

NORTH DAKOTA RACING COMMISSION
Monday, February 11, 2008 Meeting
1:00 p.m. (central time)
500 North 9th Street, Bismarck, ND

Call to Order:

Chairman, James Clement, called the meeting to order at 1:02 p.m. Roll call was taken by Director Blaseg and all commissioners were present. (Chairman Clement present, Commissioners: Frederick, Pladson, Secrest present and Weir attended by phone.)

Present:

Commissioners: James Clement, Mandan; Clarence Frederick, Belcourt; DeAnn Pladson, Fargo; Tom Secrest, Hettinger; Patrick Weir, Medora; Director of Racing, Randy Blaseg; and Administrative Staff Officer Helen Tessmann. Legal Counsel Bill Peterson was absent.

Others Present:

Jim Tilton, Ken Pawluk, Blaine DeCoteau, Doug DeMontigny, Mike Cichy, Roger Thompson, Janell Cole, John Bubel, Lance Hagen, Leon Glasser and Edward Erickson.

Chairman Clement moved agenda item #2, RCI Annual Conference, to after agenda item #13.

1. Approval of Minutes – December 20, 2007 Meeting

A motion was made to approve the minutes of the December 20, 2007 meeting.
(Pladson/Frederick/unanimous) Motion passed.

2. RCI Annual Conference – March 24th – 27th, Austin, Texas (moved to after agenda item #13)

3. Accountant's 2007 Breeders' Fund Distribution Report

(Reports had previously been submitted to the commissioners.)

Roger Thompson presented three reports: the 2007 Distribution for points earned at the 2006 live race meets, the Recalculation of the March 2007 points earned in 2006 due to not awarding late applications, and the 2007 Distribution for points earned in the 2007 live race meets.

A motion was made to approve the Breeders' Fund Distribution Reports.
(Pladson/Frederick/unanimous) Motion passed.

4. Hire an Independent Auditor

- Debbie Eisenhauer, CPA

\$ 2,495 proposal to complete a review of the 2007 Breeders' Fund award program.

Director Blaseg presented the proposal for the Independent Auditor. (The proposal had previously been provided to the commissioners.)

A motion was made to hire Debbie Eisenhower as the Independent Auditor at a cost of \$2,495.00. (Secrest/Pladson/Clement-Y, Weir-Y, Secrest-Y, Pladson-Y and Frederick-Y) Motion passed.

5. Las Vegas Dissemination Company's Tote Provider Application

Director Blaseg presented the Las Vegas Dissemination Company's (LVDC) tote provider application. LVDC has the ability to provide the services to the Hong Kong race tracks for both service providers Lien Games Racing and Premier Turf Club. The current tote provider, AmTote, does not provide this service.

A motion was made to approve the tote provider application and grant a license to Las Vegas Dissemination Company upon approval of the Attorney General's Office. (Secrest/Frederick/Clement-Y, Weir-not voting, Secrest-Y, Pladson-Y and Frederick-Y) Motion carried. (Commissioner Weir stated due to a question to his law firm regarding this application decided to not vote.)

6. 2007 Live Race Track Reports

- ORDA – Belcourt - Doug DeMontigny
- Horse Race North Dakota – Fargo – Dr. Jim Tilton

Report was given by Doug DeMontigny for ORDA. Lengthy discussion was held regarding the matter of insurance coverage and costs for the live race meets. Discussions also included jockey insurance coverage.

Commissioner Secrest suggested the tracks continue to seek whether jockeys' insurance coverage could be obtained under the Workforce Safety and Insurance (WSI). Commissioner Secrest suggested the item of insurance matters for track and horsemen's employees, jockeys and spectators, or anyone on the track be placed on the next meeting's agenda. The Chairman asked Commissioner Secrest if he would consider initiating the matter of WSI being available for jockey insurance coverage and other employees' insurance coverage. Commissioner Secrest answered, yes.

Dr. Jim Tilton gave the 2007 live race meet report for Horse Race North Dakota. One item he reported was the hiring of the General Manager hopefully by the first of March. Duties of the General Manager were discussed including developing fund raising.

7. Accountant's report of the 2007 Chippewa Downs and ND Horse Park Race Meets

(Previously hard copy reports were provided to the commissioners.)

Roger Thompson presented his reports for the Chippewa Downs (Belcourt) and ND Horse Park Race (Fargo) meets for 2007.

8. ND Horsemen's Council Committee Report

Dr. Jim Tilton presented Les Schmidt's, President of the ND Horsemen's Council Committee written report of the first meeting of January 14 at Steele, ND. Officers elected were: Les Schmidt, President, Randal Schwartz, Vice President, and Doug DeMontigny Secretary/Treasurer.

The council recommended:

- The Breed money should be used for Purse supplement.
- No more than the amount paid out in breeders' awards be paid out for Purse supplement.
- 1/3 of the Purse Fund to be used for the 2008 purses.

Doug DeMontigny, council member, reported the council will discuss important issues and it is hopeful to come before the commission as a unified voice. The council will attempt to deal with controversial issues at their council meetings instead of at the commission meetings.

Chairman Clement suggested the council visit the ND Ag Department's web site for possible grants available through APUC.

At 2:20 p.m. the commission took a break. Meeting resumed at 2:42 p.m.

9.	Purse/Breeders' Fund Requests	-	Total requests = \$ 906,000
	a. ORDA –		\$ 181,000
	\$ 25, 000 – Breeders Fund		
	\$ 156,000 – Purse Fund		
	b. Horse Race North Dakota		\$ 710,000
	\$ 410,000 – Purse Fund		
	\$ 300,000 – Breeders Fund		

Chairman Clement gave his recommendations of how monies should be granted for the two horse parks by the Purse and Promotion Funds. He recommended not using monies out of the Breed Fund. His proposal included a hand out showing his options.

Chairman Clement stated an audit will be done of the Commission at the end of February and the audit will be presented to the Legislative Audit and Fiscal Review Committee sometime in May. They will specifically look into legislative intent with the Breeders' Fund.

Commission Secret suggested that allowances be made so that the racing program could be run for a three year period.

Director Blaseg read Legal Counsel's written statement stating that the "Breed Fund may be used to supplement purses". (53-06.2-04.1)

A motion was made to award from the Purse Fund \$305,000 with 15% (\$45,750) going to ORDA and 85% (\$259,250) to Horse Race North Dakota. (Secret/Pladson)

Commissioner Frederick made **a motion to amend the motion** to award 20% to ORDA and 80% to Horse Race North Dakota. (Frederick/Clement) Clement-Y, Frederick-Y, Secret-N, Pladson – N, Weir-N. The motion failed.

Vote on original motion to award 15% to ORDA and 85% to Horse Race North Dakota: Clement-N, Frederick-N, Secret-Y, Pladson-Y, Weir-Y. The motion carried.

A motion was made to award from the Breed Fund for the Purse supplement for a total of \$125,000 with \$22,500 to ORDA and \$102,500 to Horse Race North Dakota. (Secret/Weir) Clement-N, Frederick-Y, Secret-Y, Pladson-Y, Weir-Y, the motion carried.

c. ND Grass Roots Stallion Stakes	\$ 5,000
\$ 2,500 – Futurity	
\$ 2,500 – Derby	

A motion was made to table awarding monies from the Purse Fund to ND Grass Roots Stallion Stakes. (Secret made the motion, no second.)

A motion was made to deny the request from ND Grass Roots Stallion Stakes for monies from the Purse Fund. (Weir/Secret) Clement-N, Weir-Y, Secret-Y, Pladson-Y, Frederick-N. The motion carried.

d. ND Quarter Horse Racing Association	\$ 10,000
\$ 5,000 – 2010 Stallion Stakes	
\$ 5,000 – 2011 Derby	

Leon Glasser, as President of the ND Quarter Horse Racing Association, withdrew their request as they will be putting that race out on bids to various tracks.

10. Promotion Fund Requests	-	Total Requests \$ 605,000 Plus
a. ORDA		\$ 160,000
\$150,000 – Operating		
\$ 10,000 – Track Improvement		
b. Horse Race North Dakota		\$ 350,000
\$ 350,000		

A motion was made that the Promotion Fund's allocation be for a total sum of \$200,000 with \$31,000 to ORDA and \$169,000 to Horse Race North Dakota. (Secrest/Pladson) Clement-N, Secrest-Y, Pladson-Y, Weir-Y, Frederick-N. The motion carried.

c. Horse Race North Dakota		\$ 9,708
Jockey Incentive Program	\$ 4,100	
33% of 2007 Breakage Fees	\$ 5,608	

A motion was made to disallow funding for the Jockey Incentive Program. (Frederick/Pladson) Commissioner Pladson withdrew her second. The motion failed due to a lack of a second.

Assistant Attorney General Edward Erickson arrived.

A motion was made to allow \$2,000 to Horse Race North Dakota for the Jockey Incentive Program from the Promotion Fund. (Weir/Pladson) Clement-Y, Secrest-Y, Weir-Y, Pladson-Y, Frederick-N. The motion carried.

Director Blaseg explained meeting with Roger Thompson to determine the 33% from July 1, 2007 through December 31st for those who applied **for monies for Breakage Fees**. Chairman Clement gave a history of the breakage fees within the Promotion Fund.

Doug DeMontigny of ORDA made the statement that if they would have been aware of these monies being available they would have applied for the breakage fees.

A motion was made to grant \$5,608 from the Promotion Fund for Breakage Fees to Horse Race North Dakota specifically for advertising purposes. (Weir/Secrest) Clement-N, Pladson-N, Frederick-N, Secrest-Y, Weir-Y. The motion failed.

d. ND Quarter Horse Racing Association		\$ 5,000
Stallion Season Service Auction		

Leon Glasser, President of ND Quarter Horse Racing Association withdrew their request.

Commissioner Secrest suggested that since Mr. Edward Erickson was here at his appointed time to move agenda item #15 ahead at this time.

15. Consideration of the recommendation of Office of Administrative Hearings in the Matter of the Appeal of Melissa Peach and Randy Schwartz

Director Blaseg stated that Mr. Erickson was to explain the options that the Racing Commission has concerning the Administrative Hearing which was conducted and now there is a recommended order involving Melissa Peach and Randy Schwartz's case which Major Splash Bac Jet was decertified.

Commissioner Secrest explained that since Legal Counsel Peterson represented the commission at the administered hearing, Mr. Erickson of the Attorney General's Office would now advise the commission as to the options.

Assistant Attorney General Erickson explained the options were: to accept the hearing officer's recommended findings, amend them or direct him to rewrite them.

Both Commissioners Weir and Secrest disagreed with the Administrative Law Judge's findings.

A motion was made to disagree with Administrative Law Judge's findings and his conclusions of law and to direct Mr. Erickson to work with the Director of Racing to develop new conclusions of law and a new order based upon the correct reading of the administrative rule that a foal in order to be a ND bred, it must be born out of a horse registered as a mare not registered as a foal and to make the adjustment necessary in the conclusions of law and the final order based upon that reading of the law.
(Secrest/Weir)

Mr. Erickson asked if any of the commissioners would want to bring up any other points in the recommended findings, conclusion and order. Chairman Clement stated he agreed with the Administrative Law Judge.

Secrest-Y, Pladson-Y, Weir-Y, Frederick-N, Clement-N. The motion carried.

The commission took a break at 4:00 and returned at 4:15 p.m.

d. ND Quarter Horse Racing Association \$ 5,000
Stallion Season Service Auction

Leon Glasser, President of ND Quarter Horse Racing Association decided to withdraw his previous withdrawal of the NDQHRA request for \$5,000 for the Stallion Season Service Auction and asked to be reconsidered.

A motion was made to deny the ND Quarter Horse Racing Association's request. (Pladson/Secrest) Clement-Y, Weir-Y, Secrest-Y, Pladson-Y, Frederick-Y. The motion passed.

e. ND Thoroughbred Association \$ 5,000
2008 Stallion Season Auction

A motion was made to deny the ND Thoroughbred Association's request for the 2008 Stallion Season Auction. (Pladson/Secrest) Clement-Y, Weir-Y, Secrest-Y, Pladson-Y, Frederick-Y. The motion passed.

f. Development Homes Inc. \$ 8,600
- Advertising & Promotional \$ 4,000
- Breakage Funds—for Operations \$ 4,600

A motion was made to deny the Development Home's request. (Secrest/Weir) Clement-Y, Weir-Y, Secrest-Y, Pladson-Y, Frederick-Y. The motion passed.

g. Williston Convention and Visitors Bureau \$ _____
- Promotional \$ 4,000
- 1/3 Breakage Fees \$ _____

A motion was made to deny the Williston Convention and Visitors Bureau's request. (Secrest/Weir) Clement-Y, Weir-Y, Secrest-Y, Pladson-Y, Frederick-Y. The motion passed.

h. ND Association for the Disabled, Inc. \$ 850

A motion was made to deny the request from ND Association for the Disabled, Inc. (Secret/Frederick) Clement-Y, Weir-Y, Secret-Y, Pladson-Y, Frederick-Y. The motion passed.

i. Personal Management Services Inc. \$ 2,500
Annual Horsemen's Awards Banquet

A motion was made to deny the Personal Management Services' request. (Secret/Pladson) Clement-Y, Weir-Y, Secret-Y, Pladson-Y, Frederick-Y. The motion passed.

j. Fair Circuit Horse Racing Association \$ 64, 890

John Bubel, President of Fair Circuit Horse Racing Association, addressed the commission and explained the list of itemized expenses. (This listing was previously provided to the commissioners.)

A motion was made to table this agenda item and ask the ND Horsemen's Council Committee to assess this billing and make a recommendation to the Commission. (Secret/Weir) Clement-Y, Weir-Y, Secret-Y, Pladson-Y, Frederick-Y. The motion passed.

k. Roger Thompson's Auditing Bill \$ 7,200.00
Monthly Services for Premier Turf Club
July 1, 2007 – January 31, 2008

Roger Thompson presented his bill for auditing services to Premier Turf Club. He estimated 20 hours per month at \$33.00 per hour.

A motion was made to approve the payment of \$7,200 from the Promotion Fund to Roger Thompson for his services to Premier Turf Club. Premier Turf Club will reimburse the Promotion Fund for the same. (Secret/Pladson) Clement-Y, Pladson-Y, Secret-Y, Pladson-Y, Frederick-Y. The motion passed.

11. Live Race Date Requests

a. Outdoor Recreation Development Association (ORDA)

Chippewa Downs - Belcourt
(7 race dates)
June 7, 8 & 9, 15 & 16, 22 & 23

The live race dates request for ORDA was made by Doug DeMontigny.

A motion was made to approve the live race dates of June 7, 8, & 9, 15 & 16, and 22 & 23, 2008 for Outdoor Recreation Development Association. (Secret/Weir) Clement-Y, Weir -Y, Secret-Y, Pladson-Y, Frederick-Y. The motion passed.

b. Horse Race North Dakota

ND Horse Park – Fargo
(22 race dates)
July 25, 26, 27
August 1, 2, 3, 8, 9, 10, 15, 16, 17, 22, 23, 24, 29, 30, 31
September 1, 5, 6, 7,
Harness Meet
(3 race dates)
September 12, 13, 14

Dr. Jim Tilton, representing Horse Race North Dakota, made corrections and modified the live race dates for the 2008 ND Horse Park race season.

ND Horse Park – Fargo
(16 race dates)
August 1, 2, 3, 8, 9, 10, 15, 16, 17, 22, 23, 24, 29, 30, 31
September 1
Harness Meet
(3 race dates)
September 5, 6, 7

A motion was made to approve the Horse Race North Dakota race dates of August 1, 2, 3, 8, 9, 10, 15, 16, 17, 22, 23, 24, 29, 30, 31 and September 1 for the live race meet and September 5, 6, 7 for the Harness Meet. (Weir/Secret) Clement-Y, Weir -Y, Secret-Y, Pladson-Y, Frederick-Y. The motion passed.

Agenda item #13 was moved ahead to accommodate Commissioner Weir (a problem with his phone line) and those in attendance.

13. Breeders Fund – Chapter 9 Update

Director Blaseg explained this was referred back to the Racing Commission. Chapter 9 was not approved with the other rules by Legislative Council. The commission is to determine whether or not we wish to change anything within the rules for the Breeders Fund which is Chapter 9 in our rules and regulations.

As per the Director's communications with Legal Counsel, "the commission complied with the rule making process and the rules are amended within the statutory authority provided. The rules were reviewed by the Attorney General's office and they agree."

A motion was made to table this issue until it is determined there is no legal reason to change the rules with confirmation with Legal Counsel.
(Secret/Weir) Clement-Y, Weir -Y, Secret-Y, Pladson-Y, Frederick-Y. The motion passed.

Commissioner Weir left the phone conference.

2. RCI Annual Conference – March 24th – 27th, Austin, Texas

A motion was made to send Commissioner Weir and Director Blaseg to the RCI Annual Conference, March 24th – March 27th.in Austin, Texas.
(Secret/Pladson) Clement-Y, Secret-Y, Pladson-Y, Frederick-Y, Weir-Absent. The motion passed.

12. ORDA and Horse Race ND – 2008 Track Officials

Doug DeMontigny presented the ORDA track officials listing. (Previously provided to the commissioners.)

A motion was made to approve the ORDA Track Officials listing as submitted and to authorize the Director to approve the Horse Race North Dakota Track Officials' listing when provided.
(Secret/Pladson) All in favor said aye. Weir-Absent. The motion passed.

14. 2008 Race Season

- a. Authority to hire state veterinarians and state stewards for Belcourt's and Fargo's race meets
- b. Authority to hire Licensing staff for 2008 meets
- c. Approval of the Industrial Laboratories
- d. Variances

Commissioner Weir returned by phone.

A motion was made to give authority to the Director to hire the state veterinarians and state stewards for Belcourt and Fargo race meets, to hire the licensing staff, and the use of Industrial Laboratories. (Secrest/Frederick) Clement-Y, Weir-Y, Secrest-Y, Pladson-Y, Frederick-Y. The motion passed.

A motion was made to table the issue of any variances that may be needed until it is determined where we stand with the rule issue. (Pladson/Frederick) All voted aye. The motion passed.

16. Any other business which may PROPERLY come before the commission

Commissioner Weir left the phone conference.

Director Blaseg stated that in the last few days the office printer has needed extensive repair and needs to be replaced. Options were present to the commission.

A motion was made to authorize spending up to \$1,500 to purchase a new printer with scanning capabilities. (Pladson/Secrest) Clement-Y, Pladson-Y, Frederick-Y, Secrest-Y, Weir-Absent. The motion passed.

17. Adjournment

The meeting was adjourned at 5:10 p.m.