

MAINE STATE HARNESS RACING COMMISSION

**IN RE: RENEWAL OF LICENSES FOR)
OFF-TRACK BETTING FACILITIES) DECISION AND ORDER
FOR CALENDAR YEAR 2023)**

I. INTRODUCTION

On November 15, 2022, the Maine State Harness Racing Commission (“Commission”) held an adjudicatory hearing at the Deering Building, 90 Blossom Lane, Augusta Maine pursuant to Title 8 M.R.S. §§ 271, 275-D, 275-N and 5 M.R.S. §§ 9061 – 9064. The purpose of the hearing was to consider applications for renewal of licenses to conduct pari-mutuel wagering at off-track betting facilities (“OTB”) for calendar year 2023. Applications for renewal licenses were filed by Pioneer Gaming, LLC, d/b/a Sanford OTB in Sanford; Pioneer Gaming, LLC, d/b/a Favorites OTB in Waterville; Midcoast OTB, Inc., d/b/a Winner’s OTB; and, LRI, Inc., d/b/a Winners’ Circle OTB.

A quorum of the Commission was present during all stages of the proceedings. Harry Center, Barry Norris, Patricia Varnum, Diane Dunn, and Don Marean participated and voted as Commission members. Chairman Harry Center acted as the Presiding Officer of the hearing.

During the hearing, Nicole Chipman represented Midcoast OTB; Donald Barberino represented Pioneer Gaming LLC, d/b/a Sanford OTB and Pioneer Gaming LLC, d/b/a Favorites OTB in Waterville; and James P. Day, represented LRI, Inc.

Following the determination that none of the Commission members had a conflict of interest that would prevent them from participating in the hearing, the Presiding Officer admitted Exhibits 1 – 11 into the record without objection. Exhibits 1 – 11 are reflected in the Table of Contents attached as Exhibit A to this Decision and Order. The Commission heard testimony from the following witnesses: Shane Bacon, Executive Director of the Maine State Harness Racing Commission,

Christian A. Smith, CPA, CFE, of WIPFLI, LLC; Nicole Chipman for Midcoast OTB, Donald Barberino for Favorites OTB in Waterville and Sanford OTB in Sanford, and James P. Day, for LRI, Inc.

II. FINDINGS OF FACT

1. The applicants timely filed renewal applications for calendar year 2023.
2. All the applicants either already have or will comply with the requirements of 8 M.R.S. § 272, by providing a bond or irrevocable letter of credit for calendar year 2023 prior to the issuance of a physical license.
3. The applicants have substantially complied with the harness racing laws in Title 8, Chapter 11 and the rules prescribed by the Commission during the past year and are expected to fully comply with same during the coming year.
4. The applicants have satisfied the criteria under 8 M.R.S. § 275-D(6)(A)(1)-(9).
5. The applicants have satisfied the criteria under 8 M.R.S. § 275-D(6)(C). Although Mr. Smith testified that Midcoast OTB is in poor financial condition, after hearing testimony from Ms. Chipman, the Commission finds that Midcoast is financially responsible. Ms. Chipman testified that she has made Midcoast's vendors and creditors a priority and has worked with them to ensure that they are paid. Ms. Chipman testified to other actions that Midcoast has taken, to include some staff not taking overtime despite greater than 40 hours worked. The Commission further credits Mr. Smith's testimony that an applicant can be in poor financial condition, yet still financially responsible depending on the actions it is taking.

III. CONCLUSIONS OF LAW

The Commission subsequently applied the following statutory and rule provisions to the above-stated findings of fact, and concluded that:

1. The applicants have substantially complied with 8 M.R.S. § 271, § 275-D and Chapter 15 of the Commission Rules which set out the relevant criteria that govern the re-licensing of Off-Track Betting facilities.
2. The applicants already have or will comply with 8 M.R.S. § 272 for calendar year 2023, pursuant to which the Commission may issue an Off-Track Betting license to any of the applicants after they provide a bond or irrevocable letter of credit in an amount fixed by the Commission.
4. Pursuant to 8 M.R.S. § 275-D(6)(A)(1)-(9), the Commission may license the subject OTB facilities since the applicants have satisfied the criteria contained therein.
5. Pursuant to 8 M.R.S. § 275-D(6)(C), the Commission may license the subject OTB facilities since the applicants have satisfied the criteria contained therein.
6. Pursuant to 8 M.R.S. § 275-D(12), the Commission may license the subject OTB facilities since the applicants have satisfied the criteria contained therein.

IV. DECISION AND ORDER

After considering the evidence and the criteria set forth in the above statutes, the Commission is satisfied that all the necessary requirements have been met to renew the licenses for calendar year 2023 for: Pioneer Gaming, LLC, d/b/a Sanford OTB in Sanford; Pioneer Gaming, LLC, d/b/a Favorites OTB in Waterville; Midcoast OTB, Inc., d/b/a Winner's OTB; and, LRI, Inc., d/b/a Winners' Circle OTB. The 2023 licenses for the applicants are conditioned upon receipt of payment of the bond required by § 272 for the 2023 year. Based on the applications, the evidence presented by the parties and staff, the reasons stated on the record at hearing, and the additional evidence in the record not specifically referred to herein, the Commission voted unanimously to

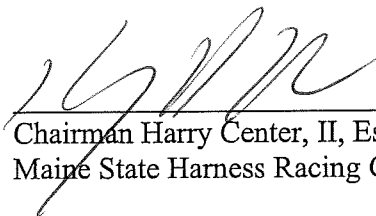
renew each of the Off-Track Betting licenses for the purpose of conducting pari-mutuel wagering and to allow interstate simulcasting on the dates listed in their applications for calendar year 2023.

V. NOTICE OF APPEAL RIGHTS

Any party to these proceedings may seek review of this Decision, to the extent that review is permitted by law, by filing a petition for review in Superior Court pursuant to 5 M.R.S. § 11001, *et seq.*, within thirty (30) days after receiving notice of this Decision.

The petition shall specify the person seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief. Copies of the Petition for Review shall be served by Certified Mail, Return Receipt Requested on the Maine State Harness Racing Commission, all parties to the agency proceedings, and the Attorney General. Any other person aggrieved by this Decision may seek judicial review in like manner by filing a petition for review in Superior Court within forty (40) days after the date of this Decision.

DATED: 12-20-2022



Chairman Harry Center, II, Esq.
Maine State Harness Racing Commission