

**NEW JERSEY RACING COMMISSION
WEDNESDAY, FEBRUARY 27, 2013
RACING COMMISSION OFFICE
140 EAST FRONT STREET, FOURTH FLOOR
TRENTON, NEW JERSEY
TELEPHONE MEETING**

A telephonic meeting of the New Jersey Racing Commission was held on Wednesday, February 27, 2013 in the Racing Commission office located at 140 East Front Street, in Trenton, New Jersey.

The following were present:

Anthony T. Abbatiello, Commissioner
Manny E. Aponte, Commissioner
Anthony R. Caputo, Commissioner
Peter J. Cofrancesco, III, Commissioner
Frank Zanzuccki, Executive Director
DAG Donald Palombi
DAG Julie Barnes

The following were absent:

Pamela J. Clyne, Commissioner
Francis X. Keegan, Jr., Commissioner

It was noted that this meeting is being conducted by telephone. A roll call of those individuals participating by phone indicated the presence of: Commissioners Abbatiello, Aponte, Caputo and Cofrancesco. In attendance in the Commission's Trenton office were Executive Director Zanzuccki, Deputy Director Vukceovich and staff, DAG Palombi, DAG Barnes and members of the public.

Executive Director Frank Zanzuccki read the following statement:

"This meeting today conforms with Chapter 231, P.L. 1975, called the "Open Public Meeting Law," 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 Newark 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 the provision of N.J.S.A. 10:4-12(b), the New Jersey Racing Commission will now adjourn to executive session to obtain legal advice protected from disclosure by the attorney-client privilege on the following matters:

1A. Legal advice concerning the joint petition, of the New Jersey Sports & Exposition Authority, as the holder of the New Jersey account wagering license, and Darby Development, LLC, as manager of the day-to-day and business operations of the New Jersey account wagering system, for approval of ODS Technologies, L.P. (doing business as "TVG NETWORK") to provide the platform wagering services (that is, telephone & internet/computer related services) for the New Jersey account wagering system.

1B. Legal advice in the event the Racing Commission determines to approve item A) above, consider the issuance of a Racing Commission vendor license to ODS Technologies, L.P. (doing business as "TVG NETWORK") to provide the platform wagering services (that is, telephone & internet/computer related services) for the New Jersey account wagering system.

Discussion of the above matters fall 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 her ethical duties as a lawyer and/or matters involving pending or anticipated litigation."

Commissioner Cofrancesco motioned to adopt the resolution to adjourn. Commissioner Abbatiello seconded the motion. All Commissioners concurring, the Commission adjourned to Executive Session.

The Commission ended the execution session and Commissioner Cofrancesco moved to reconvene the public session. Commissioner Caputo seconded the motion and the Commission concurring, the public session resumed.

CONSIDER THE JOINT PETITION, OF THE NEW JERSEY SPORTS & EXPOSITION AUTHORITY, AS THE HOLDER OF THE NEW JERSEY ACCOUNT WAGERING LICENSE, AND DARBY DEVELOPMENT, LLC, AS MANAGER OF THE DAY-TO-DAY AND BUSINESS OPERATIONS OF THE NEW JERSEY ACCOUNT WAGERING SYSTEM, FOR APPROVAL OF ODS TECHNOLOGIES, L.P. (DOING BUSINESS AS "TVG NETWORK") TO PROVIDE THE PLATFORM WAGERING SERVICES (THAT IS, TELEPHONE & INTERNET/COMPUTER RELATED SERVICES) FOR THE NEW JERSEY ACCOUNT WAGERING SYSTEM

The Commission called on Ralph Marra, Esq., on behalf of the New Jersey Sports and Exposition Authority and he stated that the NJSEA will rely on its previous submissions to the Commission. He indicated that he was available to answer any questions of the Commission and advised that the services are going very well and TVG is ready to assume its role as the internet provider on March 1, 2013. The Commission had no questions for Mr. Marra.

The Commission then called on Robert Kulina, President of Darby Development, LLC. Mr. Kulina stated that the transition of the platform services is going smoothly and will be ready on March 1, 2013.

The Commission called on John Hindman, General Counsel for TVG Network. The Executive Director asked Mr. Hindman how long he has been employed with TVG Network and in what capacity. Mr. Hindman stated that he has been General Counsel and has been employed by TVG Network since 1999 as its general counsel. The Executive Director asked him if he had direct involvement in the planning of the TVG Network proposal now being considered by the Commission. Mr. Hindman indicated that he has direct involvement with the proposal.

The Executive Director asked Mr. Hindman to explain whether TVG Network will be maintaining permanent information databases in New Jersey. Mr. Hindman answered yes they will and that all of the information relating to customers, their deposits and withdrawals, their demographics, will be maintained in New Jersey. The Executive Director asked if that information will also reside in other databases in other states. Mr. Hindman answered yes, TVG will keep a backup of that information at the data center in Oregon and would only be used if there was a malfunction or if there is some sort of reconciliation or verification required.

The Executive Director indicated that the purpose of these questions is to determine whether or not TVG in their application, is in compliance with the regulations and statutes which require certain activities to occur within the state of New Jersey.

The Executive Director asked Mr. Hindman whether TVG will be maintaining banking databases in the state of New Jersey. Mr. Hindman replied yes, in regard to all activity-related customer funds, deposits, withdrawals, money transfers, wagers, wager histories, will all be maintained permanently in New Jersey. Mr. Hindman was then asked if these databases will also be maintained in other states. He indicated that duplicate records of the noted information will be maintained in the Oregon office.

The Executive Director asked Mr. Hindman if TVG will be maintaining system monitoring equipment. Mr. Hindman answered yes, this will take place at the hub in Mount Laurel. Mr. Hindman was asked if monitoring equipment will also reside in other states. He replied yes, but not in regard to the acceptance of wagers. The Executive Director asked if this monitoring equipment maintains a record of all transactions that occur in the system. Mr. Hindman responded yes, the equipment in New Jersey will record all of that information, but that the equipment in Oregon will serve as an alarm in ensuring that the data software is functioning properly.

The Executive Director asked if TVG will be maintaining account representatives in New Jersey. Mr. Hindman responded yes, representatives will be maintained at Monmouth Park. Mr. Hindman was then asked if account representatives will be maintained in other states and he responded yes, but only to the extent that the New Jersey office would not be available to answer questions, the calls would be forwarded to the Oregon office.

Mr. Hindman was asked if the New Jersey representatives have been hired and he responded to the Executive Director that yes they have and Jeff Lowich is the person who is involved in this operation and he is present today to answer any questions.

The Executive Director questioned Mr. Lowich as to whether new hires have received any training as of this date. Mr. Lowich responded yes and explained that the training is ongoing.

The Executive Director asked Mr. Hindman to explain the interface relationship between the TVG network system, the "phone bank" proposed to be located at Monmouth Park and the hub facility located in Mount Laurel, New Jersey. Mr. Hindman answered that the phone bank at Monmouth Park processes applications and handles administrative procedures such as processing withdrawals, customer care, those sort of procedures. All of the wagering electronically, whether it be by internet or by phone, are routed the same way to the hub in Mount Laurel.

It was stated by the Executive Director that the regulations of the Racing Commission define a hub facility in relevant part, as a New Jersey facility which acts as an intermediary

between the account wagering licensee and an in-state host track or out-of-state host track, with respect to the transmission of pari-mutuel wagering data. The Commission rules further provide that the hub facility shall be responsible for generating all reports necessary for the reconciliation of payments between the account wagering licensee, sending tracks and the Commission. The Executive Director asked Mr. Hindman if these functions will continue to be performed at the Mount Laurel hub facility to which, Mr. Hindman responded that yes they will.

Mr. Hindman was asked by the Executive Director if he is familiar with the rules of the Racing Commission as set forth in Chapter 74 of the Administrative Code which sets forth the functions and responsibilities of the New Jersey phone bank and if he has read those rules. He answered yes he is familiar with the rules. The Executive Director asked Mr. Hindman if wagering applications will be accepted consistent with N.J.A.C. 13:74-7.1 and he answered yes they will.

The Executive Director asked if the phone bank, proposed for Monmouth Park, will receive and process all wagers placed by computer and by telephone from account holders through an automated wagering system. Mr. Hindman responded no, that information will go directly into the hub facility. The Executive Director clarified that the processing of such wagers will not occur entirely at the Monmouth Park phone bank. Mr. Hindman stated that the wagers are all electronic so they go directly to the hub facility. Mr. Hindman was asked if any of the processing will occur outside of the state and he responded no.

Mr. Hindman was asked if the proposed internal control procedures of TVG Network, which were submitted to the Commission Monday night, set forth a procedure related to the processing of such wagers and he responded yes.

The Executive Director asked Mr. Hindman if the phone bank will receive directly, or have transmitted to it, for processing all applications for wagering accounts and he responded yes. The Executive Director then asked if the processing of such applications occurs entirely at the Monmouth Park phone bank and Mr. Hindman also answered yes. When questioned whether any such application processing will occur out-of-state, Mr. Hindman responded no.

The Executive Director asked Mr. Hindman if the proposed internal control procedures of TVG Network set forth a procedure related to the processing of such applications and he responded yes.

The Executive Director asked Mr. Hindman whether the phone bank will conduct all administrative matters relating to the maintenance of existing wagering accounts and he

responded yes, however, if unavailable, the maintenance will be conducted through the Oregon office. Mr. Hindman was then asked if any such administrative matters relating to the maintenance of the accounts occur outside of the state and he responded no.

Mr. Hindman was questioned whether the proposed internal control procedures of TVG Network set forth a procedure related to the maintenance of existing wagering accounts and he replied yes.

The Executive Director asked Mr. Hindman if the phone bank proposed for Monmouth Park be the only phone bank operated by TVG Network in this State and he replied yes. He was also asked to explain the setting up of the phone bank at Monmouth Park. Mr. Hindman indicated that all of the hardware and software has been installed, the phone lines have been installed and the process is in place for the phone numbers to transmit the data. Mr. Hindman then referred to Jeff Lowich to elaborate on the phone bank.

Jeff Lowich, addressed the Commission and stated that he is the Key Account Manager for TVG Network. The Executive Director asked Mr. Lowich to explain what has occurred concerning the hiring and training of employees. Mr. Lowich advised the Commission that six employees have been hired and training began on Monday (February 25) and will continue through Thursday. When the Executive Director questioned Mr. Lowich if the training will be adequate to begin operation on March 1, he responded that this type of training is routinely conducted in approximately four hours, however, the training is taking place over a period of four days. He indicated that a supervising representative of TVG will remain on the site at Monmouth Park for an additional two weeks in the event there are any issues which may occur.

The Executive Director questioned whether TVG presently recognizes any technological or practical problems concerning the start-up of the platform services scheduled for March 1 regarding the account wagering system. Mr. Hindman responded no, that TVG does not recognize any problems and is prepared to go forward. The Executive Director indicated that in the event the takeover of the platform services by TVG cannot go forth as scheduled on March 1, does TVG envision a problem with the continuation of the account wagering system under Sportech Racing's management. Mr. Hindman responded that this question should be more directed to Darby as it is his understanding that Sportech has indicating a willingness to continue, however, he believes that the phone bank services have been switched over and the phone numbers have been changed, and there is no plan in place concerning NJSEA employees to remain working after March 1. He also stated that the plan amongst all parties, including Sportech, is to begin on March 1, however, there is no plan in place if the takeover does not occur after March 1.

Mr. Ralph Marra was called upon to comment on his concerns in the event TVG is not able to begin providing platform services on March 1 and whether the account wagering system would be interrupted if it was to continue under the services of Sportech Racing. Mr. Marra felt there would be quite a bit of work to do to prevent this from occurring in that currently, they are half-way out of the prior provider and half-way into the new one. He indicated that it would be complicated as to how the system would adapt in connection to the internet portion of the service and he believes that all of the information has already been transferred to TVG. Mr. Marra indicated that some type of dual system would have to be developed, however, it would be very difficult.

Mr. Robert Kulina commented in regard to the employee situation in that the current employees are retiring on March 1 and there is a question as to whether their employment could continue past the March 1 date.

The Executive Director asked Mr. Hindman to explain how the current customers will be notified and informed of the changes that will occur on March 1. Mr. Hindman responded that TVG has a number of different items to make the customers aware of the changes. These methods would include notice on the web site and letters and e-mails issued notifying them of the new provider. He indicated that account numbers and phone numbers will not be changing and their account balance will remain, therefore, there will not be a significant changeover. He also indicated that there are a very small number of customers that do not have accurate social security numbers or account numbers and TVG will have to contact them to resolve these issues.

It was noted by the Executive Director that the TVG documentation does not reflect that at the present time an account holder will be able to use their card at racetracks and off-track wagering facilities and he questioned Mr. Hindman if there is a technical reason for the delay in this service or is it a choice by the permit holders to not offer this service. Mr. Hindman explained that there is a technical reason that will take some additional development with Sportech to make this happen. He indicated that in the meantime, TVG has set up a dedicated deposit and withdrawal window where customers can access all of their account funds on site until that process can be restored to the customers. Mr. Hindman advised that this interim change in service will be relayed to the customers.

The Executive Director concluded his questions for TVG and noted that there was no representative of Sportech Racing present.

The Commission called upon the permit holders for comments. Christopher McErlean, representing New Jersey Account Wagering, LLC and also as a member of the Account Wagering Project Board, asked the Commission to confirm that the contract

between Darby and TVG is not set to be acted on at this meeting. The Executive Director stated that the Commission is not approving the contract and is approving the application and also the application made by the Sports Authority and Darby to change the provider, and if approved, the vendor license to TVG will also be considered. Mr. McErlean also asked the Commission if they are in receipt of a copy of a complaint that was filed by New Jersey Account Wagering, LLC v. the NJSEA. The Executive Director acknowledged receipt of the complaint.

Commissioner Cofrancesco asked the Executive Director to read the following motion on his behalf.

The New Jersey Sports & Exposition Authority and Darby Development, LLC, on or about December 21, 2012, filed a joint petition with the Racing Commission, seeking approval for ODS Technologies, L.P. (doing business as “TVG Network”) to function as the platform wagering services provider for the New Jersey account wagering system, which system currently comprises telephone wagering on horse race events through an automated system and computer wagering on horse race events, and related services, which system is available to New Jersey resident wagering account holders.

As a necessary part of this request, TVG Network, on or about December 13, 2012, filed a vendor’s license application seeking a license for 2013 to function as the platform wagering services provider for the account wagering system, which application was accompanied by the requisite fee.

As a result of these filings, the Commission conducted an investigation into the joint petition, and the vendor license application of TVG Network, which investigation while continuing, has substantially been completed. The Authority, Darby and TVG each supplemented their joint petition through information provided during the course of the Racing Commission investigation.

The Racing Commission investigation determined a number of things, including that: Sportech Racing, LLC (“Sportech”) is party to a contractual arrangement concerning its continuing to function as the licensed totalisator operator to the account wagering system for 2013; that Sportech shall continue to operate the New Jersey “hub facility” for 2013, which shall continue to be located in Mount Laurel, New Jersey; that Sportech (as totalisator operator) and TVG Network (as the proposed platform services provider) have entered into a contractual arrangement concerning the integration between each company, and regarding the respective functions each will provide in connection with the New Jersey account wagering system; and that Darby and TVG Network, on or about January 11, 2013, entered into an “Account Wagering Services Agreement.”

In considering this matter, in addition to the findings of the investigation, the Racing Commission received materials compiled by staff, and the Commission conferred with legal counsel as appropriate;

In considering all the materials of record, including what we heard here today, I do believe that each item should be conditionally approved, but to insure compliance with law and our rules, as well as in furtherance of the best interests of racing and the wagering public, I propose that a number of conditions be implemented, many of which need to be addressed with immediacy if TVG is to assume the role of platform provider to the account wagering system on March 1st, as proposed by the parties.

In making this motion for conditional approval, I conclude that the Authority and Darby have demonstrated, by clear and convincing evidence, that the appropriate provisions of the Off-Track and Account Wagering Act and Chapter 74 of the New Jersey Administrative Code have been satisfied. I also believe, and find, that TVG Network, a gaming company with an excellent reputation world-wide, is deserving of a conditional vendor's license, as the company has demonstrated, by clear and convincing evidence, that it and its key employees are qualified to hold the license applied for, and that the provisions of the Off-Track and Account Wagering Act and Chapter 74 of the New Jersey Administrative Code have been satisfied.

As I stated though, I believe that conditions need to be imposed, should my fellow Commissioners agree with my viewpoint. Accordingly, each of the conditions I describe shall apply to both matters before us.

- 1) Since the investigation, although substantially complete, is continuing, the conditional approval in each case would be subject to the findings of that continuing investigation.
- 2) In our Order of December 6, 2012 (condition 4 to said Order), whereby this Commission conditionally approved Darby as the manager of the day-to-day affairs and business of the account wagering system, we Ordered that "[a]s the account wagering licensee, the NJSEA shall maintain sufficient oversight responsibilities over Darby as concerns Darby's management of the account wagering system". These responsibilities of the Authority, in view of the conditional approvals I propose here today, include of course sufficient oversight responsibilities as concerns Darby's management of the provider platform services for the account wagering system.

- 3) The TVG Network proposed internal control procedures, which includes a new “account wagering application form,” were submitted to the Racing Commission by TVG Network, on February 25, 2013 at 11:13 p.m. I propose that these procedures be approved on a conditional basis as follows.
 - a) Before commencing with the operation of the “phone bank” at Monmouth Park or any other actions contemplated by the internal control procedures (including usage of the “account wagering application form” within said procedures), the joint petitioners and TVG Network, in consultation with their respective legal counsel as appropriate, shall insure that any necessary revisions to such internal control procedures are made to conform such to the Off-Track and Account Wagering Act, Chapter 74 of the New Jersey Administrative Code, and such additional requirements as were made applicable to the Authority through conditions imposed within this Commission’s Order of December 12, 2012, by which we approved the Authority as the 2013 account wagering license holder. A copy of any such revision to the procedures, with certification by the three parties, shall be filed with the Racing Commission Executive Director prior to the implementation of the internal control procedures. In the event the parties conclude that no revision to the procedures is necessary, a writing certifying to such shall be submitted to the Racing Commission Executive Director before the “phone bank” commences operations.
 - b) My motion is further conditioned upon any changes to the internal control procedures being made, which may be required by the Racing Commission Executive Director, before commencing with the operation of the “phone bank” at Monmouth Park or any other actions contemplated by the internal control procedures (including usage of the “account wagering application form” within said procedures), based upon Commission staff’s preliminary review of said procedures for conformance with regulatory requirements.
 - c) This proposed motion is subject to the findings of the Racing Commission’s continued investigation, as I previously said, which investigation I propose include an audit of the said internal control procedures as a result of this Order, and a related legal review of the “internal control procedures” and the findings of said audit.
- 4) The Authority, in consultation with Darby, as a condition of this motion for approval, shall review each of its 2013 license conditions (account wagering license), as set forth in the Commission’s Order of December 14, 2012, and within sixty (60) days of this Order, shall file a written report with the Racing

Commission addressing each license condition by number, and explain in detail whether it recommends that any license conditions should be modified, eliminated, revised, etc.

- 5) I further propose that any approval make clear that the conditions imposed by the Racing Commission on Darby, as the manager of the account wagering system for 2013, as set forth in its Order of December 6, 2012, shall remain in effect. This includes the following condition:
 - a. Darby shall be responsible for the regulatory requirements and conditions imposed upon the Authority, as concerns the particular functions being assumed by Darby as a result of the management agreement. If Darby is of the view that any of these conditions should not apply, Darby must make written application to the Racing Commission Executive Director for such conditions to be removed.
- 6) The relocation of the “phone bank”, from the premises of the Meadowlands Racetrack, to Monmouth Park, where certain account wagering services are proposed to be conducted, in my estimation, requires a number of conditions to insure conformance with law, as well as sufficiency of operations, and therefore, I propose that the new “phone bank” shall not be implemented or operational until the following condition precedents have been satisfied:
 - a) Darby and TVG Network shall file a writing with the Commission, signed by a high managerial agent of each, certifying that all components (inclusive of hardware and software) of the “phone bank,” and interfaces related to the phone bank, have been successfully tested for sufficiency and technical reliability. The certification shall further indicate that the level of equipment in-place at the phone bank, in anticipation of the start-up of TVG Network as the platform provider, is sufficient to handle all account wagering customer accounts (and sufficient to address all required regulatory functions of the “phone bank”).
 - b) I understand, according to representations made by the Authority, that the week following the commencement of operations at the “phone bank” at Monmouth Park, additional computer hardware and software is to be added to the “phone bank.” Before the introduction of such new equipment at the “phone bank”, Darby and TVG Network shall file a writing with the Racing Commission, signed by a high managerial agent of each, certifying that all components (inclusive of hardware and software) of the “phone bank,” and interfaces related to the phone bank, have been successfully tested for sufficiency and technical reliability.

- c) Darby and TVG Network, as proposed by this motion, shall also file a writing with the Racing Commission, signed by a high managerial agent of each, certifying that all computer-related initiatives, relating to the transfer of financial accounts to TVG Network, have been successfully tested for sufficiency and technical reliability.
- d) I further propose that Darby and TVG Network shall file a certification with the Racing Commission attesting that all aspects of the phone bank at “Monmouth Park,” including its functions, are in compliance with the Off-Track and Account Wagering Act, and Chapter 74 of the New Jersey Administrative Code, including but not limited to N.J.A.C. 13:74-1.1 (definition of “phone bank”), 13:74-7.1, and 13:74-7.8.
- e) As an additional condition regarding the “phone bank”, I also propose that Darby be required to submit to the Racing Commission Executive Director for approval (and obtain such approval), specifically regarding the operations of the phone bank and account wagering related premises (as required by N.J.A.C. 13:74-5.7) at Monmouth Park, the identification tag format to be utilized by employees at the premises of the “phone bank.”
- f) Darby, as part of the conditions I propose, shall submit to the Racing Commission Executive Director, for pre-implementation approval, a schematic drawing of the “phone bank” to be situated at Monmouth Park, as well as a detailed description of the location within Monmouth Park and security features for such facility, which may be the subject of such conditions as determined appropriate by the Racing Commission Executive Director.
- g) Finally, as concerns the “phone bank”, and because it is just being established, I believe the Racing Commission must conduct a pre-implementation inspection of the proposed “phone bank,” and in writing confirm to Darby that the inspection was satisfactory.
- 7) As an additional and separate condition, as part of this motion, I also propose that TVG Network shall be responsible for cooperating in insuring that the interface between its data, and the Racing Commission computer system, is and remains compatible. TVG Network shall also be responsible for any and all costs associated with any necessary changes to the Racing Commission’s hardware or software to achieve this purpose.
- 8) The “phone bank”, and the customer services it provides to our wagering public account holders, is a key ingredient to the account wagering system. Therefore, the

employees of the “phone bank”, which phone bank is to be located at the premises of Monmouth Park, shall be licensed by the Racing Commission within fourteen (days). Importantly, as part of this motion, I propose that it be required that the staff contingency of said phone bank, and hours of operation of said phone bank, inclusive of the time period each day where account holders have access to live personnel located at the “phone bank,” shall at a minimum (and at all times) conform to the staff contingency and hours of operation which were in-place at the phone bank situated at the “Meadowlands Racetrack.”

- 9) With regard to Sportech, and considering the resulting inter-relationship between Sportech and TVG Network should the Commission agree with my motion, a condition is also appropriate as follows: the submission in writing to the Racing Commission Executive Director, from Sportech, certifying that all of its systems, inclusive of hardware and software, have been successfully tested as to sufficiency and technical reliability, in anticipation of the implementation of the relief sought by the joint petition.
- 10) For similar reasons, as part of this motion, I believe the following should be required as a condition precedent: the submission in writing to the Executive Director, from Darby and TVG Network, certifying that all of TVG Network systems, inclusive of hardware and software, have been successfully tested as to sufficiency and technical reliability, in anticipation of the implementation subject of the joint petition.
- 11) In the interests of the wagering public, I would also propose a pre-implementation condition requiring the submission in writing to the Executive Director, from Darby and TVG Network, certifying that all New Jersey account wagering holders were advised of the changeover of the account wagering platform services, to TVG Network, in a manner which is timely and consistent with a problem-free transition to said platform.
- 12) As an additional condition, I propose the following: the submission in writing to the Racing Commission Executive Director, from Darby, either that no governmental approvals (other than the Racing Commission) are necessary for the phone bank to be situated at Monmouth Park, or an explanation of any required governmental approvals and evidence that such requirements have been satisfied. Prior to initiating telephone wagering through live operators, in connection with the account wagering system, Darby shall file a petition with the Commission seeking approval of such, which petition shall explain the nature of any governmental approvals (other than Racing Commission) necessary for such activities to occur at the premises of Monmouth Park.

- 13) Following implementation of TVG Network as the provider of platform services to the New Jersey account wagering system, for integrity purposes, I propose that TVG Network on an ongoing basis shall be required to immediately notify the Racing Commission, in writing, of any technological or non-technological occurrence related to its in-state or out-of-state systems, or interface with Sportech or any other components of the New Jersey account wagering system, which has interrupted, disrupted or negatively impacted its ability to perform its functions with regard to the account wagering system, or which has temporarily or permanently negatively impacted the integrity of any aspect of the account wagering infrastructure. Nothing required by this proposed condition shall relieve Darby, of course, of its reporting obligations to the Racing Commission, as set forth in the Racing Commissions Order of December 6, 2012.
- 14) Also for integrity reasons, following implementation of TVG Network as the provider of platform services to the New Jersey account wagering system, Sportech shall immediately notify the Racing Commission, in writing, of any technological or non-technological occurrence related to its systems, or interface with TVG Network or any other components of the New Jersey account wagering system, which has interrupted, disrupted or negatively impacted its ability to perform its functions with regard to the account wagering system, or which has temporarily or permanently negatively impacted the integrity of any aspect of the account wagering infrastructure. Nothing required by this proposed condition shall relieve Sportech of its reporting obligations to the Racing Commission, as previously imposed by the Commission, as concerns its functions as totalisator provider to the New Jersey account wagering system.
- 15) With regard to TVG Network, as the provider of platform services to the New Jersey account wagering system, I propose a condition requiring that the company comply with N.J.A.C. 13:74-7.9. Unless an emergency situation exists, in which case verbal notice to the Executive Director or designee shall be acceptable, TVG Network shall provide written notice to the Commission of any new equipment or software, or change in equipment or software, to be utilized in connection with its functioning as the platform provider to the New Jersey account wagering system. The writing shall set forth what testing has been accomplished with regard to the new equipment or software, or change in equipment or software, and the results of the testing, to insure the integrity of the account wagering system and related proceeds. The Commission, before implementation of such equipment or software, may require such additional testing as it determines appropriate. Nothing required by this

proposed condition shall relieve Darby of its reporting obligations to the Racing Commission, as set forth in the Racing Commissions Order of December 6, 2012.

- 16) Further, as an additional condition, I propose that TVG Network shall be responsible for the payment of all Racing Commission estimated costs associated with its investigation to date, its continuing investigation, audit of its internal control procedures, and review and conditional approval of this matter.
- 17) In recognition of our investigative requirements and licensing responsibilities, I propose as a condition that TVG Network shall make available for reasonable visitation, on-demand, its facilities outside the State of New Jersey, either for general periodic inspection, or in connection with a Racing Commission investigation, and shall be responsible for the payment of all costs associated therewith to the Racing Commission.
- 18) Further, the Racing Commission must have on-demand access to the Monmouth Park phone bank, as well as to any other location in this State where TVG Network conducts business, and my motion includes such a condition.
- 19) In recognition of the fact that, as a result of any conditional approval, the dual functions of Sportech as the totalisator provider and platform services provider to the New Jersey account wagering system shall be separated, with TVG Network assuming the function of the platform services provider, the Racing Commission Executive Director is through this proposed condition directed to conduct a review of any Racing Commission costs allocated to Sportech. Based upon his review, and in his discretion, the Executive Director is, as part of this proposed condition, delegated authority to re-apportion such costs, which are presently being paid by Sportech, between Sportech and TVG Network.
- 20) In the event all applicable conditions I am proposing are satisfied, as determined by the Racing Commission Executive Director, I propose that a conditional vendor license shall issue TVG Network, and TVG Network may assume the function of provider of platform services for the New Jersey account wagering system no earlier than March 1, 2013.
- 21) Finally, I must address what happens in the event the parties cannot meet these conditions, assuming the Commission agrees with my motion of course. In the event that the satisfaction of the condition precedents I have proposed cannot

be complied with, thereby preventing TVG Network from functioning as the provider of platform services for the New Jersey account wagering system, Darby, as the manager of the day-to-day affairs and business of the account wagering system, and the Authority, as the account wagering license holder, in cooperation with Sportech as the licensed totalisator provider and present provider of platform services for the account wagering system, shall both as an additional condition have the responsibility to insure that an alternate plan is implemented to insure that account wagering continues in this State without disruption or pause.

Of course, and as part of this motion, I wish to make clear that the Racing Commission reserves its right and ability, consistent with its authority, to impose additional conditions with regard to this matter. Further, should my fellow Racing Commissioners agree, and considering the possible need for daily oversight and prompt regulatory action here apparent and possible, I propose that the Racing Commission delegate authority to the Racing Commission Executive Director to take such action to effectuate any decision of the Commission, and to impose additional conditions on the parties or agents thereof, as he deems necessary and appropriate, during the course of the license year.

The Executive Director noted that as part of the motion, it also includes Item A.B.1, which is to also approve TVG vendor license application.

Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

DISCUSSION CONCERNING MID-ATLANTIC MEDICATION STATE POLICY

Executive Director Zanzuccki indicated that area regulators and horsemen recently conducted a Mid-Atlantic Medication Committee meeting concerning the adoption of a uniform medication policy consistent throughout the Mid-Atlantic states. The facilitator of the committee is seeking to obtain a consensus of area regulators of moving forward with such a medication policy. The Executive Director indicated that the medication policy has been circulated to the Commissioners and he asked whether the Commission would like to move forward with this policy or to take a different approach.

A discussion occurred concerning the policy and some of the significant changes that will require states to modify its drug testing. It was noted that the Association of Racing Commissioners International is finalizing its model medication rules and envision the document to be completed by the summer season. The Executive Director recommended that the Commission wait until the model rules are completed so that the model rules can be used as a draft to ensure consistency throughout the area states. It was the consensus of the Commission to move forward with the adoption of a Mid-Atlantic medication policy.

A question was posed from Michael Musto, Executive Director of the THA, asking the Commission if a rule change would be required concerning third-party administration. The Executive Director advised Mr. Musto that the Commission will consult with counsel and get back to him on this issue.

Mr. Christopher McErlean, representing Freehold Raceway, indicated his endorsement of a Mid-Atlantic Medication Policy in regard to harness and thoroughbred racing.

There being no further discussion or comments from the public, Commissioner Abbatiello moved that the meeting be adjourned subject to the provisions of the "Open Public Meeting Act." Commissioner Cofrancesco seconded the motion and it was approved unanimously.

ATTEST:



Executive Director Frank Zanzuccki