuracy of some workout reports, which are published in trade papers such as The Daily Racing Form. The testimony confirmed that racing experts tend to discount workout times while an unsuspecting general public appears to accept them with little or no question about their validity. Some clockers, according to testimony, have "clients" who bet for them or to whom they sell information. One New Jersey racing official heard that clockers "hide" their calculations, falsify times, or ignore certain horses. One horseman suggested that if a published time was slower than the actual workout, the clocker probably intended to bet on the horse. Other witnesses told of people wanting false times published in order to sell an inferior horse or to gain a betting advantage.

Since the Commission's statute requires that all thoroughbred horses which are new or have not raced for 30 days must be clocked for a published "workout," it should take a more responsible stance relative to this obligation. The Commission should employ its own clockers and limit their work to the animals required by law to be clocked. Whether clockers' times for other horses are published in a newspaper should not be of any direct concern to the Commission, since such published data (except for the particular horses cited) should not be regarded as official Racing Commission statistics.

Additional Licensing Proposals

We have commended the Racing Commission for its efforts to computerize its licensing system and expressed a hope the Legislature will provide the funds to complete this moderization. The Commission's recent regulatory promulgations have also included improvements in licensing procedures. However, the SCI recommends that certain other reforms be attempted, as follows:

1) The Racing Commission should consider assigning a specific number to each licensee, which number would be renewable from year to year. (This would expedite retrieval of licensing data, particularly for law enforcement purposes).

2) License application forms should be completely filled out. Illegible or inaccurate information should not be acceptable. (The SCI's exhibits include application forms lacking Social Security numbers, dates of birth, and telephone numbers. Other forms lacked permanent addresses or showed incomplete names or street addresses without cities, etc.).

3) All applicants should be required to provide an independent source of identification, such as a driver's license or a birth certificate.

4) All license applications should be dated.

5) Language should be placed on the license application warning that the applicant is subject to criminal penalties if the data supplied is not truthful. (Available to you is a sample "Statement of Truth" that was reviewed during executive session testimony and which former Executive Director Handel found to be worthy of your agency's consideration).

6) The Commission should adopt a year-round licensing program, with staggered licensing, to avoid the crush of applicants around December 31 of each year.

7) State Police officials should be notified in advance of all hearings for applicants who have not been recommended for licensure and should have an opportunity to testify. The State Police also should be notified if an individual who is not recommended for licensure is licensed nonetheless. Testimony at hearings affecting other issues as well as licensure should be taped or otherwise recorded.

8) More detailed "four-way" background checks should be performed on permit holders, administrative personnel and track management and officials. "Three-way" checks should be performed for jockeys, jockey apprentices, trainers, drivers, owners, assistant trainers and veterin-

arians. The SCI recognizes that reform proposals of this nature will require additional staffing funds for the State Police and the Racing Commission and reiterates its hopes that future budget requests for such activities will receive a favorable reception.

9) The Racing Commission's computerized licensing system should be extended to permit prompt checking at a central location for licensing data. Any name appearing on a racing program should be identical to the license name. People and horses should not be permitted to race unless program information is consistent with licenses and other documents.

Future of Racing

The SCI's inquiry into the racing industry has left one overall—and negative—impression: Horse racing as a form of legalized gambling in New Jersey is in serious trouble. The industry is afflicted by a variety of problems that not even the most efficacious regulatory system can easily resolve. For example, what are the answers to such questions as: Why is horse racing losing its share of the gambling dollar? Has legalized gambling reached the saturation point in New Jersey? Is the available supply of qualified horses too small for year-round racing, not only in New Jersey but in the entire Northeast? What if anything can be done to resolve such a dilemma if it is perceived to exist? Has the need for horses to fill out race track schedules resulted in too many races of questionable quality and credibility? Does the betting public believe that racing can't be trusted? Has the excitement of witnessing a horse race been deflated by a suspicion that the odds are stacked against making a worthwhile wager on any race's outcome? These are only a few of the questions that probably can be resolved or alleviated only by a wholesale restructuring of the State's promotion and supervision of the horse racing industry. Perhaps racing should no longer be regarded as a State revenue source, but solely as the prime means of supporting a horse industry overall that adds so significantly to the State's economy.

The SCI lacks the resources to undertake the exhaustive exploration necessary to provide the answers to problems of such an overlapping and interlocking nature affecting all forms of legalized gambling in this state. However, the Legislature is establishing a task force of experts to review New Jersey's legalized gambling in general, to assess the cause and effect of the problems that are multiplying so fast and to come up with some possible resolutions of these problems. So far as racing is concerned, such a task force is being proposed at a propitious moment. The SCI stands ready, as we believe your Racing Commission also does, to provide this prospective gambling study with every form of assistance at its disposal.

Very truly yours,*

HENRY S. PATTERSON, II
Chairman

WILLIAM S. GREENBERG
Commissioner

PAUL ALONGI
Commissioner

*Commissioner James R. Zazzali recused himself from this inquiry because of his prior service as General Counsel of the Sports and Exposition Authority.