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VIRGINIA RACING COMMISSION

COLONIAL DOWNS
HORSEMEN'S BUILDING
10700 HORSEMEN'S ROAD
NEW KENT, VA 23214

Monday, July 22, 2019 at 9:00 a.m.

COMMISSION MEMBERS:

D.G. Van Clief, Jr., Chairman
Stuart Siegel, Vice Chairman
J. Sargeant Reynolds, Jr.
Stephanie B. Nixon

COMMISSION STAFF:

David S. Lermond, Jr., Executive Secretary
Kimberly C. Mackey, Business Manager

ATTORNEY GENERAL'S OFFICE:

Robert N. Drewry, Esquire

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1	1. Call to Order	3
2	2. Approval of the July 10 th meeting minutes	3
3	3. Public Comment Period	3
4	4. New Business	
5	a. Joint Request from the Colonial Downs Group and the VHBPA for the Retainage Percentages of Pari-Mutuel Wagering Pools on Live Racing Conducted at Colonial Downs for 2019	4
6		
7	b. Joint request from the Shenandoah County Agricultural Foundation and the VHHA for the Retainage Percentages of Pari-Mutuel Pools on Live Racing Conducted at Shenandoah Downs for 2019	12
8		
9	c. Request for Approval of an Expenditure from the Standardbred Portion of the Virginia Breeders Fund to Partially Fund Eight Virginia-bred Stake Races to be Contested at Shenandoah Downs in 2019	14
10		
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13	5. Commissioners' Comments	16
14	6. Closed Session (if necessary)	20
15	7. Adjournment	23

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1 CHAIRMAN VAN CLIEF: Good morning. I know
2 that some of you have got a tight schedule this
3 morning. I don't think it will be a long meeting
4 anyway, but we will get right to it.

5 I'd like to bring the Virginia Racing
6 Commission to order at this time. The first order
7 of business is to approve the minutes of our last
8 meeting, which was July 10th. For my fellow
9 Commissioners, those were circulated by our
10 office. They look fine to me. Does anybody have
11 any comments?

12 COMMISSIONER SIEGEL: I move they be accepted.

13 CHAIRMAN VAN CLIEF: We have a motion to
14 approve.

15 COMMISSIONER REYNOLDS: I second.

16 CHAIRMAN VAN CLIEF: And a second. Anybody
17 opposed? In that case, the minutes are approved
18 as admitted.

19 Public comment period. Our agenda today is
20 fairly short, but we invite public comments on the
21 agenda in advance or on any other matter that
22 anybody here feels is important to address with
23 the Commission. Anybody? All right. Great.
24 Thank you.

25 New business. We're actually taking up a

1 conversation in which we engaged at the July 10
2 meeting with regards to what I consider to be a
3 marketing matter, although it's regulatory in
4 nature as well, and that is to set the takeout
5 rates for the upcoming Thoroughbred and
6 Standardbred meets during the course of 2019.

7 with the Thoroughbred meeting coming up first,
8 I might just throw it to Mr. Marshall if you want
9 to make a few comments about your request, which
10 is, by the way, and as the agenda indicates, is a
11 joint request from track management as well as the
12 Virginia HBPA.

13 So I'll ask both John and Frank, if both of
14 you would like to comment, we're certainly happy
15 to hear from Mr. Marshall.

16 MR. MARSHALL: Thank you, Mr. Chairman. Our
17 team at Colonial Downs has worked diligently to be
18 widely inclusive with the revival of Thoroughbred
19 racing in Virginia and we have left no industry
20 group behind. Today we're here to advocate for
21 the driving force behind live racing everywhere,
22 the horse player.

23 The retainage on handle, commonly referred to
24 as takeout, is the amount of the player pool
25 retained by the track to cover operating expenses

1 and contributor prize money for horsemen known as
2 purses.

3 Today more than ever, optimal takeout rates
4 are essential ingredients to a successful race
5 meet. The president of HANA, Jeff Platt, states
6 as horse players, we make careful analysis of
7 factors we see as relevant and weigh our analysis
8 against the odds. If we think value exists, we
9 bet; if we think value is absent, we pass.

10 Mr. Platt continues: Lower takeout rates
11 translates into more situations worthy of our
12 betting dollar; higher takeout translates into
13 fewer situations worthy of our betting dollar.
14 The more situations where we find value, the more
15 situations we bet. It's that simple.

16 Interestingly, HANA is based in Keswick,
17 Virginia, which I hadn't known until relocating
18 here, with a lot of their leadership residing in
19 Charlottesville.

20 Together, Colonial Downs Group and the VHBPA
21 believe the theory supporting lower takeout
22 translating into more dollars available for
23 payouts to horseplayers. Given our belief, we
24 wish to position the wagering value of Colonial
25 Downs among racing's industry elite and to be

1 competitively situated.

2 We propose the following takeout schedule for
3 our wagering menu. Win, place and show,
4 16 percent, positioning us in the upper 25th
5 percentile across the industry. Exacta, trifecta,
6 superfecta, early double, late double, Pick 3,
7 Pick 4, 20 percent, which positions us in a
8 blended position of the upper 15th percentile in
9 the industry.

10 Lastly, a Pick 5 for a promotional rate of a
11 industry low 12 percent, positioning us in the
12 upper 5th percentile.

13 So these rates are among the industry best and
14 they are meant to entice larger betting pools,
15 larger payouts, larger rewards for horseplayers,
16 and ultimately increase revenues for state, local
17 government, the Regional College of Veterinary
18 Medicine, the Virginia Horse Center, the Virginia
19 Horse Industry Board and horsemen's purses.

20 Colonial Downs also agrees to assure the
21 Virginia Breeders' Fund contributions remain
22 whole. The letter before you outlines the joint
23 proposal between the Colonial Downs Group, and the
24 VHBPA and after review of the details, we ask for
25 Commission approval.

1 CHAIRMAN VAN CLIEF: Thank you very much. Any
2 questions for Mr. Marshall? The proposal does
3 come as a joint request and is required to come as
4 such with participation of the Virginia HBPA. Mr.
5 Petramalo.

6 MR. PETRAMALO: I concur and would just like
7 to add one thing. We appreciate Colonial Downs'
8 basically giving some of their share to the
9 Breeders' Fund so that remains at one percent.
10 Thank you very much for that.

11 CHAIRMAN VAN CLIEF: All right. Thank you.
12 I point out to my fellow Commissioners if you
13 haven't already gotten there, on Tab Two you'll
14 see the letter referred to by Mr. Marshall and
15 also a letter from Mr. Petramalo in his capacity
16 as the executive director of the Virginia HBPA
17 verifying their concurrence with the proposal.

18 Mr. Lermond, is there anything else that you
19 would like to add?

20 MR. LERMOND: I would just like to add that
21 this request was done verbally in our last
22 meeting, so we had a few technical issues with
23 that. One was that it wasn't on the agenda.
24 That's taken care of because we're all sitting
25 here today.

1 The other one was that the math didn't quite
2 work out, but with Colonial Downs agreeing to take
3 a little bit less and make everybody else in the
4 code section retain their percentage required.

5 I would also like to echo Mr. Petramalo and
6 Mr. Marshall or Mr. Petramalo's thankfulness of
7 them making the Breeders' Fund whole.

8 I think when this was written, there were
9 certain people like the state and localities that
10 were meant not to take a haircut because they
11 couldn't benefit from additional out-of-state
12 handle.

13 The Breeders' Fund is in that same boat and
14 probably should have been lumped in with those
15 folks. Again, I'm very thankful to Colonial Downs
16 for making that happen and I think that's a great
17 thing.

18 Very much in favor of the lower takeout for
19 all the reasons that have already been said and I
20 recommend approval of this request.

21 CHAIRMAN VAN CLIEF: Thank you. Any
22 questions? Yes.

23 COMMISSIONER REYNOLDS: One question. When we
24 approve this today, do we have to do this every
25 year? Is this in the statute until it's changed

1 down the road or is this something we have to do
2 annually?

3 MR. LERMOND: This is something to be
4 determined. I would refer to Mr. Drewry on that.

5 MR. DREWRY: If it's an ongoing request, it's
6 fine. The statute says it needs to be a joint
7 request for takeouts I think annually. If it's
8 changed, it probably needs to be addressed in the
9 same way. Ideally, it would be changed to make
10 the math work.

11 So it's an easy request, particularly with the
12 information that we have with the last meeting
13 with the percentages and everything. In the
14 future, it should be pretty simple with just the
15 quick letter like on the agenda today for the
16 harnesses.

17 COMMISSIONER REYNOLDS: Okay.

18 CHAIRMAN VAN CLIEF: Any other questions?
19 This is a very brief letter. I'd like to read
20 this into the record. This is a letter from
21 Mr. Marshall on behalf of Colonial Downs and it
22 summarizes what we're being asked to consider and
23 do here this morning.

24 It was dated July 15, went to Mr. Lermond, our
25 executive secretary. Dear Dave, on behalf of

1 Colonial Downs and with agreement by the Virginia
2 HBPA, I am requesting Virginia Racing Commission
3 approval to retain the following percentage of
4 pari-mutuel pools generated by wagering at our
5 racetrack and satellite wagering facilities on
6 live racing at Colonial Downs.

7 Number One, 16 percent on win, place and show
8 wagers; Number Two, 12 percent on Pick 5 wagers;
9 and Number Three, 20 percent on all other wagers.
10 See relevant Virginia Code.

11 From the retainage, Colonial will make
12 distributions to state and local government, the
13 Regional College of Veterinary Medicine, the
14 Virginia Horse Center and the Virginia Horse
15 Industry Board, as required by the above-cited
16 statutory sections.

17 On a combined basis, the distributions range
18 from 1.5 percent to 2.75 percent of handle.

19 Colonial will also make the adjusted
20 contribution to race meet purses required by
21 statute which range from 4.9 percent to
22 8.2 percent of handle. The adjustment is
23 necessary because our requested retainage or
24 takeout of 12 to 20 percent is lower than the past
25 18 to 22 percent takeout.

1 However, Colonial does not propose to make a
2 downward adjustment to the standard one percent
3 contribution to the Virginia Breeders' Fund, even
4 though the statute allows.

5 Colonial will use funds from its share of a
6 retainage remaining after all the above
7 distributions are made to maintain a one percent
8 Breeders' Fund share. That will leave Colonial
9 with a handle share ranging from 3 to 7.8 percent
10 of handle, depending on the type of wager.

11 We ask the Virginia Racing Commission to
12 approve our request because we believe lower
13 takeout rates stimulate handle by returning more
14 returns to horseplayers.

15 Please let me know if you have any questions.
16 Regards, John Marshall, Executive Vice President.

17 Is there any change to that letter submitted
18 or does that accurately reflect the request as
19 I've read it?

20 MR. MARSHALL: It is accurate.

21 CHAIRMAN VAN CLIEF: Okay. Great. Are there
22 any further questions or comments by members of
23 the Commission or staff or counsel?

24 If not, I'll make a motion that we approve the
25 modified takeout as requested by Mr. Marshall in

1 his letter of July 15.

2 COMMISSIONER NIXON: Second.

3 CHAIRMAN VAN CLIEF: Thank you. Any further
4 discussion? All in favor of approval, signify by
5 saying aye.

6 NOTE: The Commission votes aye.

7 CHAIRMAN VAN CLIEF: Any opposed? Thank you
8 very much. The takeout modification passes
9 unanimately. I should say the takeout
10 modification for Colonial Downs in 2019.

11 Tab Three is a letter from Mr. Eshelman,
12 Executive Director of the Shenandoah County
13 Agricultural Foundation, and it is likewise a
14 request for us to verify the takeout rates for
15 their 2019 meeting upcoming in Woodstock.
16 Deborah, any --

17 MS. WARNICK: No.

18 CHAIRMAN VAN CLIEF: -- further comment on the
19 letter? I'm going to read this letter as well
20 into the record.

21 The Shenandoah County Agricultural Foundation
22 and the Virginia Harness Horse Association hereby
23 jointly request the Virginia Racing Commission to
24 approve the retainage percentages of 18 percent on
25 win, place and show wagering and 22 percent on all

1 other wagers for the 2019 live harness racing at
2 Shenandoah Downs, in accordance with § 59.1-392 of
3 the Code of Virginia. Sincerely, Thomas Eshelman,
4 Director for Shenandoah County Agricultural
5 Foundation.

6 Mr. Lermond, any comments on this request?

7 MR. LERMOND: I think it speaks for itself,
8 sir.

9 CHAIRMAN VAN CLIEF: It's identical to
10 previous years; is that correct?

11 MR. LERMOND: The takeout rate. Yes.

12 CHAIRMAN VAN CLIEF: Yes. There's no change
13 requested here. We also have on the record a
14 letter from Debbie Warnick, Executive Director of
15 the Virginia Harness Horse Association, verifying
16 their concurrence with the request.

17 I will likewise make a motion that we approve
18 the request for takeout at 18 and 22 percent as
19 requested.

20 COMMISSIONER REYNOLDS: Second.

21 CHAIRMAN VAN CLIEF: Thank you. Any
22 discussion on the matter? Any questions? In that
23 case, those of you who approve, please signify by
24 voting aye.

25 NOTE: The Commission votes aye.

1 CHAIRMAN VAN CLIEF: Any opposed? Motion
2 carries unanimously. The takeout rates are
3 approved for the 2019 Standardbred meet.

4 Our last agenda action item for today is to
5 consider a request for approval of an expenditure
6 from the Standardbred portion of the Virginia
7 Breeders' Fund to partially fund eight
8 Virginia-bred Stakes races to be contested at
9 Shenandoah Downs during the current year, and that
10 is under Tab Four in your book.

11 Mr. Lermond, comments on that from you or
12 anyone else?

13 MR. LERMOND: Mr. Chairman, I would just say
14 that this is the same amount as last year. As
15 more OTBs come online with the HHR terminals, I
16 can see this number going up in future years.

17 Because I don't have the data and didn't want
18 to guess too much about what the results would be
19 this fall, I kind of went conservative and came up
20 with the 125 as a good, reasonable number that I
21 know will be there and I would expect this number
22 maybe to go up to as much as 150 next year based
23 on the additional revenue from the OTBs. But this
24 is what there is and I would recommend approval.

25 CHAIRMAN VAN CLIEF: Is there a possibility

1 that given the potential financial experience
2 between now and the meet this autumn that there
3 could be a modification upward of this number if
4 we wanted to do that?

5 MR. LERMOND: If it would be, it would be so
6 slight that my recommendation would be just to let
7 anything like that carry over and let them see the
8 benefit of it next year.

9 CHAIRMAN VAN CLIEF: All right. Okay. Any
10 other questions or discussions on the matter? If
11 not, we do need a motion to approve a \$125,000
12 disbursement from the fund which will partially fund
13 the eight Virginia-bred Stakes to be run at
14 Shenandoah Downs this year.

15 COMMISSIONER NIXON: Make a motion.

16 CHAIRMAN VAN CLIEF: Thank you. We have a
17 motion.

18 COMMISSIONER SIEGEL: Second.

19 CHAIRMAN VAN CLIEF: We have a second. Again,
20 any discussion? If not, please signify your
21 approval by voting aye.

22 NOTE: The Commission votes aye.

23 CHAIRMAN VAN CLIEF: Any opposed? Motion
24 passes unanimously and distribution from the fund
25 is hereby approved.

1 That takes us to Commissioners' comments. I
2 will appeal to my left.

3 COMMISSIONER NIXON: No comments. Just the
4 racetrack behind us looks fabulous. The dirt
5 course looks really nice as well as the turf
6 course. I'm looking forward. It's getting close.

7 COMMISSIONER REYNOLDS: I share the exact same
8 comments. We're excited and the track looks
9 beautiful. Can't wait until August 8th.

10 CHAIRMAN VAN CLIEF: Mr. Vice Chairman.

11 COMMISSIONER SIEGEL: Just a quick question
12 about a few guys in a position to answer how the
13 recruitment of horses is going for the upcoming
14 meet.

15 MR. MARSHALL: I'll defer to Jill Byrne for a
16 few comments.

17 MS. BYRNE: The recruitment is going very,
18 very well and actually has exceeded our
19 expectations to the point that we're opening three
20 more barns to accommodate them, the late influx of
21 horses wanting to come here and stable, and so
22 we're in the process of getting three more barns
23 ready to go and expect about six to seven stables
24 are shipping in on Thursday this week.

25 COMMISSIONER SIEGEL: That's great. So much

1 of that is under your control and that is not, so
2 it's great that's working well. That's the key.

3 MS. BYRNE: And some good quality stables.
4 Our racing secretary's office has done a great job
5 of filtering through a lot, putting some on kind
6 of like a come as we know we have stalls available
7 as well. So everybody is very excited, very
8 supportive and a lot of people planning on
9 shipping in and running.

10 MR. LUCAS: Could you share some of the
11 trainers that are coming?

12 MS. BYRNE: We have Joan Scott, Hugh
13 Robertson. A lot of actually -- a pretty good
14 group coming in from Chicago coming in. Mike
15 Campbell. Some Kentucky trainers. A lot of
16 Florida trainers coming up from the Tampa area.
17 Then trainers from New York and Fair Hill,
18 New Jersey like Graham Motion, Brian Lynch, who
19 have all wanted to get six or eight stalls to
20 rotate horses through, keep horses here.

21 A lot of our Virginia trainers. Doug Foutz,
22 (inaudible) are all setting their stables up as we
23 speak in anticipation of Thursday.

24 So a real range of region from Parks areas
25 since they don't race. A lot of those trainers

1 have asked to come in. We're ecstatic to have
2 them here.

3 COMMISSIONER SIEGEL: We have a shipping
4 incentive, too, right?

5 MS. BYRNE: Yes, \$1,000 for the owner. If you
6 don't earn 1,000 in the race you will get 1,000
7 per start. Trainers each get 300 per start as
8 well and we're also offering a shuttle service
9 that will originate out of Fair Hill so people
10 could ship from other places to Fair Hill and pick
11 up the van shuttle.

12 COMMISSIONER SIEGEL: Has that helped?

13 MS. BYRNE: Oh, yes. I think so. Any time
14 you can help people out with the cost of shipping
15 and running and participating, it certainly is
16 appreciated and it's in line with some of the
17 other racetracks who are doing similar things as
18 well with the competition that we all have for
19 getting horses here.

20 COMMISSIONER SIEGEL: Great. Looking forward
21 to that.

22 CHAIRMAN VAN CLIEF: Just a couple comments.
23 I had the opportunity last Thursday, and thank you
24 again, John and Jill for spending time I know you
25 really didn't have to take me all over the place

1 from the front side to the back side.

2 I was out walking on the race course and the
3 turf course, both of which look fantastic. The
4 main strip looks really good this morning. That
5 grass course, which I want to say I had never been
6 on before, never set foot out there, is fantastic.

7 It really feels good and so I think it
8 deserves the reputation it has and hopefully the
9 positive signs you all are seeing will pay off and
10 we are going to end up with a real quality race
11 meet.

12 I'd also like to commend you for taking a
13 proactive and creative marketing approach with
14 your takeout rates today, the reason we're here
15 this morning, which I hope will pay off. I think
16 it will and I know your main customers are
17 looking.

18 It puts you in a competitive position in the
19 region and I think that's smart business. So
20 we're very happy to help and to approve that
21 request.

22 I won't keep you any longer because I know
23 you've got a lot to do in the next couple of
24 weeks, so good luck with it. We all can't wait to
25 be here. Thank you very much.

1 We do not have need for a closed session that
2 I am aware of today; is that correct?

3 MR. DREWRY: Correct. Thanks for entertaining
4 me and coming out here today.

5 CHAIRMAN VAN CLIEF: Thanks, everybody, for
6 taking time to be here this morning. I will offer
7 a motion to adjourn.

8 COMMISSIONER REYNOLDS: Do we need to set the
9 next meeting?

10 COMMISSIONER SIEGEL: We're searching for the
11 date.

12 CHAIRMAN VAN CLIEF: I think we can perhaps
13 set the next meeting this morning.

14 COMMISSIONER SIEGEL: Well, there's a
15 conflict. You asked me earlier.

16 MR. LERMOND: Yes. I think Commissioner
17 Siegel may have a conflict.

18 COMMISSIONER SIEGEL: That week.

19 CHAIRMAN VAN CLIEF: On the 26th.

20 MR. LERMOND: Yes. It's that week.

21 CHAIRMAN VAN CLIEF: Well, why don't we get
22 our heads together and we can set that meeting
23 later?

24 MR. LERMOND: I would ask John would a week
25 sooner or later be better for you? We were trying

1 to do this in conjunction with the opening of
2 Hampton and wanted the application to be as close
3 to complete as possible when we got it. Do you
4 have a preference?

5 MR. MARSHALL: A week before or after which
6 day?

7 MR. LERMOND: September 25th.

8 MR. MARSHALL: My preference would be a
9 week -- I have no preference. We can work with
10 either option.

11 MR. PETRAMALO: We're not going to have a
12 meeting in August then?

13 MR. LERMOND: We weren't planning on it.

14 MR. PETRAMALO: Okay.

15 CHAIRMAN VAN CLIEF: I don't think we've got
16 any action items that we need addressed that I'm
17 aware of. Dave?

18 MR. LERMOND: No. We've taken care of
19 everything for both race meets.

20 CHAIRMAN VAN CLIEF: By September we certainly
21 will. We've got the license coming up and we've
22 probably got an ongoing conversation with regard
23 to the dates that may be percolating by then.

24 MR. LERMOND: Possibly.

25 COMMISSIONER SIEGEL: So if there's no

1 preference, then the week after.

2 MR. MARSHALL: Very well.

3 MR. LERMOND: Okay.

4 CHAIRMAN VAN CLIEF: Can you go early that
5 week if it matters, or does it?

6 MR. LERMOND: What would Tuesday be?

7 MR. PETRAMALO: Are you talking the week of
8 September 23rd?

9 COMMISSIONER SIEGEL: No. The week of
10 September 30th.

11 MR. PETRAMALO: September 30th.

12 COMMISSIONER SIEGEL: I could not do Tuesday
13 but I could do --

14 MR. LERMOND: October 1st?

15 COMMISSIONER SIEGEL: That's Tuesday.
16 Wednesday is fine for me.

17 CHAIRMAN VAN CLIEF: October 2nd. Is that too
18 late for us?

19 MR. LERMOND: No.

20 COMMISSIONER SIEGEL: Does that work for you
21 guys down there?

22 COMMISSIONER NIXON: Yes.

23 COMMISSIONER REYNOLDS: Yes.

24 MR. LERMOND: If the courtroom is not
25 available, this is a nice alternative and I wanted

1 to thank Frank for his hospitality today.

2 MR. PETRAMALO: You're welcome to come any
3 time you want.

4 CHAIRMAN VAN CLIEF: Thank you very much for
5 hosting us today.

6 COMMISSIONER SIEGEL: That will be ten a.m. on
7 the 2nd?

8 MR. LERMOND: Yes.

9 CHAIRMAN VAN CLIEF: Also, somebody very
10 nicely provided coffee and these low-cal donuts.
11 All right. Do we want to go ahead and set that?
12 Put it on the calendar for October 2nd, ten a.m.?

13 MR. LERMOND: Let's do it.

14 CHAIRMAN VAN CLIEF: And you'll TBD where
15 we're going to meet?

16 MR. LERMOND: Yes, sir.

17 CHAIRMAN VAN CLIEF: Okay. All right. Great.
18 Is there anything else that any Commissioner would
19 like to bring up in the way of new business or
20 conversation, discussion?

21 If not, I will offer a motion to adjourn and
22 we need a second.

23 COMMISSIONER SIEGEL: Second.

24 CHAIRMAN VAN CLIEF: Is anybody opposed?
25 Thank you all very much. Appreciate it.

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MR. LERMOND: Thank you.

NOTE: This meeting of the Virginia
Racing Commission is adjourned at 9:33 a.m.

CERTIFICATE OF COURT REPORTER

I, Sandra G. Spinner, hereby certify that having first been duly sworn, I was the Court Reporter at the meeting of the Virginia Racing Commission at the time of the hearing herein.

Further, that to the best of my ability, the foregoing transcript is a true and accurate record of the proceedings herein.

Given under my hand this 23rd day of September, 2019.

Sandra G. Spinner

Sandra G. Spinner
Court Reporter