MAINE STATE HARNESS RACING COMMISSION
MINUTES OF MEETING
June 18, 2015
Gambling Control Board Conference Room
Department of Public Safety Building
45 Commerce Drive, Augusta, Maine

Commission Members Present: Barbara Dresser, Chair, Gary Reed and William McFarland.
Commissioners Absent: Dirk Duncan.

Staff Members Present: Ron Guay, AAG, Henry Jackson and Miles Greenleaf.

ADJUDICATORY HEARINGS:

1. **RE: Marissa Tyler, Complaint Number 2015 MSHRC 003.** Ms. Tyler is requesting the Commission to reconsider the penalty imposed on her at its May 22, 2015 meeting. Continued to the July meeting.

2. **RE: Allie Hiscock, Complaint Number 2015 MSHRC 004.** Mr. Hiscock is alleged to have violated MSHRC Rule Chapter 11 Section 3. Mr. Hiscock is trainer of record of “Carls Glory”. A blood sample from Carls Glory prior to the 7th Race on April 26, 2015 at Scarborough Downs had an excessive Blood Gas level. Mr. Hiscock was present. Mr. Jackson presented the following exhibits. Exhibit 1, Race Program for April 26, 2015 at Scarborough Downs, Exhibit 2, Sample Card; Exhibit 3, Lab analysis of the sample; Exhibit 4, Notice of Positive Test; Exhibit 5, Mr. Hiscock’s request for quarantine for testing. Exhibit 6, Notice of Hearing; and Exhibit 7, Test results of samples while in a secure facility. Assistant Attorney General Guay admitted the exhibits without objection. Mr. Hiscock presented the following exhibits. Exhibit 1, Veterinarian report from Don Heisler; and Exhibit 2, Lab analysis from IDEXX. Assistant Attorney General Guay admitted the exhibits without objection. Mr. Hiscock provided testimony. Exhibit 3, Bag with ingredients was also admitted. After deliberations, Commissioner Reed made a motion that a violation has occurred. Commissioner McFarland seconded. Vote 3-0. After a brief discussion on the penalty, Commissioner Reed made a motion to a 15 day suspension, fine of $500 with all but $100 suspended and return of the purse. Commissioner McFarland seconded. Commission members had further discussion on the penalty regarding mitigation circumstances. Commissioner Reed amended his motion to a 10 day suspension, fine of $500 with all but $100 suspended and return of the purse. Commissioner McFarland seconded. Vote 3-0.

3. **RE: Allie Hiscock, Complaint Number 2014 MSHRC 0023.** Mr. Hiscock is alleged to have violated MSHRC Rule Chapter 11 Section 8. Mr. Hiscock is trainer of record of “Danville Sweetheart”. A blood sample from Danville Sweetheart following the 7th Race on July 5, 2014 at Scarborough Downs had an excessive level of Flunixin. Assistant Attorney General Guay stated that the Commission found a violation to complaint number 2015 MSHRC 004 so that would bring back the 2014 complaint. He asked Mr. Hiscock if he was in an agreement with Mr. Jackson that if the case was continued and if no further violations occurred before July 1, 2015 then the complaint would be dismissed. Mr. Hiscock agreed with Mr. Jackson. Assistant Attorney General Guay stated that they did not have to admit any exhibits and take any testimony. He did ask Mr. Hiscock if he would stipulate to the fact that the horse “Danville Sweetheart” did have an excessive level of Flunixin at 255 nanograms per milliliter and he was the trainer of record. Mr. Hiscock responded yes to both. Assistant Attorney General Guay stated to Mr. Hiscock...
that by agreeing with these stipulations that he is admitting to the violation. Commissioner Dresser asked Mr. Jackson if this would be considered a second offense. Mr. Jackson stated yes. After deliberations, Commissioner Reed made a motion to a 30 day suspension with all but 25 days suspended to be served concurrent with the TCO2 violation, a $50 fine, suspension of the horse with all suspended and the return of the purse. Commissioner McFarland seconded. Vote 3-0.

4. RE: John Bowman, Complaint Number 2015 MSHRC 005. Mr. Bowman is alleged to have violated MSHRC Rule Chapter 11 Section 1. Mr. Bowman is trainer of record of Western Rival. A blood sample obtained from Western Rival following the Seventh Race at Scarborough Downs on May 2, 2015 disclosed the presence of Oxymetazoline, a Class IV Drug. Mr. Bowman was present. Assistant Attorney General Guay stated that Mr. Bowman stipulates to being the trainer of record of Western Rival and that the horse Western Rival raced in the seventh race at Scarborough Downs on May 2, 2015 and that the horse had Oxymetazoline in its system. Mr. Bowman admitted to the violation. Mr. Jackson presented Exhibit 3, Lab test results, and Exhibit 5, Notice of Hearing. After deliberations, Commissioner Reed made a motion to give Mr. Bowman a written warning. Commissioner McFarland seconded. Commissioner Dresser stated that her thoughts were to give Mr. Bowman a $200 fine and for the owner return of the purse. After a brief discussion, Commissioner McFarland withdrew his second. Commissioner Reed amended his motion to give Mr. Bowman a $200 fine and for the owner return of the purse. Commissioner McFarland seconded. Vote 3-0.

5. RE: Shawn Thayer, Complaint Number 2015 MSHRC 007. Mr. Thayer is alleged to have violated MSHRC Rule Chapter 11 Section 1. Mr. Thayer is trainer of record of Inthenameofjames. A blood sample obtained from Inthenameofjames following the Fourth Race at Bangor Raceway on May 5, 2105 disclosed the presence of Clenbuterol, a Class III Drug. Continued to July meeting.

6. RE: Jamie Gerard, Complaint Number 2015 MSHRC 008. Mr. Gerard is alleged to have violated MSHRC Rule Chapter 11 Section 8. Mr. Gerard is trainer of record of Had To Be Me. A blood sample obtained from Had To Be Me following the Eight Race at Scarborough Downs on May 9, 2015 disclosed an excessive level of Phenylbutazone. Mr. Gerard was present. Mr. Jackson presented the following exhibits: Exhibit 1, Program for May 9, 2015 at Scarborough Downs; Exhibit 2, Sample Tag; Exhibit 3, Analysis results from LGC laboratory; Exhibit 4, Notice of Positive Test to Mr. Gerard; and Exhibit 5, Notice of Positive Test to Mr. Gerard. Assistant Attorney General Guay admitted these exhibits without objection by Mr. Gerard. Testimony was heard from Mr. Gerard. After a brief discussion, Commissioner Reed made a motion to give a written warning to Mr. Gerard for this violation. Commissioner McFarland seconded. Vote 3-0. Commissioner Reed made a motion to give a written warning to the owner, Benjamin and Kevin Hebert. Commissioner McFarland seconded. Vote 3-0.

7. RE: David N. White, Complaint Number 2015 MSHRC 009. Mr. White is alleged to have violated MSHRC Rule Chapter 11 Section 8. Mr. White is trainer of record of Northern Smokeout. A blood sample obtained from Northern Smokeout following the Second Qualifying Race at Bangor Raceway on May 12, 2015 disclosed an excessive level of Phenylbutazone. Mr. White was present. Assistant Attorney General Guay asked Mr. White if he was the trainer of record of Northern Smokeout, and that the horse on May 12, 2015 had an excessive level of Phenylbutazone in its system and on May 12, 2015 Northern Smokeout raced during the second qualifying race at Bangor Raceway. Mr. White admitted to those facts. Assistant Attorney General Guay stated because of those stipulations Mr. White is in violation. Mr. Jackson presented the following exhibit.
Exhibit 3, Lab report. After deliberations, Commissioner McFarland made a motion to access Mr. White a fine of $100 based on the evidence presented today. Commissioner Reed seconded. Vote 3-0.

8. **RE: Steven Vafiades, Appeal Hearing.** Mr. Vafiades is appealing the decision of Frank Hall, Jr., Presiding Judge at Bangor Raceway. Judge Hall imposed a penalty of 75 days for a violation of Commission Rules Chapter 7 Section 63 and Chapter 17 Section 5.1 & 3. Continued because of Mr. Vafiades medical condition.

UNFINISHED BUSINESS:
Commissioner McFarland made a motion to accept the Decision and Order for Marissa Tyler as written. Commissioner Reed seconded. Vote 3-0. Assistant Attorney General Guay stated he would like to make a comment on this case. What you as Commissioner’s just did today is not final agency action because generally when you sign this, the appeal period starts running for 30 days. In this case it doesn’t. There is another step.

REPORTS:

1. **Executive Director’s Report.** Mr. Jackson stated that the horse supply seems to be adequate for the number of dates awarded; however, the total number of dashes awarded at both Bangor and Scarborough has not been utilized because there still seems to be a little bit of tightening of the supply.

LD 1280 is about to hit the legislature. The last he knew it was being reviewed in the revisor’s office to make sure the language is what the committee wanted. Other than that LD 838 has been allowed to go into law without the Governor’s signature. That reduces the commissions paid by the OTB’s by 4 percent. LD 1022 has been signed into law by the Governor and that allows for the emergency disbursing of the 4 percent funds, in the event, if a commercial track closes or is forced to close and allows the Agricultural Fairs to participate in that fund provided they operate an extended meet. The extended meet cannot exceed 100 days.

Mr. Jackson stated that preliminary reports were banded about being actual findings by the laboratory and that is not the case. The preliminary reports indicated there was a possibility of excessive levels of a certain drug. Those have now been confirmed. Notices have been sent out and there are going to be sixteen elevated levels of a certain substance. He wanted the industry to know that he does not report preliminary reports. He only reports those that have been confirmed. Commissioner Dresser asked Mr. Jackson to say what the substance is to put the rumors at rest. Mr. Jackson stated that the excessive levels are Cobalt. There was a notice put up saying we were going to test for Cobalt this year. Once they got the final direction from the ARCI and the RMTC, they submitted samples for analysis and there were a great number of samples submitted and 16 were reported suspicious on the screening test. Those were confirmed.

NEW BUSINESS:

1. Commissioner Dresser stated that the Commission is to establish the Base Purse for the 2015 Sire Stakes Program Races. Ms. Perkins, representing Maine Standardbred Breeders and Owners Association, stated that she met with Mr. Kelley, Mr. Canney and Mr. Greenleaf to establish the base purse. She presented a base purse of $9,000. Commissioner Reed made a motion to approve the base purse of $9,000. Commissioner McFarland seconded. Vote 3-0.
OTHER BUSINESS:

1. Commissioner Dresser stated that Mr. Barberino owner of Pioneering Gaming, LLC Sanford OTB would like to address the Commission. Mr. Barberino stated that he wanted to report on the move to the new location. He stated that the move is a little slower than planned but he is anticipating the opening to be July 1, 2015.

2. **Written decision and order for Patricia Switzer.** Commission members reviewed the written decision and order regarding Patricia Switzer. Commissioner Reed made a motion to approve the written decision and order for Patricia Switzer. Commissioner McFarland seconded. Vote 3-0.

3. Commissioner Dresser stated that they will discuss the issue of Double Draws at the racetracks. Mr. Jackson stated the Scarborough Downs asked to allow for a double draw for the Saturday and Sunday program and the draw would be on Wednesday. There will be two separate condition sheets. Mr. Cobbett stated that the double draw is working for them. Mr. Sawyer stated that other racetracks do double draws. We have a horse shortage.

PUBLIC COMMENT:

Ms. Corso stated that as a participant of sire stakes program that she races her horse in the program and receives her purse check three to four weeks later. She would like to see her purse check sooner. Mr. Jackson stated that once we submit the paperwork to the State for payment it is submitted to the track for disbursement.

DATE OF NEXT MEETING: July 8 & 9, 2015

ADJOURN: 2:00 p.m.

Respectfully submitted by:
Henry W. Jackson
Executive Director