



## **NORTH DAKOTA RACING COMMISSION**

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**Winston E. Satran**  
Director of Racing

**Helen Tessmann**  
Administrative Staff Officer

### **NORTH DAKOTA RACING COMMISSION**

#### **Live and Telephone Meeting**

**Bismarck Public Library, 515 N 5<sup>th</sup> Street, Lower Level, Room A, Bismarck, ND**

**Thursday, November 29<sup>th</sup>, 2012 – 10:30 a.m. (central time)**

#### **Minutes**

**Call to Order:** Chairman Jim Ozbun called the meeting to order at 10:31 a.m.

**Present:** Chairman Jim Ozbun, Commissioner Andy Maragos, Commissioner Steve Hartman, Commissioner Tom Senftner, Racing Director, Winston Satran, Legal Counsel, Bill Peterson and Administrative Staff Officer, Helen Tessmann. **Absent:** Commissioner Ray Trottier

**Others Present:** John Ford, Micah Lloyd, Terry McWilliams, John Bracaglia, David Bernsen, Mike Cichy, Janelle Mitzel, Scott A. Horst, Joseph Schaefer, Arlie Roller, Avery Erfle, Leon A. Glasser, John Bubel, L.J. Harsche, Mike Schmitz, Billy Buchholz, Wes Heinert, Jad Breiner, Richard Nevins, Raymond Morrell and Gail Hardlicka.

#### **AGENDA**

1. **Approval of Minutes – August 30, 2012 Meeting**
2. **Consideration of hiring Director in Training and phase out of Director Satran's employment.**
3. **Outdoor Recreation Development Association - 2012 Race Meet Report**
  - Live Meet at Chippewa Downs, Belcourt, ND
4. **Audit - Chippewa Downs 2012 Race Meet**
  - Thompson's Financial Service
5. **Horse Race ND – 2012 Race Meet Report & 2013 Planning Progress**
6. **Breeders' Fund 2012 Distribution of Awards**
  - a. **Approval of Payment for the 2012 Breeders' Fund Awards**
  - b. **Consideration of Double and Triple Point Awards**
7. **New Service Provider License Application**
  - eBet Technologies, Inc.
8. **New Simulcast Totalizator Provider License Application**
  - Sportech Racing, LLC
9. **Approval of 2013 Licenses Applications**
  - a. **Totalizator Providers - Renewals**
    - (1) AmTote International, Inc.
    - (2) Las Vegas Dissemination Company, Inc.
    - (3) United Tote Company
  - b. **Simulcast Service Providers – Renewals**
    - (1) Avatar Ventures, LLC
    - (2) I.B.N., LLC
    - (3) Lien Games Racing, LLC

- (4) MegaTote, LCC
- (5) PariBet, LLC.
- (6) SocialGaming Technologies, Inc.
- (7) WatchandWager.com LLC
- c. **Simulcast Sites (Site Operators/Charities) – Renewals**
  - (1) American Gold Gymnastics, Inc.
  - (2) Development Homes Inc.
  - (3) Horse Race North Dakota
  - (4) Turtle Mountain Band of Chippewa
- 10. **Live Race Date Requests for 2013**
  - a. **Outdoor Recreation Development Association**  
Chippewa Downs – Belcourt, ND 10 race dates/5 weekends
  - b. **Horse Race North Dakota**  
ND Horse Park – Fargo, ND 12 race dates/4 weekends
- 11. **Purse Fund Applications – 2013 Grant Requests = \$ 464,500**
  - a. **ORDA** \$ 192,000
  - b. **ORDA – Grassroots Races** \$ 2,500
  - c. **Horse Race North Dakota** \$ 220,000
  - d. **ND Quarter Horse Racing Association** \$ 25,000
  - e. **ND Thoroughbred Association** \$ 10,000
  - f. **ND TOBA** \$ 15,000
- 12. **Promotion Fund Applications – 2013 Grant Requests = \$ 490,050**
  - a. **ORDA** \$ 174,550
  - b. **ORDA – Grassroots Races** \$ 2,500
  - c. **Horse Race North Dakota** \$ 300,000
  - d. **ND Quarter Horse Racing Association** \$ 3,000
  - e. **ND Thoroughbred Association** \$ 5,000
  - f. **ND TOBA** \$ 2,500
  - g. **ND Quarter Horse Racing Association** \$ 2,500  
– 2013 Horsemen’s Banquet
- 13. **Director’s Reports**
  - a. **Canterbury Downs**
  - b. **Information provided by Jim Fleming Trainer and Karen Glasser, Owner**
  - c. **Late payment fee schedule**
- 14. **ND Horsemen’s Council Issues or Recommendations**
- 15. **Any other business which may PROPERLY come before the commission**
- 16. **Adjournment**

### Meeting

Chairman Ozbun welcomed everyone to the meeting.

Chairman Ozbun announced that an item tabled at the last meeting needed to be added to the Director’s reports under agenda item #13 as item D regarding the new tax proposal for the upcoming legislative session.

**A motion was made** by Commissioner Senftner and seconded by Commissioner Hartman to add the tabled item to the agenda under the Director’s Report as item 13d, regarding the new legislation of the tax proposal. All Commissioners voted aye and hearing no negative vote the motion passed.

#### 1. **Approval of Minutes – August 30<sup>th</sup>, 2012 Meeting**

Previously, all Commissioners had received a copy of minutes to review.

**A motion was made** by Commissioner Senftner and seconded by Commissioner Maragos to accept the minutes of August 30<sup>th</sup>, 2012 meeting as presented. All Commissioners voted aye and hearing no negative vote the motion passed.

Director Satran announced that Chairman Ozbun has received this year's award for outstanding individual volunteer in the State of North Dakota. Director Satran stated that Chairman Ozbun is well deserving of this award for all his involvement with many organizations including the ND Racing Commission, Boy Scouts, St. Joseph's Hospital in Dickinson, St. Luke's Home in Dickinson, Rotary International, and the Theodore Roosevelt Medora Foundation Board of Directors. A round of applause was given by the meeting attendees.

2. **Consideration of hiring Director in Training and phase out of Director's Satran's employment.**

Director Satran announced that he has informed the Commissioners that he is phasing out his employment with the Commission with the final date being May 31<sup>st</sup>. Mr. Satran stated that he and the Chairman have met with the Governor and the Lieutenant Governor informing them of the plans in which Director Satran will work through the legislative session. Plans include Director Satran working in the training of the new Director. Director Satran explained the type of qualifications needed in seeking a new Director.

Director Satran also reported that NDRC's legal counsel, Mr. Bill Peterson, will be retiring. The ND Racing Commission will be assigned a new attorney from the Attorney General's office who will not have Mr. Peterson's wealth of experience in horse racing. Director Satran suggested hiring an attorney for the position of Director of Racing. It is hopeful to find a new Director in the next two to three months. Mr. Peterson announced his retirement date is February 1<sup>st</sup>. Director Satran explained it is the responsibility of the ND Racing Commission to hire the Director of Racing. Commissioner Maragos offered along with Director Satran to assist the new Director during the legislative session.

3. **Outdoor Recreation Development Association - 2012 Race Meet Report**

- Live Meet at Chippewa Downs, Belcourt, ND

4. **Audit - Chippewa Downs 2012 Race Meet**

- Thompson's Financial Service

Director Satran gave Pete Davis' report for Outdoor Recreation Development Association's (ORDA) and also gave the Thompson Financial Service's audit report of ORDA's race meet. Director Satran stated the ORDA's financial report will be given at a later meeting.

**A motion was made** by Commissioner Maragos and seconded by Commissioner Hartman to accept the reports for Chippewa Downs as presented. All Commissioners voted aye and hearing no negative vote the motion passed.

5. **Horse Race ND – 2012 Race Meet Report & 2013 Planning Progress**

Jad Breiner gave the report for the Horse Race ND's 2012 race meet.

Director Satran reported that the Fargo City Commission met and delayed the payment by Horse Race ND for the TIF Loan until 2015. Director Satran asked that Horse Race ND Board of Directors contact Economic Development to determine the assessment that is owed by Horse Race ND for 2012.

Chairman Ozbun asked Horse Race ND to report to the Commission at the next meeting on the amount owed to Economic Development and the City of Fargo. Jad was asked to submit his report on 2012 race meet in writing to the Racing Commission office.

**A motion was made** by Commissioner Senftner and seconded by Commissioner Maragos to accept the report for Horse Race ND as presented with a contingency that a written report is provided to the Commission office and a contingency that an audit will be completed by CHRIMS. Senftner-Y, Maragos-Y, Hartman-Y, and Ozbun-Y. (Trottier - absent.) Motion passed.

6. **Breeders' Fund 2012 Distribution of Awards**  
a. **Approval of Payment for the 2012 Breeders' Fund Awards**  
b. **Consideration of Double and Triple Point Awards**

Director Satran reported that \$97,346 is available from the Breeders' Fund for the 2012 Breeders' Fund Awards. Two races had a \$10,000 purse which could qualify for double points.

**A motion was made** by Commissioner Maragos and seconded by Commissioner Hartman to approve payment of \$97,346 from the Breeders' Fund for the 2012 Breeders' Awards and to award double points for races that the purse was over \$10,000. Maragos-Y, Hartman-Y, Senftner-Y and Ozbun-Y. (Trottier - absent.) Motion passed.

7. **New Service Provider License Application**  
- eBet Technologies, Inc.

Micah Lloyd, President of eBet Technologies, Inc. presented their application for a Service Provider and Account Deposit Wagering license. Director Satran recommended licensing eBet Technologies, Inc.

**A motion was made** by Commissioner Senftner and seconded by Commissioner Maragos to approve licensing eBet Technologies, Inc. as a Service Provider and Account Deposit Wagering license. Senftner-Y, Maragos-Y, Hartman-Y, and Ozbun-Y. (Trottier - absent.) Motion passed.

Director Satran added that eBet Technologies had provided the most complete application he had seen with a large volume of information and that he and Helen had processed all of them. Director Satran explained that eBet Technologies has a Problem Gambling Program as part of their operations which Mr. Lloyd spoke on concerning the program. It is recommended that this program be submitted to the other ADW providers.

8. **New Simulcast Totalizator Provider License Application**  
- Sportech Racing, LLC

Terry McWilliams of Sportech Racing, LLC presented their application for a Simulcast Totalizator Provider License.

**A motion was made** by Commissioner Maragos and seconded by Commissioner Hartman to approve licensing Sportech Racing, LLC as a Simulcast Totalizator Provider. Maragos-Y, Hartman-Y, Senftner-Y and Ozbun-Y. (Trottier - absent.) Motion passed.

9. **Approval of 2013 Licenses Applications**  
a. **Totalizator Providers – Renewals**

(1) AmTote International, Inc.

**A motion was made** by Commissioner Hartman and seconded by Commissioner Maragos to approve licensing AmTote International, Inc. as a Simulcast Totalizator Provider. Hartman-Y, Maragos-Y, Senftner-Y and Ozbun-Y. (Trottier - absent.) Motion passed.

(2) Las Vegas Dissemination Company, Inc.

**A motion was made** by Commissioner Maragos and seconded by Commissioner Hartman to approve licensing Las Vegas Dissemination Company as a Simulcast Totalizator Provider. Maragos-Y, Hartman-Y, Senftner-Y and Ozbun-Y. (Trottier - absent.) Motion passed.

(3) United Tote Company

**A motion was made** by Commissioner Hartman and seconded by Commissioner Maragos to approve licensing United Tote Company as a Simulcast Totalizator Provider. Hartman-Y, Maragos-Y, Senftner-Y and Ozbun-Y. (Trottier - absent.) Motion passed.

Director Satran gave a summary of the past year and the current status of each of the 7 applicants seeking a 2013 Simulcast Service Provider's and Account Deposit Wagering license.

Director Satran gave special thanks to John Ford of Lien Games Racing for their support of the Belcourt and Fargo race meets, to Avatar Ventures, Bruce and Trish Soulsby, Mike and Patty Weiss, for their major support in making the Fargo race meet a huge success, and to the Fargo Forum for excellent coverage of the Fargo race meet.

**b. Simulcast Service Providers – Renewals**

- (1) Avatar Ventures, LLC
- (2) I.B.N., LLC
- (3) Lien Games Racing, LLC
- (4) MegaTote, LLC
- (5) PariBet, LLC.
- (6) SocialGaming Technologies, Inc.
- (7) WatchandWager.com LLC

**A motion was made** by Commissioner Senftner and seconded by Commissioner Hartman to approve licensing Avatar Ventures LLC, I.B.N. LLC, Lien Games Racing LLC, MegaTote LLC, Pari-Bet LLC, SocialGaming Technologies Inc., and WatchandWager.com LLC as 2013 Service Provider and Account Deposit Wagering license. Senftner-Y, Hartman-Y, Maragos-Y, and Ozbun-Y. (Trottier - absent.) Motion passed.

Director Satran presented the license application for each of the 4 Simulcast Site Operators.

**c. Simulcast Sites (Site Operators/Charities) – Renewals**

- (1) American Gold Gymnastics, Inc.
- (2) Development Homes Inc.
- (3) Horse Race North Dakota
- (4) Turtle Mountain Band of Chippewa

**A motion was made** by Commissioner Maragos and seconded by Commissioner Senftner to approve 2013 license for Simulcast Site Operator to American Gold Gymnastics Inc., Development Homes Inc., Horse Race North Dakota, and Turtle Mountain Band of Chippewa (Sky Dancer Hotel & Casino). Maragos-Y, Senftner-Y, Hartman-Y, and Ozbun-Y. (Trottier - absent.) Motion passed.

10. **Live Race Date Requests for 2013**

a. **Outdoor Recreation Development Association**

Chippewa Downs – Belcourt, ND 10 race dates/5 weekends

b. **Horse Race North Dakota**

ND Horse Park – Fargo, ND 12 race dates/4 weekends

Director Satran presented the license applications to conduct horse racing in North Dakota and the 2013 live race dates requests from Outdoor Recreational Development Association (Chippewa Downs-Belcourt) and Horse Race North Dakota (ND Horse Park-Fargo).

**A motion was made** by Commissioner Maragos and seconded by Commissioner Senftner to approve the 2013 license to conduct horse racing in North Dakota and to grant up to 8 race days for Outdoor Recreational Development Association for June 8 – July 7. To approve the 2013 license to conduct horse racing in North Dakota and to grant up to 9 days for Horse Race ND for July 26 – August 18. Maragos-Y, Senftner-Y, Hartman-Y, and Ozbun-Y. (Trottier - absent.) Motion passed.

11. **Purse Fund Applications – 2013 Grant Requests = \$ 464,500**

a. <b><u>ORDA</u></b>	\$ 192,000
b. <b><u>ORDA – Grassroots Races</u></b>	\$ 2,500
c. <b><u>Horse Race North Dakota</u></b>	\$ 220,000
d. <b><u>ND Quarter Horse Racing Association</u></b>	\$ 25,000
e. <b><u>ND Thoroughbred Association</u></b>	\$ 10,000
f. <b><u>ND TOBA</u></b>	\$ 15,000

12. **Promotion Fund Applications – 2013 Grant Requests = \$ 490,050**

a. <b><u>ORDA</u></b>	\$ 174,550
b. <b><u>ORDA – Grassroots Races</u></b>	\$ 2,500
c. <b><u>Horse Race North Dakota</u></b>	\$ 300,000
d. <b><u>ND Quarter Horse Racing Association</u></b>	\$ 3,000
e. <b><u>ND Thoroughbred Association</u></b>	\$ 5,000
f. <b><u>ND TOBA</u></b>	\$ 2,500
g. <b><u>ND Quarter Horse Racing Association</u></b> – 2013 Horsemen’s Banquet	\$ 2,500

**A motion was made** by Commissioner Maragos and seconded by Commissioner Senftner to table the Purse Fund and Promotion Fund applications until the next Commission meeting. Maragos-Y, Senftner-Y, Hartman-Y, and Ozbun-Y. (Trottier - absent.) Motion passed.

**A motion was made** by Commissioner Maragos and seconded by Commissioner Senftner to act on the agenda item 12g, the ND Quarter Horse Racing Association’s Promotion Fund application for the 2013 Horsemen’s Banquet and grant \$2,500 from the Promotion Fund. Maragos-Y, Senftner-Y, Hartman-Y, and Ozbun-Y. (Trottier - absent.) Motion passed.

*(A ten minute recess was taken.)*

**13. Director's Reports**  
**a. Canterbury Downs**

Director Satran reported that he and Chairman Ozbun met with the President of Canterbury Downs, Randy Samson, and the Director of the Minnesota Racing Commission in a good healthy discussion presented by both parties. A number of possibilities were discussed and one was that Canterbury Downs is interested in some aspect of the ADW business, and they have assigned a staff person to work with Director Satran. Another interest was ND Racing Commission's to have Canterbury Downs review managing the race meet at Fargo. Prior to the Canterbury meeting Director Satran had spoken with Wes Heinert, President of HRND, and Wes was supportive of this concept. The third point of discussion was a lower tier of horses running in Minnesota and developing a possibility of them to run in North Dakota. The door has been opened for a relationship with Canterbury Downs.

Director Satran and Chairman Ozbun also met with representatives of Lutheran Social Services regarding exploring the possibility of developing a program for problem gambling. This program would then be shared with the service providers to develop their own programs. The possibility that as the revenue expands the racing commission would provide support for these programs.

(Agenda item 13 b was moved and placed after 13 c.)

**c. Late payment fee schedule**

Director Satran presented a draft of changes in using the waiver rule to allow for less punitive costs on late registrations of horses into the North Dakota Breeders' Fund Registry. He asked the Commission to consider enacting the provision in the regulation 69.5-01-02-01. General Authority.

Section 2. The commission, upon application therefore and for good cause shown, may temporarily waive or modify any rule or permit any activity otherwise lawful but not specifically authorized by these rules when, in the opinion of the commission, such circumstances exist that without such waiver, modification, or activity the health or safety of any person or horse is adversely affected or the due conduct or best interest of pari-mutuel horse racing of North Dakota is adversely impaired.

He requested the Commission to implement the waiver provisions and modify the foal registration and certification rule. Presently it is:

NDCC Section 69.5-01-09-02. Registration and requirements for North Dakota-bred eligibility.

Subsection 4. Foal registration and certification. For a horse foaled in North Dakota to be registered and subsequently certified as a North Dakota-bred, the following requirements must be met:

- a. Any time from foaling through December thirty-first of the foaling year that the horse was foaled in North Dakota, the foal must be registered with the North Dakota racing commission or official registering agency. The registration form must be provided by the commission and must contain the date, name, registration number, owner's name of the foaling dam, date the foal was born, and foal owner's statement that the foal was born in North Dakota. The application to register a foal in the North Dakota breeders' fund program as a North Dakota-bred must be accompanied by a ten dollar registration fee.

- b. Registration applications that meet all other requirements provided in this section, but are received after the December thirty-first deadline, may be processed and approved provided that applications and registration fees received after December thirty-first of the foaling year but prior to December thirty-first of the yearling year are accompanied by a late fee of one thousand dollars.

Director Satran recommended the following fees for late registration:

Year 1: anytime from foaling through December thirty-first of the foaling year that the horse was foaled in North Dakota. Registration fee \$10.00.

Year 2: anytime from January 1 through December thirty-first of the year of foaling that the horse was foaled in North Dakota. Registration fee \$100.00.

Year 3: anytime from January 1 through December thirty-first of the two year old year. Registration fee \$200.00.

If all requirements are met after December thirty-first of the two year old year, the registration fee will be \$500.00.

In order to register the horses that would be eligible this year for the provision to take effect the provision would become effective on December 1, 2012.

**A motion was made** by Commissioner Maragos and seconded by Commissioner Hartman to accept the recommendation to implement for one year a change in the waiver of the current rule on the late registration fee schedule as presented for horses into the Breeders' Fund Registry. Maragos-Y, Hartman-Y, Senftner-Y, and Ozbun-Y. (Trottier- absent.) Motion passed.

**b. Information provided by Jim Fleming Trainer and Karen Glasser, Owner**

Legal Counsel, Bill Peterson explained the process in the allegations against two licensees; Mr. Fleming's trainer license and Ms. Glasser's owner license, concerning medication. Responses have been received to those allegations. The commission will decide whether to initiate disciplinary proceedings against each one. This is not a final decision. Each case must be considered separately. This is not a hearing. If the Commission does initiate a disciplinary proceeding against a licensee, the licensee will have an opportunity for a hearing before an administrative law judge.

The Commission's options are: To not initiate a disciplinary proceeding, to seek further information, or to initiate a disciplinary proceeding.

There must be grounds in the rules to initiate a disciplinary proceeding. If the Commission decides to initiate a disciplinary proceeding against the licensee, the Commission may also consider offering the licensee a settlement of the disciplinary proceeding on terms the Commission believes are appropriate. Legal Counsel repeated in detail the process.

**A motion was made** by Commissioner Maragos with regards to the potential violation of Mr. Fleming moved to seek further information on Mr. Fleming's case to be discussed at the February meeting. No second received.



Director Satran explained the facts and the responses received and then made a recommendation. Legal Counsel summarized the Director's recommendation to be to initiate disciplinary proceedings against the trainer, Mr. Fleming, and the next step would be to offer a settlement agreement of \$250 fine and the Director is also suggesting to not take any action against the owner's license, Ms. Glasser.

**A motion was made** by Commissioner Maragos and seconded by Commissioner Senftner to initiate disciplinary proceedings against Mr. Jim Fleming, the trainer for a violation and offer a settlement agreement of a \$250 fine to resolve the complaint. Maragos-Y, Senftner-Y, Hartman-Y and Ozbun-Y. (Trottier - absent.) Motion passed.

**A motion was made** by Commissioner Maragos and seconded by Commission Hartman to seek further information on disciplinary proceedings against Ms. Glasser's.

Legal Counsel, Bill Peterson, asked what information is needed. Commissioner Maragos and Commissioner Hartman withdrew their motion and second.

Commissioner Hartman asked where the tests samples are sent and Director Satran answered Industrial Labs. The Director also explained the process in taking, protecting and the handling the test samples.

**A motion was made** by Commissioner Hartman to seek further information. Commissioner Maragos seconded the motion.

Discussion was held on what happens to the Purse money.

Both Commissioners Hartman and Maragos withdrew their motion and second.

**A motion was made** by Commissioner Maragos and seconded by Commissioner Hartman to initiate disciplinary action against Ms. Glasser, the owner of the horse. Maragos-Y, Hartman-Y, Senftner-Y, and Ozbun-N. (Trottier - absent.) Motion passed.

Commissioner Maragos stated that knowing that Ms. Glasser can go before the administrative law judge and should forfeit amount won in the race. Legal Counsel explained this discussion is whether to initiate disciplinary action. He also explained the cost and time involved in an administrative hearing.

**A motion was made** by Commissioner Maragos and seconded by Commissioner Senftner to direct Legal Counsel to offer a settlement agreement to withhold the purse from the owner, Ms. Glasser. Maragos-Y, Senftner-Y, Hartman-Y and Ozbun-Y. (Trottier - absent.) Motion passed.

**d. Agenda item added: Proposed new legislation - Tax Bill**

Director Satran stated that at the last Commission meeting was presented the legislative changes to the tax law which expires on June 30, 2013. He read the changes and explained the reason for the changes.

1<sup>st</sup> change is for wagering on live horse racing, and to move simulcast wagering under the same tax law as account deposit wagering.

2<sup>nd</sup> change is under Section C for the fiscal year commencing July 1, 2013; the licensee shall pay no more than four hundred thousand dollars. For each subsequent fiscal year, the limit on total payments increases by five percent of the limit on total payments in the previous fiscal year. The commission may alter the amount of the increase before commencement of a fiscal year by rule. The rule may be given effect on an emergency basis without meeting the requirements of subsection 2 of section 23-32-03.

3<sup>rd</sup> that the breakage amount received would be deposited into the Promotion Fund.

**A motion was made** by Commissioner Maragos and seconded by Commissioner Senftner that the Racing Commission forwards the proposed legislation to Legislative Council for introduction. Maragos-Y, Senftner-Y, Hartman-Y and Ozbun-Y. (Trottier - absent.) Motion passed.

14. **ND Horsemen's Council Issues or Recommendations**

- No report.

15. **Any other business which may PROPERLY come before the commission**

- None.

Chairman Ozbun expressed the Commission's appreciation and thanks to Bill Peterson for a job well done in serving the Commission as Legal Counsel. Chairman Ozbun added that it has been great working with you, Bill and good luck. A round of applause was given by the meeting attendees.

16. **Adjournment**

Chairman Ozbun requested the meeting be adjourned.

**A motion was made** by Commissioner Senftner and was seconded by Commissioner Hartman to adjourn the meeting. All Commissioners voted aye and hearing no negative vote the motion passed.