

## **NORTH DAKOTA RACING COMMISSION**

**Live and Telephone Meeting  
Tuesday, December 15, 2009  
1:00 p.m. (central time)  
500 N 9<sup>th</sup> Street, Bismarck, ND**

### **Call to Order:**

Chairman Jim Ozbun called the meeting to order at 1:01 p.m. Chairman Ozbun welcomed those in attendance and thanked everyone for attending.

**Present:** Chairman Jim Ozbun; Commissioners: Tom Secret and Andrew Maragos. Commissioner Clarence Frederick attended by phone. Also present were Legal Counsel, Bill Peterson, Director of Racing, Winston E. Satran and Administrative Staff Officer Helen Tessmann.

**Others Present:** Ross Qualey, Leigh Backhaus, Blaine DeCoteau, Wayne Slater, Deb Harsche, John Bubel, John Ford, Lee Harsche, Jim Tilton, Leon Glasser, Roger Thompson, Lance Hagen and Randy Schwartz.

### **AGENDA**

1. **Approval of Minutes – November 3, 2009 Meeting**
2. **Approval of 2010 License**  
Simulcast Service Provider  
- Trifecta Consulting Group LLC
3. **Discussion and Approval for Horse Race ND Financial Review**
4. **ND Horsemen's Council Issues or Recommendations**
5. **Any other business which may PROPERLY come before the commission**
6. **Adjournment**

### **Minutes**

1. **Approval of Minutes – November 3, 2009 Meeting**

Previously all commissioners had received a copy of the November 3, 2009 commission meeting minutes.

**A motion was made** by Commissioner Maragos and seconded by Commissioner Secret to accept the minutes of the November 3, 2009 meeting as presented. All commissioners voted aye and hearing no negative vote the motion carried.

2. **Approval of 2010 License**  
Simulcast Service Provider  
- Trifecta Consulting Group LLC

Director Satran gave an update of the Simulcast Service Provider License Application for Trifecta Consulting Group LLC for 2010. Mr. Robert Holmes the President of Trifecta Consulting Group had given a presentation and answered questions at the November 3, 2009 meeting. Since that time, the background checks have been completed and forwarded with the application to the ND Office of Attorney General. Mr. Satran read the e-mail received from Mr. Tom Trenbeath, Chief Deputy Attorney General which stated no reasons were found to deny the licensing of this company.

Director Satran read one document received with several comments about the ability of Trifecta to conduct account wagering. Director Satran made several comments regarding the change in the tax laws and inviting account wagering companies to come in to North Dakota to conduct business. The Commission has licensed some companies who have significant experience and others who are start-up companies. North Dakota may be in the position for some companies to look at bringing international betters to North Dakota. Director Satran also stated there are risks with each company when there are changes in management, changes in revenues, they have ups and downs. The only place to obtain revenues in North Dakota is by account wagering.

**A motion was made** by Commissioner Secrest and seconded by Commissioner Frederick to approve the 2010 Simulcast Service Provider license for Trifecta Consulting Group LLC. Roll Call was taken: Secrest-Y, Frederick-Y, Maragos-Y and Ozbun-Y. Motion passed.

### **3. Discussion and Approval for Horse Race ND Financial Review**

Chairman Ozbun asked Director Satran to explain the need for a Horse Race ND Financial Review. Director Satran explained that as Horse Race ND concluded their 2009 race season numerous reports for their Accounts Receivable and the Accounts Payable were sent to the ND Racing Commission office. At the November Commission meeting, Horse Race ND applied for \$73,567.28 from the Promotion Fund to assist in covering their deficit. As for the Accounts Receivable and the Accounts Payable, the totals kept changing. Due to unpaid bills by Horse Race ND for the 2009 horse meet, vendors who had provided services were calling the ND Racing Commission office. The monies owed for taxes and outs were not included in the Accounts Payable reports.

The Racing Commission office received information that some of the Accounts Receivables will not be collected. One of the receivables for \$4,800 is now over 15 months past due. The money between Horse Race ND and two account wagering companies needs to be settled and whether this money is available to meet Horse Race ND's cash obligations. There seems to be a long term debt of 10 years of which Horse Race ND is already in the 7<sup>th</sup> year.

Director Satran suggested the Racing Commission hire an accounting firm to identify what is accurately Accounts Receivable and whether all of the Accounts Payables are listed on the reports. Director Satran had visited with the State Auditor's Office and they recommended the Commission hire a private accounting firm. The Director then contacted Eide Bailley and Eide Bailley gave the director some recommendations and costs.

Dr. Jim Tilton, representing Horse Race ND spoke. He reported that Heather Benson, General Manager is no longer with Horse Race ND. Her last day was December 9<sup>th</sup>. Jim informed that he has been asked to serve in a temporary status along with some others to do what they can to get the situation worked out. Dr. Tilton informed that Horse Race ND has just paid the taxes to ND Racing Commission and the breakage is not due. He explained additional race meet expenses that were not budgeted for.

Commissioner Secrest strongly suggested that Horse Race ND consider hiring a bankruptcy attorney in Fargo for pre-bankruptcy advice and guidance to maybe consider reorganizing. Dr. Tilton said he would report that suggestion back to the Horse Race ND board.

Director Satran read Horse Race ND President Julie Cardwell's e-mail stating that Horse Race ND Board of Directors were not opposed to an audit but asked that the Commission consider a Financial Review instead of an audit at this time. Director Satran clarified that the Commission would not be asking for an audit but would be asking for a Financial Review.

Commissioner Maragos asked for an explanation of the two entities Horse Race ND and the ND Horse Park and if there was one board for both entities Dr. Tilton explained that they are two separate entities and two separate boards. Only one person serves on both boards. Horse Race ND runs the race meet. Three parcels of land were donated; one to Horse Race ND, one to NDSU and one parcel to include the race track to ND Horse Park Foundation.

Two motions were made and withdrawn with a final motion being stated below.

**A motion was made** by Commissioner Secrest and seconded by Commissioner Frederick to authorize the Director to request a financial review of Horse Race North Dakota, paid by the ND Racing Commission. Roll Call was taken: Secrest-Y, Frederick-Y, Maragos-Y and Ozbun-Y. Motion passed.

**A motion was made** by Commissioner Maragos and seconded by Commissioner Secrest to cap the cost at \$6,000. If this amount increases, each commissioner will be notified prior to paying any additional charges. Roll Call was taken: Maragos-Y, Secrest-Y, Frederick-Y and Ozbun-Y. Motion passed..

**4. ND Horsemen's Council Issues or Recommendations**

Randy Schwartz, Chairman of the ND Horsemen's Advisory Council stated that they had two items they would like to see changed in the future.

- a. Change the way the Breeder Funds are paid out; establish a lump sum for each breeder's race in the amount of \$2500. Then allocate it out as a percentage. This would increase participation in the breed races and to let people know ahead of time so they can purchase yearlings.
- b. Change the way the simulcast laws are to eliminate the middle man so that the tracks can collect themselves. This would generate a tremendous amount of money for race tracks.

**5. Any other business which may PROPERLY come before the commission**

Lance Hagen asked that the race dates be determined at this meeting. He stated that the ND Horse Park Foundation has \$70,000. How did they obtain that money and couldn't it be contributed to Horse Race ND's financial situation? Dr. Tilton explained that the Foundation cannot give money to Horse Race ND, however they could help them by paying one of the outstanding bills. Director Satran will request this information be included in the financial review.

Horse Race ND's application for 2010 race dates will be considered by the ND Racing Commission upon completion of the financial review.

**6. Adjournment**

A motion was made Commissioner Maragos and seconded by Commission Secrest to adjourn the meeting. All Commissioners voted aye and hearing no negative vote, the motion was passed. The meeting adjourned at 2:32 p.m.