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**VIRGINIA RACING COMMISSION**

JULY 12, 2012

10700 Horsemen's Road

New Kent, VA 23124

Commencing at 5:00 p.m.

**COMMISSION MEMBERS:**

Stuart Siegel, Chairman  
J. Sergeant Reynolds, Jr.  
David C. Reynolds  
Carol G. Dawson  
Stran Trout

**COMMISSION STAFF:**

Bernard Hettel, Executive Secretary  
David S. Lermond, Jr., Deputy Executive Secretary  
Kimberly M. Carter, Office Administrator

**ATTORNEY GENERAL'S OFFICE**

Joshua E. Laws, Assistant Attorney General  
Amy K. Dilworth, Assistant Attorney General

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1           NOTE: The meeting is called to order at 4:59 p.m.

2           MR. SIEGEL: We'll call to order the July meeting  
3 of the Virginia Racing Commission.

4           I would first like to introduce our new Commis-  
5 sioner. He's apparently a very familiar face around New  
6 Kent County, and I have actually looked his resume up on-  
7 line, and it is way too long for any of us to read in a  
8 reasonable amount of time. Stran Trout, welcome.

9           Stran has been involved in about everything  
10 there is to do in this County and beyond, and we look for-  
11 ward to his service, and he will add a lot of value to our  
12 deliberations.

13           Anything you would like to say?

14           MR. TROUT: Thank you much.

15           I'm looking forward to working with this group.  
16 I've been involved from the County end for a long time, and  
17 as I mentioned, a lot of people even with the track may not  
18 know this, but way back in the late 1980s with the Chamber  
19 of Commerce, when we were trying to get racing in New Kent  
20 County, we had no idea what was involved, even so far as  
21 serving Mint Juleps down at the Wakefield Shad Planking.

22           In the Mid-'90s, I was Chairman of the Planning  
23 Commission and appeared before this Commission to explain  
24 that New Kent County zoning was all set, we didn't have to  
25 do anything, vote on anything in order for the Track to come

1 out here, and from then on, it's worked out pretty well, so  
2 --

3 MR. SIEGEL: well, good.

4 MR. TROUT: Appreciate it.

5 MR. SIEGEL: well, we appreciate your willingness  
6 to serve.

7 The first item beyond introductions is the  
8 approval of the minutes from the last meeting. They were  
9 distributed, of course, to the Commission. Anybody have any  
10 additions, corrections, or comments?

11 otherwise we'll entertain a motion that they be  
12 approved.

13 MR. J. SARGEANT REYNOLDS, JR.: So moved.

14 MR. SIEGEL: Is there a second?

15 MS. DAWSON: Second.

16 MR. SIEGEL: Everybody that was here has stated  
17 they were, so we are approved.

18 The next item is also a good opportunity to  
19 welcome Josh Laws who is from the AG's office, and he will  
20 be representing the Attorney General and this Commission,  
21 and we appreciate your being here.

22 we also want to thank Amy Dillworth for the all  
23 years of service that she's provided. She's moved on to  
24 bigger and better things and decided to be full-time at the  
25 Lottery. Hopefully they've got plenty of work for her to

1 do, and we really do appreciate, Amy, everything that you've  
2 done in your efforts; and Josh, we welcome you as well.

3 MR. LAWS: Thank you.

4 MR. SIEGEL: Committee Reports. As I understand,  
5 we have no committees that have met, so there are no reports  
6 and that takes us to the Executive Secretary's report.

7 Mr. Secretary?

8 MR. HETTEL: Yes, sir, I have just a couple of  
9 things.

10 In lieu of having another meeting prior to the  
11 start of harness racing, I met with Dr. Dunnivant. I'm  
12 seeking that you defer the approval of the racing officials  
13 and the judges pending my negotiation with the judges and  
14 Colonial Downs of the assembly of racing officials for the  
15 2012 Harness Meet.

16 MR. SIEGEL: Does that require affirmation?

17 MR. HETTEL: Just give me permission to approve  
18 those officials as I assemble them.

19 MR. SIEGEL: Okay. Everybody good with that?

20 NOTE: All Commissioners indicated in the  
21 affirmative.

22 MR. SIEGEL: Okay. You are so ordained.

23 MR. HETTEL: And while I'm at it, may I introduce  
24 my Thoroughbred Stewards. Mr. Phipps, would you stand up  
25 and be recognized? Mr. Phipps comes to us from the New York

1 Jockey Club. He worked at Jockey Club Security. He also  
2 worked in Hong Kong and Maryland. He's one of our new  
3 additions; and is Ronnie Herbstreet -- okay, Ron Herbstreet  
4 our new Steward, is on duty. Dave's also a steward for the  
5 thoroughbred people. Everybody have a face and name for  
6 Mr. Phipps? So far so good, and we'll continue on with the  
7 good racing.

8 Other than that, I have nothing, sir.

9 MR. SIEGEL: Okay. The next item is the  
10 Stakeholder's Report. Steph, do I understand that you have  
11 a report to make with regard to date agreements and number  
12 of races?

13 MS. DIXON: Basically, I think we've come to  
14 an agreement on that. The make-up day is going to be  
15 Wednesday, July 25th, is that right?

16 MR. WEINBERG: Correct.

17 MS. DIXON: Is that what we're doing? And then  
18 one additional day for six days, is that correct?

19 MR. HETTEL: No, no, six additional race days.

20 MS. DIXON: I'm sorry, six additional days.

21 MR. SIEGEL: Six different days?

22 MS. DIXON: Yes.

23 MR. STEWART: No, four days actually.

24 MR. SIEGEL: So you have two and you have one --

25 MR. WINGROVE: Yes, one on the 14th and one on the

1 15th.

2 MR. SIEGEL: And what are those dates?

3 MR. WINGROVE: The make-up days, the entire day is  
4 the 25th; the added races will be on the 14th, the 15th, the  
5 21st, and the 28th.

6 MR. SIEGEL: Okay.

7 MR. WINGROVE: Of July.

8 MR. SIEGEL: Okay.

9 Colonial Downs have comments? I understand, Ian,  
10 you have something you want to talk about?

11 MR. STEWART: Well, I was just going to mention  
12 the request, you-all requested an update an the Thoroughbred  
13 Meet. To date, we've had 20 days. Our attendance is up  
14 about 6400 people over last year; we've had some pretty good  
15 days. Our opening day with the Steeplechase races, we had  
16 5300. We had the Turf Cup with 3700. Father's Day was a  
17 pretty good day; we had the camel and the ostrich race we  
18 had 4700 people. July 4th, I thought went very well; at-  
19 tendance was 6681; that's a pretty good night.

20 Friday nights have been disappointing; we haven't  
21 really gotten much traction on Friday night.

22 If you look at the wagering, the wagering on-track  
23 is down about \$200,000. Our per capita at this point is  
24 just shy of \$52, which is down from last year. Last year we  
25 were in the neighborhood of \$66.

1           where the change really is occurring, it's the  
2           wagering out of state is down about a third against last  
3           year. We lost a number of people that were taking us to  
4           Bridge Track at 5:00 o'clock, and we really weren't able to  
5           replace them with the California market. California has  
6           only taken us for one day.

7           Obviously, it's tough to compare the days because  
8           of the differences in the post times, but if you, for in-  
9           stance look at Sundays where we've run at the same time for  
10          four days, we've had four Sundays this year so far, and you  
11          have to look at it on a per-race basis because there's a  
12          different number of races. On that basis, we're only down  
13          1.6 percent, so I would say most of the difference is prob-  
14          ably in the post time. So there's an effect on our horses  
15          per race, at this point are 8.32. If you look at it last  
16          year, it's 8.91, so we're down two-thirds of a horse, which  
17          also has an impact.

18          So like most things, it's kind of a mixed re-  
19          sult. We're getting more people out here, which long-term  
20          is probably the most important thing. But they're betting  
21          less, and I think the other thing too is that somewhere  
22          along the line, the impact of the purse level I think is  
23          really starting to show, especially if you start to look  
24          back -- if you look back say six years to 2006, our out of  
25          state signal sales are down about 60 percent, so it's --



1 MR. SIEGEL: What do you attribute that to?

2 MR. STEWART: Well, I didn't spend a whole lot of  
3 time studying what we did six years ago, but I think it's a  
4 combination of the purse levels relatively aren't as high  
5 as they were, I don't believe, six years ago, because there  
6 isn't as much money in the purse kitty; and also, there's  
7 variances in the post times, and there's certainly a lot of  
8 variances in the overall pari-mutuel wagering market. It's  
9 much different today than it was then.

10 MR. SIEGEL: So lots of these issues are suffered  
11 by every race track?

12 MR. STEWART: Certainly.

13 MR. SIEGEL: So would you say that most of your  
14 peer group, if you will, are suffering from numbers similar  
15 to yours?

16 MR. STEWART: Well, that's hard to say, because  
17 if you look at the national trends, nationally this year, I  
18 don't know, it's -- the total para-mutuel handle I think is  
19 off six or seven percent.

20 MR. LERMOND: Uh-huh.

21 MR. HETTEL: It was up slightly last month though,  
22 I believe.

23 MR. STEWART: Yes, we picked up a little bit, and  
24 that trend has continued. It's not as bad as it was a year  
25 ago.

1           MR. HETTEL: Every year, the number is down from  
2 it's previous.

3           MR. STEWART: Exactly.

4           MR. HETTEL: Month to month and for all of the  
5 promotions and all of the good work you-all do and other  
6 race tracks in other parts of the country, it gets back down  
7 to the meets still do the best: Keeneland does well, Sara-  
8 toga does well, Delmar does well. It's probably some pock-  
9 ets of harness racing.

10           Doc, would Meadowlands be better than --

11           DR. DUNNAVANT: Yes, Meadowlands is the best race  
12 track: Better horses and they're close to more population  
13 than anywhere else.

14           MR. HETTEL: well, that, and I think that's one  
15 of the factors here is the distance from any discernable  
16 appreciation of a population base. You know, it's 30 miles  
17 from Richmond and 25 miles from Williamsburg --

18           MR. SIEGEL: But they're going against their  
19 own statistics with these numbers that Ian mentioned.

20           MR. STEWART: well, I think Bernie's point is  
21 that we've been in this situation probably -- I don't know  
22 where it peaked, but I think it peaked around 2006-2007, the  
23 pari-mutuel handle, and ever since, it's been going south,  
24 and that's the fact of the matter, and as Bernie says,  
25 there's a lot of smart people in this industry that work

1 very hard, and they have not reversed that trend, and I'm  
2 not claiming to be one of the smart people in the industry.  
3 On the other hand, you're swimming upstream.

4 MR. SIEGEL: I was just sort of interested in how  
5 your numbers compared to other race tracks, and it appears  
6 that it's -- other than these few pockets of the key tracks  
7 and whatnot, everyone's experiencing a downturn. Maybe not  
8 as great as ours, but perhaps some are?

9 MR. STEWART: There's no question. But all that  
10 being said, we still have to figure out a way to pay the  
11 bills.

12 MR. SIEGEL: Yes, I realize that, and there's  
13 things that you're arguing and will continue to do to try to  
14 stem that tide.

15 MR. STEWART: Right.

16 MR. SIEGEL: It's apparently suffered all over the  
17 country. And your signal is not as widely distributed as  
18 you would like, right?

19 MR. STEWART: It's fairly widely distributed.  
20 I think that we're not in the California market, but the  
21 California market's is unique in that they have state laws  
22 and regulations that limit them to approximately 30 races  
23 outside of California on a given day. Well, 30 races isn't  
24 very many races, so --

25 MR. SIEGEL: But you're everywhere else you want

1 to be?

2 MR. STEWART: Well, Jeff can speak to that better  
3 than I can. I mean the only major person that I feel is not  
4 taking our signal is DTV. Beyond that, am I missing any-  
5 thing?

6 MR. WINGROVE: No, that's accurate.

7 MR. SIEGEL: Is there a way to change that --  
8 reasonably?

9 MR. STEWART: I've not discovered one.

10 MR. SIEGEL: Is there any dialogue going on, or is  
11 this pretty much a dead issue?

12 MR. STEWART: I think it's pretty dormant. I  
13 think everybody understands where they stand, and I guess  
14 everybody's happy where they are.

15 MR. SIEGEL: You want to comment on the upcoming  
16 harness meet as well?

17 MR. STEWART: I don't have a whole lot to say  
18 about it other than we're concentrating on the Thoroughbred  
19 Meet.

20 MR. HETTEL: I think Charlie can probably help us  
21 with that.

22 MR. SIEGEL: Yes, but I just didn't know whether  
23 you had any plans for that meet. He's here; we can cert-  
24 ainly talk to the horsemen.

25 MR. WEINBERG: We started planning -- there's

1 nothing concrete. We're trying to get through the Derby, I  
2 think next Saturday, and then kind of switch gears at that  
3 point.

4 MR. STEWART: The major event, as has been in the  
5 past, we'll coordinate with the New Kent County Fair.

6 MR. SIEGEL: Charlie, do you have a comment?

7 DR. DUNNAVANT: On the horsemen's side, I was in  
8 Maryland Monday with the race secretary at Ocean Downs. He  
9 has sent out quite a few stall applications and sent out an  
10 early closer program, which is kind of our state program  
11 beside our Breeder's Stakes, and I talked to quite a few  
12 horsemen there, and most of the people that I talked to that  
13 have been here before are looking forward to coming back, so  
14 hopefully we're going to have a full field of horses.

15 In our contract, we made a couple of changes  
16 where we're not going to race in the overnight races with  
17 eight horses to the field, and I think that will help the  
18 numbers of horsemen that come. Hopefully, we'll be able to  
19 put on a good show.

20 MR. SIEGEL: There's been a fair amount of  
21 conversation with regard to the Senate hearings that are  
22 going on now, as I understand. Some we were watching on a  
23 pod cast earlier. I thought we'd have a little discussion  
24 about that.

25 If I can get anyone to comment that has one.

1 Bernie, you want to start off, since you have an overall  
2 knowledge of what's going on up there?

3 MR. HETTEL: It's industry-wide that there's been  
4 some pressure to change the daily racing protocol. The  
5 Jockey Club has been particularly interested in doing that,  
6 and they have done several studies and several meetings in  
7 the last couple of years to try to effectuate every state  
8 changing. Most recently, Kentucky changed their daily medi-  
9 cation protocol. It now requires information provided by  
10 the state senate. The state senate met, opened yesterday in  
11 Kentucky, and they wanted to have more Senate and state  
12 hearings concerning that.

13 It's a very volatile issue most everywhere, and  
14 now Stephanie has a hand-out for us. Frank Petramolo could-  
15 not be here today because he's in Washington, DC, bolstering  
16 the people who are speaking before the Senate today. Within  
17 that -- this is a pretty nice prepared document; Frank gave  
18 it to me a couple days ago, and it pretty much articulates  
19 the position that the Thoroughbred horsemen have.

20 I'll turn over the conversation to Dr. Charlie,  
21 and I think he'd like to give us a few words on it this  
22 afternoon also.

23 We're going to be asked somewhere along the line  
24 to make some declaration of what we're going to do, so I  
25 know that you've had conversations with Will Farish about

1 Kentucky, and he's vital to Kentucky racing. The Farish  
2 family, they own Lane's End Farm, and they're pretty domi-  
3 nant within the Jockey Club also.

4           what -- Doc or Sarge, can you help me a little bit  
5 on what Kentucky's doing and what will and Bill Farish  
6 think?

7           MR. J. SARGEANT REYNOLDS, JR.: Well, I think  
8 according to Bill it's a big battle between a lot of the  
9 horsemen and the trainers. I think a lot of the trainers  
10 that I've talked to associated with Bill like the medicat-  
11 ions, would like to see it, it's perfectly safe, and what  
12 they ought to do is when they have the bad actors come in,  
13 discipline them and discipline them severely, and that's the  
14 real problem with the whole thing.

15           Bill's attitude is that he feels like we should  
16 just get rid of all the medicine. I don't know if that's a  
17 hard stance, but that's what he's thinking right now.

18           So there's a lot of mixed views there right now.

19           MR. HETTEL: Well, yesterday in the *New York*  
20 *Times*, there was a continuing article that's been going on  
21 really since the first of the year, and yesterday's article  
22 portrayed that the winner of the Kentucky Derby might be too  
23 much of a sound horse and his trainer had numerous violat-  
24 ions in terms of race day medication and milkshakes and that  
25 sort of thing. It was such an important article in the *New*

1 *York Times*, it made it on *NBC News* last night, the 6:30  
2 news, and then they continued to talk about it this morning  
3 on the NBC affiliates also.

4           Steph, could you fill us in and just give us a  
5 little brief synopsis of what they've put together?

6           MS. DIXON: Basically, it's -- this was put out  
7 by Phil Hanrahan, who's the CEO of the National HPBA, and he  
8 basically in a nutshell just lists all the issues with the  
9 misstatements from the public media regarding the alleged  
10 medications. There's a long list in here of all the medi-  
11 cations that they're speaking of by the different states;  
12 that's on page three. But I know Dr. Dunnavant can probably  
13 elaborate on it a little bit more as far as the medications  
14 they're speaking of.

15           DR. DUNNAVANT: Yes, I haven't seen that list.

16           I think here in Virginia, you know, we allow  
17 bleeder medications, Lasix, furosemide, and the adjunctant  
18 medications for bleeding, and then electrolytes, and they  
19 have not been a problem. Dr. Harden, he and I have had  
20 quite a few discussions, and he's sent out an e-mail to the  
21 trainers, horsemen, veterinarians. When did you do that, in  
22 March? February or March?

23           DR. HARDEN: March, I think.

24           DR. DUNNAVANT: And I've had input back, and I  
25 think he'll agree with me that we thought here in Virginia



1 we had a pretty good medication rule, and the medications  
2 that we used on race day were for the benefit of the horse  
3 and were not performance-enhancing medications. By elim-  
4 inating the bleeder medications, it's not taking the welfare  
5 of the horse into consideration, and that, I think you'll  
6 find, is the opinion of most all the veterinarians and the  
7 American Association of Equine Practitioners take that same  
8 stance that what's good for the horse is the way that we  
9 should go.

10 MR. SIEGEL: Dr. Harden, do you want to add  
11 anything to that?

12 DR. HARDEN: well, the paper -- I read the paper  
13 presented by HBPA, and I thought they did an excellent job  
14 of presenting the case, and I have to compliment them on the  
15 quality of that paper. And presently, I think the Virginia  
16 medication rule is probably right where we need to be, and  
17 we're sort of keeping our eyes open as to what is happening  
18 in other jurisdictions around. Because of our short, limit-  
19 ed racing season, we're kind of subject to what the other  
20 states are doing. We can't be the cutting edge and expect  
21 horses to come here and race for the short meet and the  
22 purses that we have.

23 Our problem right now, though, is we probably  
24 have the finest lab in the world testing our samples, and  
25 we're finding traces of medications five, six, seven days

1 after administration. It has no effect on the horse on  
2 race day, but we're finding it in the samples, and so we are  
3 beating our heads against the walls trying to reconcile  
4 that issue.

5 But at any rate, going forward, we're going to  
6 try to be in communication with the trainers, the horsemen,  
7 the veterinarians in other jurisdictions in the neighborhood  
8 so that we're compatible with what's best for the horses,  
9 the public, the racing industry, and the horses.

10 MR. SIEGEL: Anyone else want to comment?

11 MR. HETTEL: Mr. Chairman, just one point. Ear-  
12 lier this year, one of the alternatives that was discussed  
13 was to have race day medication administered by a state  
14 regulator, a state veterinarian as opposed to a private  
15 practitioner.

16 That would be of some difficulty, but in essence,  
17 we're talking about therapeutic medications: Lasix medi-  
18 cation, anti-bleeder medications that prevents a horse from  
19 an exercise-produced pulmonary hemorrhage. It's proven  
20 without equivocation that the horses can bleed, and if this  
21 can prevent it or at least mitigate it somewhat, it's a use-  
22 ful medication.

23 The other big medication is Butazolidine, of  
24 course, which is a nonsteroidal anti-inflammatory? Is that  
25 right, Doc?

1 DR. HARDEN: Yes.

2 MR. HETTEL: And that's used with regular  
3 necessity on some horses that just need some help on their  
4 pain relief.

5 As you know, everybody who's been an athlete,  
6 there's not any animal or human who competes at any level of  
7 athletics that doesn't have some kind of minor injury every  
8 once in awhile, and horses are pretty typical of that.

9 So again, one of the thoughts or one of the  
10 alternatives was taking it out of the private practitioner,  
11 and that way, a private practitioner doesn't have to touch  
12 the horse on race day. That then eliminates all of the  
13 other illegal things. Right now -- what's that frog stuff,  
14 Doc, dermorphin? I mean who would ever have thought you  
15 could get the skin of a frog and have that affect a horse?  
16 But it does. Doc can tell us all you want about the --

17 DR. HARDEN: Well, I think in humans, years ago,  
18 they found that it had a hallucinogenic effect very much so  
19 that a lot of people were experimenting with what they call  
20 "licking the frog," but it's an amphetamine-type substance  
21 that has a profound effect on race horses, a painkiller and  
22 stimulant, so it's a bad drug that we need to keep out by  
23 all means.

24 MR. HETTEL: So my point is if we could eliminate  
25 all that stuff, all that stuff that has no therapeutic uses

1 in a race horse, then we could just get it down to thera-  
2 peutic medication given by a state player, a state veteri-  
3 narian, and I think the issue would pretty much be relieved.  
4 It's the outrageous stuff, the frog, the dermorphin and all  
5 those things that have no business in a horse or in a human.  
6 That's where the bad headlines come up. It's not that the  
7 horse has bled and got medication to keep him from bleeding.

8 But in all deference to the Jockey Club, their  
9 idea of hay, oats and water -- I mean no medication would be  
10 the simplest solution, and then it would inspire people that  
11 had a problem, to regain confidence in horseracing. I don't  
12 know if their logic strictly applies, but --

13 MR. SIEGEL: Well, they're purists anyway, the  
14 Jockey Club.

15 MR. HETTEL: See, they set the standard for black  
16 tie. They're the ones that control the telebook; they're  
17 the ones that say how the race is graded. In terms of the  
18 economic possibility of that, you'd better have them on your  
19 side when you do something, or in essence, we can run a lot  
20 of horses and not have much to show for it.

21 DR. HARDEN: I just wanted to expand briefly on  
22 something Mr. Hettel said about we allowed Butazolidine, but  
23 we do not allow that on race day. It is a nonsteroidal  
24 anti-inflammatory, a painkiller. It's allowed the day be-  
25 fore, 24 hours before. The painkilling effect of it is over

1 and done with by the time we race; however, there's still a  
2 trace in the blood, and that's why we have our regulations  
3 written to allow a trace in the blood, and we're very  
4 strictly in control of what that level is, but the pain-  
5 killing effect, if I can use that expression, is over and  
6 done with by the time the horse races. So I just want to  
7 reiterate that: we do not allow horses to race on pain-  
8 killers in Virginia or in any jurisdiction, but we do allow  
9 them to have a residue in the blood of that medication.

10 MR. SIEGEL: Got you.

11 MR. HETTEL: Dr. Charlie, would it work to have a  
12 state veterinarian give the Lasix shot? would that elimin-  
13 ate the problem, do you think?

14 DR. DUNNAVANT: I don't think so. The logistics  
15 of it would be hard.

16 MR. HETTEL: Yes, it is.

17 DR. DUNNAVANT: You would have to have numerous  
18 state veterinarians.

19 MR. HETTEL: well, the only reason I bring it up  
20 is my history, because we did it that way for harness horses  
21 30 years ago when I was there. I had one veterinarian in  
22 one spot and they brought the horses to her. The problem  
23 dropped substantially because the state bought the medicat-  
24 ion and it was a minimal charge of whatever the hypodermic  
25 cost and the medication cost, so it reduced the price a

1 great deal. Most of the harness guys loved that part of it,  
2 except they had to move the horses. And of course harness  
3 horses are easier to move than Thoroughbred horses to where  
4 the veterinarian was stationed.

5 DR. DUNNAVANT: It's still in most race tracks,  
6 harness race tracks, there's one veterinarian administering  
7 the Lasix on the horses. He's a private practitioner that,  
8 you know, is doing that. It's not a state vet. All of them  
9 have state veterinarians there, but his other duties don't  
10 allow him the time to administer, you know, the Lasix to  
11 every horse.

12 MR. HETTEL: Uh-huh.

13 DR. DUNNAVANT: Rich, what is your view?

14 DR. HARDEN: Well, we would have to hire  
15 additional staff to do it. With our present staff, we phys-  
16 ically couldn't do it unless we gave up other duties, which  
17 personally, I consider more important.

18 DR. DUNNAVANT: Here again, if there is a  
19 violation, be it a private veterinarian or a trainer or  
20 what, I think the answer is the penalties that are applied  
21 when you have a violation, and the testing procedures are  
22 pretty good in picking up things. Now they have some de-  
23 signer drugs that, I've been practicing over 40 years, that  
24 I've never heard of to this day that chemists are coming up  
25 with to put in horses that have no business there, and we

1 have to stay on the cutting edge to detect those things.  
2 But when they're found, I think maybe we should have more  
3 severe penalties than we do.

4 MR. HETTEL: Well, one of the discussions on  
5 that pod cast, the very early one at the Kentucky Derby,  
6 they said it's three strikes and you're out, like the Cali-  
7 fornia felony rule, three strikes and you're out. That  
8 would eliminate this guy with the Kentucky Derby issue be-  
9 cause he's already got four.

10 DR. DUNNAVANT: I've got a friend in the harness  
11 horse business, and I reckon it's been 10 years ago now, and  
12 he got invited to an invitational race in Germany and said  
13 when they got there that the commission representative call-  
14 ed all the trainers from the United States together and  
15 said, "You know, we don't know what your penalties are in  
16 the United States, but if you have a positive that shouldn't  
17 be here, it's three years in the Penitentiary," and they  
18 don't have a problem with three strikes and you're out.  
19 It's probably worse.

20 MR. HETTEL: Three years in the state pen would  
21 work too.

22 DR. DUNNAVANT: I mean maybe that's what we need  
23 to do. But --

24 MR. SIEGEL: Make it a felony.

25 DR. DUNNAVANT: -- if the penalty is severe enough

1 --

2 MR. HETTEL: Now, see now, you're exactly right,  
3 but a Bute overage is a penalty, but the frog juice is also  
4 a penalty, and this is on one end of the spectrum and that  
5 one's on the other. The guy that's using the frog skin  
6 probably needs to go away and never come back.

7 DR. DUNNAVANT: That's right, and not just the  
8 frog skin; there are other things that are bad that have no  
9 business in a horse. They're not therapeutic, and you know,  
10 but -- yes, I think the severity of the penalty for the bad  
11 things, and they move people off. We don't need them in the  
12 business, and I think that's probably the way to go.

13 But it needs to be uniform. Where a guy gets  
14 a positive in Delaware and comes to another state to race,  
15 that shouldn't be.

16 MR. TROUT: Let me ask you something real quick  
17 on that.

18 As I understand it, the limits on these various  
19 medicines are determined by state law as opposed to any  
20 national agreement. In the scenario you were just talking  
21 about, if you do a drug in one state and there will be some  
22 residual when the horse goes to another state, it might be  
23 picked up. Is that one of the problems that comes up?

24 DR. DUNNAVANT: No, I wouldn't say going from one  
25 state to the other. It's the labs that we have now. A



1 horse could get some therapeutic medications on Monday when  
2 he's racing on Saturday or Sunday, and our lab can pick it  
3 up, and our rule says that he can't have that medication  
4 within 48 hours, but you can still get trace amounts.

5 MR. SIEGEL: Do you want to explain that?

6 DR. HARDEN: A big problem is that each state  
7 has a slightly different evaluation, so you -- for instance,  
8 you may race in Maryland with a drug we were talking about  
9 earlier, two micrograms of Methocarbamol in a horse's urine,  
10 and you come to Virginia and it's one microgram, so the  
11 trainer has to know to adjust the dose from state to state  
12 to state with all the different medications.

13 MR. TROUT: That's why I figured it seems with a  
14 very good lab, you could pick up residuals from -- that  
15 might have been legally given in another state, and then by  
16 the time the horse gets here, he's over the limit; and of  
17 course the traces, you're going to find those, and it varies  
18 with the drug, but some of those are going to show up any-  
19 way.

20 MR. SIEGEL: I think this is part of the mission  
21 of the Senate hearings, I guess, is to try to uniform these  
22 things around the country. I just might add that Senator  
23 Udall wrote a letter to me, as the Chairman, asking that we  
24 respond with answers to a number of questions, and Dave was  
25 nice enough to put together a series of responses for me,

1 and I imagine that every state was asked the same questions.  
2 I think they learned, if they didn't know before, that the  
3 game is played very differently all across this country.

4 I just -- I hope, my guess is, that they don't do  
5 something so severe to ruin racing. I think part of what  
6 the Jockey Club is suggesting might do just that. But we do  
7 need to get a handle on this illegal stuff and how it's used  
8 and when.

9 It sounds like we have a lot to be proud of in  
10 Virginia. We're pretty conservative when it comes to what  
11 we allow. Others may allow more. So to Doc Harden and to  
12 Colonial, I think we appear to be doing the right thing.  
13 Maybe not always, but most of the time, right?

14 DR. HARDEN: We're working at it. It's a work in  
15 progress.

16 MR. SIEGEL: We've had some trainers that didn't  
17 do the right thing that received penalties, and some don't  
18 race here anymore, but we try to run a clean ship.

19 MR. STEWART: I think the problem is, one thing  
20 I've learned in 15 years at Colonial Downs is perception is  
21 reality. This issue will not go away. Anybody that thinks  
22 this issue is going to go away is kidding themselves. We  
23 don't have to be in the forefront; we're lucky, we can wait  
24 and see what one of the bigger jurisdictions does because  
25 they're driving the bus, but one day it will be back on your

1 desk. No question about that.

2 MR. SIEGEL: Well, even looking at the Olympic  
3 sports and all the cheating going on, and people getting  
4 caught, people thinking they can beat the system. It just  
5 doesn't work in the long-run. Apparently, it's does for  
6 some, I guess, if they can get away with it.

7 MS. DAWSON: Mr. Chairman, just an observation:  
8 I think the perception observation is one that we need to  
9 take seriously, because that does affect attendance and  
10 wager and everything else, and if you read *The New York*  
11 *Times* pieces, they don't even tell you what the medications  
12 are that are a problem, they just say powerful painkiller,  
13 and what they're talking about is Bute, which everybody  
14 who's been with horses knows that that's a staple, and it  
15 goes on. I mean some of the other medications they're talk-  
16 ing about are routine, and I don't think the public under-  
17 stands that. All they can see and hear is that the horses  
18 are racing when they shouldn't be racing because why else  
19 would they be on medications?

20 And I think those of us who are involved in this  
21 have an obligation to try to set the record straight on  
22 things like that. But when you're up against *The New York*  
23 *Times*, you're at a disadvantage.

24 MR. STEWART: The issue, quite frankly, is horses  
25 getting hurt. I mean if no horses were getting hurt, nobody

1 would care. The problem is horses are getting hurt, and if  
2 you can somehow stop that, then I think the medication issue  
3 will go away.

4 MR. SIEGEL: They're athletes, and unfortunately,  
5 they cannot communicate like we can, so you just have to be  
6 ready with them to find it. That's even more difficult to  
7 do.

8 Any other comments on this issue?

9 well, we'll make an effort to keep everyone  
10 apprized of what happens. I think even between the meet-  
11 ings, we can distribute any facts that are coming out of  
12 these Senate hearings. My guess is they're not going to  
13 settle it as quickly as everybody would like to, but we'll  
14 try to keep the horsemen advised, and the horsemen will  
15 probably get the information quicker than we will, the HPBA  
16 will. If so, please keep the Commission advised as well.

17 The next item on the agenda is public  
18 participation. Is there any member of the public here that  
19 would like to comment?

20 NOTE: There was no response.

21 MR. SIEGEL: Okay. Our next meeting is set on  
22 the calendar on October the 10th at 11:00 a.m. Is that  
23 still good with everyone? (To Mr. Trout) For your benefit,  
24 we often times find that someone has a conflict, and it's  
25 often times easy enough to move it a day or two if we need

1 to, but -- it's good with me; I assume it's still good with  
2 everyone?

3 MS. DAWSON: It will be here?

4 MR. SIEGEL: It will likely be here, and if it  
5 isn't --

6 MR. HETTEL: It's during the last harness race.

7 MR. SIEGEL: Yes, it will be here, but we'll keep  
8 everyone informed.

9 we -- the next item will be a closed meeting  
10 before we adjourn and you do have an issue, a personnel  
11 issue?

12 MR. HETTEL: I do have a personnel matter to  
13 discuss with you.

14 MR. SIEGEL: We're going to go into a closed  
15 meeting, but I would suggest that anyone that wants to hang  
16 around can do so, but no action will be taken in that meet-  
17 ing that we'll deal with.

18 Okay. In accordance with the provisions of  
19 Section 2.2-3711 (A)(1) of the Code of Virginia, I move  
20 that the Commission go into closed meeting for the purpose  
21 of discussion or consideration of the assignment, appoint-  
22 ment, performance or salary of a specific public officer,  
23 appointee or employee of the Commission, and/or, in accord-  
24 ance with the provisions of Section 2.2-3711 (A)(7) of the  
25 Code of Virginia, I move that the Commission go into closed

1 meeting for the purpose of consultation with legal counsel  
2 employed or retained by the Commission regarding specific  
3 legal matters requiring the provision of legal advice by  
4 such counsel.

5           This is and/or, so I guess we can approve them  
6 together, right?

7           MR. HETTEL: Yes.

8           MR. SIEGEL: Is there a second to that motion?

9           MR. J. SARGEANT REYNOLDS, JR.: Yes, I second.

10          MR. SIEGEL: All in favor?

11          NOTE: All indicated by voting aye.

12          MR. SIEGEL: We are in closed session. I guess  
13 we'll move over to your office?

14          MR. HETTEL: My office.

15          NOTE: The Commission goes into closed session at  
16 5:38 p.m. and returns at 5:58 p.m. as follows:

17          MR. SIEGEL: The Chair will entertain a motion to  
18 come out of executive session or closed session. Can I get  
19 that motion?

20          MR. J. SARGEANT REYNOLDS, JR.: So moved.

21          MR. SIEGEL: And second?

22          MS. DAWSON: Second.

23          MR. SIEGEL: All in favor, say aye.

24          NOTE: All indicated by voting aye.

25          MR. SIEGEL: The Board took no action in closed

1 session, so there's nothing to vote on, and we are adjourn-  
2 ed.

3 MR. J. SARGEANT REYNOLDS, JR.: I make a motion to  
4 adjourn.

5 MR. TROUT: Second.

6 NOTE: The meeting adjourned at 5:58 p.m.

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**HEARING ADJOURNED**

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**CERTIFICATE OF COURT REPORTER**

I, Roy Garrison Wood, hereby certify that 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 24th day of September, 2012.



**ROY GARRISON WOOD**  
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