

Agenda Item #2

INDIANA HORSE RACING COMMISSION
BEFORE ADMINISTRATIVE LAW JUDGE

2014 NOV -5 P 1:33

MICHAEL NORRIS,)
Petitioner,) STEWARDS
v.) RULING Nos.
) 14624 and 14633
INDIANA HORSE RACING COMMISSION,)
Respondent)

**RECOMMENDED ORDER DENYING MICHAEL NORRIS' MOTION TO
VACATE STEWARDS RULINGS RESULTING IN HIS SUMMARY SUSPENSION**

This matter comes before Administrative Law Judge Bernard Pylitt on Michael Norris' Motion to Vacate Stewards Rulings resulting in his summary suspension. Following receipt and review of the briefs filed by the parties, and oral arguments conducted by telephone on October 30, 2014, ALJ Pylitt renders his Recommended Order.

PROCEDURAL BACKGROUND

On September 23, 2014, the undersigned was appointed to serve as the Administrative Law Judge in this matter. Subsequently, on Friday, September 26, 2014, in accordance with IC 4-21.5-3-18, and following written notice to counsel for the parties, the ALJ conducted a telephone pre-hearing conference in the above-referenced appeal. This appeal is brought by Michael Norris ("Norris") who is currently represented by John Shanks II. The Indiana Horse Racing Commission (IHRC) Staff is represented by Holley Newell.

Counsel agreed that the matter assigned is limited to a determination of whether the Stewards had the authority to summarily suspend Norris and whether there is sufficient evidence in the record to meet the statutory standard for the summary suspension of Norris.

Subsequently, counsel for Norris filed his Motion to Vacate Rulings on Monday, October 6, 2014. The IHRC Staff filed its Response on Thursday, October 16, 2014. On Friday, October 24, 2014 Norris filed his Reply.

Oral argument on Norris' Motion to Vacate Rulings was conducted telephonically on Thursday afternoon, October 30, 2014. Counsel for the parties agreed that the ALJ may only make a recommended decision to the IHRC. The ALJ inquired about the date for the next Commission meeting and was advised that it was scheduled for Monday, November 17, 2014. The parties agreed to submit proposed orders by the close of business on Monday, November 3, 2014.

Following oral argument, counsel and the ALJ engaged in a dialogue via email about IC 4-21.5-3-29 (d) which provides that a party shall have fifteen (15) days after an order is served to object to a recommended order of an ALJ, in light of the fact that the next IHRC meeting was scheduled for Monday, November 17, 2014. While counsel for Norris and the IHRC Staff have discussed agreeing in writing to a shorter period of time to file objections to allow the IHRC to consider this recommended order at its next scheduled meeting, absent said agreement in writing, signed by Norris, IC 4-21.5-3-29 provides each party shall have fifteen (15) days to object before the IHRC may consider the recommended order from the ALJ.

STEWARDS RULINGS

On August 8, 11, and 12, 2014, the IHRC's Staff received information from LGC Science, Inc. ("LGC") that five post-race equine blood tests had been confirmed positive for a particular substance. Each of the five horses that tested positive were trained by Norris. The Stewards informed Norris of the positive tests on August 15, 2014, and offered him the opportunity to

request that “split samples” be tested pursuant to 71 IAC 8-4-3(b). On August 19, 2014, Norris, through his then legal counsel, chose not to request split sample testing.

The Stewards summarily suspended Norris on August 26, 2014 (Ruling No. 14624), and scheduled a hearing on the summary suspension for August 29, 2014. The summary suspension hearing was continued until September 5, 2014. The Stewards found “that there is sufficient evidence to indicate that Mr. Norris’ actions constitute an immediate danger to public health, safety and welfare, or are not in the best interest of racing or compromises the integrity of operation at a track or satellite facility.” Therefore, the Stewards denied Norris’ request to set aside his summary suspension on September 6, 2014 (Ruling No. 14633). From said summary suspension, Norris files his Motion to Vacate.

ISSUES RAISED

Norris’ Motion to Vacate raises two issues:

1. Whether the IHRC has exceeded its statutory authority by promulgating 71 IAC 10-2-3(a).
2. Whether the IHRC Staff failed to present sufficient evidence to meet the standard for a summary suspension.

Norris argues that IC 4-31-12-5 spells out the procedures under which the Stewards may temporarily suspend a licensee and specifically provides that a temporary order of suspension may only be entered “where a licensee’s actions constitute an immediate danger to the public health, safety or welfare”. Norris concludes that Stewards Ruling 14633, finding that there was sufficient evidence to indicate that Norris’ actions constituted an immediate danger to public health, safety or welfare, or are not in the best interest of racing, or compromise the integrity of operation at a track or satellite facility in violation of IHRC Rule No. 71 IAC 10-2-3(a) clearly

exceeded IHRC's statutory authority by adopting an administrative rule that established a standard for suspension inconsistent with IC 4-31-12-5(a)(2), and was therefore unenforceable.

SUMMARY OF THE IHRC STAFF'S RESPONSE

Pursuant to IC 4-31-3-9(a)(1)(h) the Indiana General Assembly charged the IHRC with ensuring that pari-mutual wagering on horse races Indiana be conducted with the highest standards and the greatest level of integrity. IC 4-31-13-2(a) provides that the Commission may adopt rules under IC 4-22-2 to delegate to the Stewards and judges the power to conduct disciplinary hearings on behalf of the Commission and issue a temporary order or other immediate action in the nature of a summary suspension if a licensee's actions constituted an immediate danger to the public health, safety, or welfare.

IHRC rules provide for the issuance of summary suspensions. 71 IAC 10-2-3(a) provides that "If the judges determine that a licensee's actions constitute an immediate danger to the public health, safety, or welfare, or are not in the best interest of racing, or compromise the integrity of operations at a track or satellite facility, the judges may summarily suspend the license..." The Stewards concluded that Norris' actions constituted an emergency which required his immediate suspension on August 26, and again on September 6, 2014.

NORRIS' REPLY

Although Norris agrees that the IHRC Staff's Response accurately reflected some of the issues raised, Norris further argued that his due process rights were violated by the IHRC, through the Stewards "imposing disciplinary sanctions with monetary consequences" before the merits of the case were adjudicated. Additionally, Norris argues that the Affidavit of Dr. Richard Sams was immaterial to the issues presented to the Stewards, and that LGC failed to promptly

analyze the blood specimens which would have allowed Norris to investigate the reason for these positive test results and take steps to prevent future violations.

RELEVANT STATUTE AND REGULATION

At all times relevant hereto, the following regulations were in full force and effect:

IC 4-31-13-2

Disciplinary hearings; sanctions, maximum civil penalty; appeals

Sec. 2. (a) The commission may adopt rules under IC 4-22-2 to delegate to the stewards and judges of racing meetings under the jurisdiction of the commission the power to conduct disciplinary hearings on behalf of the commission. The stewards and judges shall give at least twelve (12) hours notice of any such hearing. The stewards and judges, on behalf of the commission, may impose one (1) or more of the following sanctions against a licensee who violates this article or the rules or orders of the commission:

- (1) A civil penalty not to exceed five thousand dollars (\$5,000).
- (2) A temporary order or other immediate action in the nature of a summary suspension if a licensee's actions constitute an immediate danger to the public health, safety, or welfare.
- (3) Suspension of a license held by the licensee for not more than one (1) year. The suspension of a license under this subdivision is:
 - (A) valid even though the suspension extends beyond the period of the racing meeting for which the stewards and judges have been appointed; and
 - (B) effective at all other racing meetings under the jurisdiction of the commission.
- (4) A rule that a person must stay off the premises of one (1) or more permit holders if necessary in the public interest to maintain proper control over recognized meetings.
- (5) Referral of the matter to the commission for its consideration.

However, at least two (2) of the stewards or judges at a racing meeting must concur in a suspension or civil penalty.

...

IC 4-31-12-15

Sanctions imposed by stewards and judges; procedures

Sec. 15. (a) The commission may adopt rules under IC 4-22-2 to delegate to the stewards and judges of racing meetings the authority to conduct disciplinary hearings on behalf of the commission. The stewards and judges shall give at least twelve (12) hours notice of any such hearing. The stewards and judges, on behalf of the commission, may impose one (1) or more of the following sanctions against a licensee who violates sections 2 through 13 of this chapter:

- (1) A civil penalty not to exceed five thousand dollars (\$5,000).
- (2) A temporary order or other immediate action in the nature of a summary suspension where a licensee's actions constitute an immediate danger to the public health, safety, or welfare.
- (3) Suspension of a license held by the licensee for up to one (1) year. The suspension of a license under this subdivision is:
 - (A) valid even though the suspension extends beyond the period of the racing meeting for which the stewards and judges have been appointed; and
 - (B) effective at all other racing meetings under the jurisdiction of the commission.
- (4) A rule that a person must stay off the premises of one (1) or more permit holders if necessary in the public interest to maintain proper control over recognized meetings.
- (5) Referral of the matter to the commission for its consideration.
However, at least two (2) of the stewards or judges must concur in a sanction.
- (b) Unless a suspension of a license or the imposition of a civil penalty under this section is appealed by the person sanctioned not more than fifteen (15) days after being sanctioned, the suspension of a license or the imposition of a civil penalty under this section must occur within one hundred eighty (180) days of the date of the violation.
- (c) A sanction under this section may be appealed to the commission. Judges and stewards imposing sanctions under this section must prove the person's violation by a preponderance of the evidence. The commission shall adopt rules establishing procedures for appeals and stays of appeals. The commission shall conduct a hearing on an appeal filed under this section as provided in IC 4-21.5.

This statute was originally promulgated in 1989.

IC 4-21.5-4-1

Circumstances warranting special proceedings

Sec. 1. An agency may conduct proceedings under this chapter if:

- (1) an emergency exists; or
- (2) a statute authorizes the agency to issue a temporary order or otherwise take immediate agency action.

71 IAC 10-2-3 Summary suspension

Sec. 3. (a) If the judges determine that a licensee's actions constitute an immediate danger to the public health, safety, or welfare, or are not in the best interest of racing, or compromise the integrity of operations at a track or satellite facility, the judges may summarily suspend the license pending a hearing pursuant to the provisions of IC 4-21.5-4.

(b) A licensee whose license has been summarily suspended by the judges is entitled to a hearing following a written request by the licensee.

(c) The judges shall conduct a hearing on the summary suspension in the same manner as other disciplinary hearings. At a hearing on a summary suspension, the sole issue is whether the licensee's license should remain suspended pending a final disciplinary hearing and ruling.

This Rule was initially filed as an emergency rule on February 10, 1994, and has remained in full force and effect since.

71 IAC 8.5-1-1.5 Medication

Sec. 1.5. (a) No horse participating in a race or entered in a race shall carry in its body any foreign substance as defined in 71 IAC 1.5 or IC 4-31-2, except as provided for in this rule.

(b) No substance, foreign or otherwise, shall be administered to a horse entered to race by:

- (1) injection;
- (2) jugging;
- (3) oral administration;
- (4) tube;
- (5) rectal infusion or suppository;
- (6) inhalation; or
- (7) any other means;

within twenty-four (24) hours prior to the scheduled post time for the first race except furosemide as provided for in this rule. The prohibitions in this section include, but are not limited to, injection or jugging of vitamins, electrolyte solutions, and amino acid solutions. The prohibition also includes, but is not limited to, the topical, oral, or nasal administration of compounds, such as Traileze, Vapol, Vicks vapor-rub, wind-aid, exhale ease, or containing methylsalicylate, camphor, potassium iodide, or products containing "caine" derivatives or dimethylsulfoxide (DMSO).

...

71 IAC 8.5-1-2 Foreign substances prohibited

Sec. 2. (a) No horse participating in a race shall carry in its body any foreign substance except as provided by these rules. A finding by the chemist or commission designee that a foreign substance is present in the test sample shall be prima facie evidence that such foreign substance was administered and carried in the body of the horse while participating in a race. Such a finding shall also be taken as prima facie evidence that the trainer and his or her agents responsible for

the care or custody of the horse have been negligent in the handling or care of the horse.

(b) Upon a finding of a violation of this section, the owners or lessees of the horse from which the specimen was obtained shall forfeit any purse money and any trophy or award. However, forfeiture of any purse, trophy, or award for an overage of phenylbutazone, flunixin, ketoprofen, or furosemide in violation of these rules shall be consistent with recommended penalties of the Association of Racing Commissioners, International.

71 IAC 5-3-2 Trainer responsibility

(a) The Trainer is responsible for:

(1) . . .

(2) The presence of any prohibited drug, medication or other substance . . . In absence of substantial evidence to the contrary, the trainer shall be responsible.

(b) The Trainer shall prevent the administration of any drug or medication or other prohibited substance that may cause a violation of these Rules.

BASIS FOR RECOMMENDED DECISION

A. The IHRC had the authority to promulgate 71 IAC 10-2-3(a)

The Indiana Horse Racing Commission was created after the Indiana General Assembly passed the pari-mutuel enabling statute in 1989. The legislative intent was made crystal clear. Pari-mutuel racing in Indiana is to be conducted with the highest of standards and greatest levels of integrity. See IC 4-31-1-2. To accomplish that goal, the IHRC was charged with adopting rules that govern horse racing in Indiana. See IC 4-31-3-9.

Therefore, the IHRC clearly had authority to promulgate 71 IAC 10-2-3(a), which allows for summary suspensions of licensees under specified circumstances. The rule provides for summary suspensions by the Stewards or judges if a licensee's actions constitute an immediate danger to the public health, safety, or welfare, or are not in the best interest of racing, or compromise the integrity of operations at a track or satellite facility. The rule clearly fits within the mandate found in the enabling statute. Even if the latter two circumstances (actions that not in the

best interest of racing, or compromise the integrity of operations at a track or satellite facility) were stricken from the rule, the summary suspension of Norris' must stand, as his actions were an affront to public health, safety, or welfare.

The rule is not contrary to the statute. The broad statutory language of I.C. 4-31-13-2, "public health, safety, or welfare," included those actions described in 71 IAC 10-2-3(a) "not in the best interest of racing, or compromise the integrity of operations at a track or satellite facility".

As pointed out by the IHRC Staff "[W]hen a statute has not been previously construed, our interpretation is controlled by the express language of the statute and the rules of statutory construction." *Ind. Dept. of Environmental Management v. Construction Management Associates et al.*, 890 N.E.2d 107, 112 (Ind. App. 2008). (*Citations omitted.*) "When a statute is subject to different interpretations, the interpretation of the statute by the administrative agency charged with the duty of enforcing the statute is entitled to great weight, unless that interpretation is inconsistent with the statute itself." *Id* at 112-113. Also well founded is that legislative intent as ascertained from an Act as a whole will prevail over the strict literal meaning of any word or term used therein. *State v. George*, 273 N.E.2d 680 (Ind. 1980). When the Court is called upon to construe words in a single section of a statute, it must construe them with due regard for all other sections of the act and with due regard for the intent of the legislature in order that the spirit and purpose of the statute be carried out. *Indiana State Highway Commission v. White*, 291 N.E. 2d 550 (Ind. 1973).

Norris offered no authority to the contrary in his pleadings.

B. There is sufficient evidence in the record to support the Stewards ruling resulting in Norris' summary suspension

A careful review of the record demonstrates that the Stewards received sufficient evidence to support their decision to summarily suspend Norris. During oral argument, the parties acknowledged that the burden of proof was by a preponderance of the evidence. In other

words, was it more likely than not that a certain fact existed. Norris argued unsuccessfully that had LGC more promptly reported its initial findings to the IHRC and Norris, he would have been able to investigate the source of these positive tests and take steps to insure no further problems. What he ignores is the fact that a single positive test is "prima facie evidence" that such foreign substance was administered and carried in the body of the horse while participating in a race. (71 IAC 8.5-1-2(a)). "Prima facie evidence" is defined at 71 IAC 1-1-84 to mean evidence that, until its effect is overcome by other evidence, will suffice as proof of fact in issue. Here, the evidence clearly indicated that the post-race blood from horses trained by Norris resulted in five positive tests. Positive results shall also be taken as prima facie evidence that the trainer, and his or her agents responsible for the care or custody of the horses, were negligent in the handling or care of the horse. No evidence to the contrary was offered to overcome the evidence presented to the Stewards.

Further, the LGC carefully analyzed the levels detected in each sample from the Norris trained horses and concluded that the levels were indicative of race-day administration. Norris' argument that Dr. Sams' Affidavit is immaterial is simply incorrect.

Norris' five equine positive post-race drug tests, coupled with Dr. Sam's testimony that these all appeared to be race-day injected administration, put Norris at odds with the most fundamental rules aimed at keeping racing clean in Indiana. Another factor that the Stewards had before them was that each of these five horses won their respective race. The Stewards appropriately took swift action, based upon the emergency situation and the evidence before them. It is critical to remember that a horse may not receive any substance, other than Lasix, within 24 hours of post time (71 IAC 8.5-1-1.5(b)) and a horse may not carry in its body any foreign substance (71 IAC 8.5-1-2(a)).

RECOMMENDED DECISION

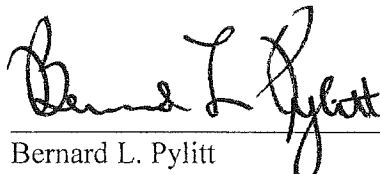
The ALJ finds that:

1. The IHRC acted within its statutory authority when it promulgated 71 IAC 10-2-3, pursuant to IC 4-31-13-2(a) and IC 4-31-12-15(a).
2. The Stewards had the authority to summarily suspend Norris' license pursuant to 71 IAC 10-2-3(a).
3. The Stewards' decision to summarily suspend Norris was appropriate and within their statutory and regulatory authority.
4. The summary suspension of Norris was supported by sufficient evidence in the record.
5. It is improper for the ALJ or IHRC to consider any emotional distress or financial hardship that Norris claims in reaching this Recommended Decision.

Therefore, ALJ Pylitt recommends that the summary suspension of Norris be remanded to the Stewards for a hearing pursuant to 71 IAC 10-2-3(c).

Pursuant to IC 4-21.5-3-29(d), either party hereto, has 15 days following receipt of this Recommended Order to file written exceptions with the Indiana Horse Racing Commission.

IT IS SO RECOMMENDED THIS 5TH DAY OF NOVEMBER, 2014.



Bernard L. Pylitt
Administrative Law Judge

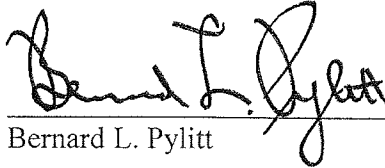
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been duly served via first-class United States mail, postage prepaid, and via email this 5th day of November, 2014 to the following counsel of record:

John N. Shanks II
SHANKS LAW OFFICE
931 Meridian Street, Suite 403
Anderson, IN 46016
email: jnshanks@aol.com

Holly Newell
Indiana Horse Racing Commission Staff
1302 North Meridian, Suite 175
Indianapolis, IN 46202
email: hnewell@hrc.in.gov

Joseph Gorajec
Executive Director
Indiana Horse Racing Commission
1302 North Meridian, Suite 175
Indianapolis, IN 46202
email: jgorajec@hrc.in.gov


Bernard L. Pylitt

Bernard L. Pylitt
Katz & Korin, PC
334 North Senate Avenue
Indianapolis, IN 46204
Office: 317-464-1100
Fax: 317-464-1111
Email: bpylitt@katzkorin.com

BEFORE THE ADMINISTRATIVE LAW JUDGE
THE HONORABLE BERNARD PYLITT
APPOINTED BY THE INDIANA HORSE RACING COMMISSION

2015 JAN 16 P 3:30

MICHAEL NORRIS,
Petitioner,

v.

INDIANA HORSE RACING COMMISSION STAFF,
Respondent

)
) APPEAL OF
) STEWARDS
) RULING Nos.
) 14624 and 14633
)
)
)
)

**BRIEF IN SUPPORT OF COMMISSION AFFIRMATION OF
RECOMMENDED ORDER OF ADMINISTRATIVE LAW JUDGE
DENYING MICHAEL NORRIS' MOTION TO VACATE STEWARDS RULINGS
RESULTING IN HIS SUMMARY SUSPENSION**

The Indiana Horse Racing Commission Staff (“Staff” or “Commission Staff”) respectfully submits this brief in support of its request that the Commission affirm the Recommended Order of Administrative Law Judge Bernard Pylitt dated November 5, 2014 (“Recommended Order”), pursuant to the Chair’s January 12, 2014 Notice of Opportunity to Present Briefs and Oral Argument in the above-referenced matter.

I. INTRODUCTION

In early August of 2014, Commission Staff received notifications from its primary laboratory, LGC Science, Inc. (“LGC”), that five post-race equine blood tests had been confirmed positive for hydrocortisone succinate. All of the horses that had tested positive were trained by Indiana Horse Racing Commission (“IHRC”) licensee Michael Norris (“Norris” or “Petitioner”).

The IHRC Stewards notified Mr. Norris of the positive tests on August 15, 2014, and offered him the opportunity to request that split samples be tested. Mr. Norris, through counsel, declined the split sample tests on August 19, 2014.

The alarming number of positives, coupled with the concentrations identified, was of grave concern to Commission Staff. Upon consultation with Dr. Richard Sams, laboratory directory at LGC, Commission Staff determined that there was a substantial likelihood that the Norris horses received race-day administration of the substance. Dr. Sams sent a letter to IHRC Executive Director Joe Gorajec stating: "The concentrations of hydrocortisone succinate in these samples are all above 250 pg/mL indicating a high probability that they were administered parenterally within 24 hours of sample collection." See Affidavit of Dr. Richard Sams, attached as Exhibit A, which was considered by the Stewards and the ALJ. Parenteral administration is intravenous or intramuscular administration, *not* oral or topical administration. *Id.*

The Stewards summarily suspended Mr. Norris on August 26, 2014 (Ruling No. 14624), and scheduled a hearing on the summary suspension for August 29, 2014. The summary suspension hearing was continued to September 5, 2014, by consent of both parties. The Stewards upheld the summary suspension on September 6, 2014 (Ruling No. 14633).

Mr. Norris timely appealed the Stewards' decision to uphold the summary suspension, and the matter was assigned to Administrative Law Judge Bernard Pylitt ("the ALJ") on September 23, 2014. Judge Pylitt issued a pre-hearing order, scheduling briefing and oral arguments in the matter. Telephonic oral arguments were heard on October 30, 2014, and each party was given the opportunity to submit a proposed Recommended Order. Judge Pylitt issued his Recommended Order on November 4, 2014. Petitioner timely filed his objections, and the matter was scheduled for consideration during the Commission's January 28, 2015 meeting. IHRC Chairman Tom Weatherwax gave parties the opportunity to brief the issues.

Each of the Petitioner's objections to ALJ Pylitt's proposed Order is without merit. It is appropriate for the Commission to approve the ALJ's Proposed Order, and issue a Final Order in accordance therewith.

II. RELEVANT LAW

The Indiana Horse Racing enabling statute is at Title 4, Article 31 of the Indiana Code (Pari-mutuel Wagering on Horse Races). Pursuant to the authority established in Title 4, Article 31, the IHRC has promulgated rules to regulate horse racing in Indiana. Those rules are codified at Title 71 of the Indiana Administrative Code. As an administrative agency, the IHRC also derives authority from and is restricted by the Administrative Orders and Procedures Act (“AOPA”) (Indiana Code Title 4, Article 21.5).

In 1989, the Indiana state legislature charged the IHRC with ensuring that pari-mutuel wagering on horse races in Indiana will be conducted with the highest of standards and the greatest level of integrity. (*See* I.C. 4-31-1-2). To achieve this statutory objective, the Commission is authorized to adopt any regulation that the Commission determines is in the public interest in the conduct of recognized meetings and wagering on horse racing in Indiana. (*See* I.C. 4-31-3-9(a)(1)(H)).

Indiana Code section 4-31-13-2(a) provides that: “The commission may adopt rules under IC 4-22-2 to delegate to the Stewards and judges...the power to conduct disciplinary hearings on behalf of the commission...The Stewards and judges, on behalf of the commission, may impose one (1) or more of the following sanctions... (2) A temporary order or other immediate action in the nature of a summary suspension if a licensee’s actions constitute an immediate danger to the public health, safety, or welfare. ...”

Indiana Code section 4-31-12-15(a) provides that: “The commission may adopt rules under IC 4-22-2 to delegate to the Stewards and judges the authority to conduct disciplinary hearings on behalf of the commission. ...The Stewards and judges, on behalf of the commission, may impose one (1) or more of the following sanctions ... (2) A temporary order or other

immediate action in the nature of a summary suspension where a licensee's actions constitute an immediate danger to the public health, safety, or welfare. ...”

Indiana Code section 4-21.5-4-1 provides: “An agency may conduct proceedings under this chapter if: (1) an emergency exists; or (2) a statute authorizes the agency to issue a temporary order or otherwise take immediate agency action.”

IHRC rules provide for the issuance of summary suspensions. The pertinent rule is at 71 IAC 10-2-3(a) and provides: “If the judges determine that a licensee's actions constitute an immediate danger to the public health, safety, or welfare, or are not in the best interest of racing, or compromise the integrity of operations at a track or satellite facility, the judges may summarily suspend the license...”

III. ANALYSIS

When Mr. Norris applied for an Indiana Horse Racing Commission license in 2014, he subjected himself to the jurisdiction of the Indiana Horse Racing Commission, and explicitly agreed to abide by the rules of pari-mutuel horse racing in Indiana. At some point during the 2014 Indiana Grand Race Meet, Mr. Norris decided to play by his own rules. Mr. Norris' playbook allowed for the race-day doping of at least five horses. Mr. Norris' disregard of the IHRC rules pierces the heart of pari-mutuel wagering regulation in Indiana. The IHRC mandate is clear: to ensure that pari-mutuel wagering on race horses in Indiana is conducted with the highest of standards and greatest level of integrity. Mr. Norris' blatant disregard of IHRC rules also directly threatens public health, safety, and welfare.

The IHRC Stewards, on August 26, 2014 and September 6, 2014, concluded that Mr. Norris' actions constituted a state of emergency, which required immediate action pending the resolution of the underlying issue. The ALJ appropriately found that the Stewards acted in accordance with the pari-mutuel enabling statute, AOPA, and IHRC rules when they issued the

rulings. Every one of the Petitioner's objections to the ALJ's Recommended Order fails. Commission Staff will address each in turn.

IV. ARGUMENTS

A. The IHRC properly promulgated 71 IAC 10-2-3, acting within the authority provided by the General Assembly and recognized by case law.

Petitioner cites no legal authority for his proposition that the IHRC's promulgation was outside its scope of authority, and ignores the substantial authority that is contrary to his argument. Petitioner's assertion that "it is well known that the general authority of administrative agencies to promulgate rules is subject to the oversight and restriction of the General Assembly," is true. However, there is nothing in the pari-mutuel statute, IHRC rules, AOPA, or case law that would support an assertion that the IHRC's promulgation of 71 IAC 10-2-3 defied the oversight and restriction of the General Assembly. As noted by Judge Pylitt in his Recommended Order, 71 IAC 10-2-3 was filed as an emergency rule on February 10, 1994. It has remained in full force and effect since that time. The rule survived scrutiny by the Attorney General at the time of its passage, as all emergency rules must.

Further, petitioner's attack of 71 IAC 10-2-3 in its totality is overly broad and exceeds the scope of this case, attacking provisions that were not considered when issuing Mr. Norris' summary suspension.

It is axiomatic that administrative agencies are afforded great deference by reviewing courts. "[W]hen a statute has not been previously construed, our interpretation is controlled by the express language of the statute and the rules of statutory construction." *Ind. Dept. of Environmental Management v. Construction Management Associates et al.*, 890 N.E.2d 107, 112 (Ind. App. 2008). (*Citations omitted.*) "When a statute is subject to different interpretations, the interpretation of the statute by the administrative agency charged with the duty of enforcing the

statute is entitled to great weight, unless that interpretation is inconsistent with the statute itself.” *Id* at 112-113. Also well founded is that legislative intent as ascertained from an Act as a whole will prevail over the strict literal meaning of any word or term used therein. *State v. George*, 273 N.E.2d 680 (Ind. 1980). When the court is called upon to construe words in a single section of a statute, it must construe them with due regard for all other sections of the act and with due regard for the intent of the legislature in order that the spirit and purpose of the statute be carried out. *Indiana State Highway Commission v. White*, 291 N.E. 2d 550 (Ind. 1973).

The Indiana Horse Racing Commission, at the inception of pari-mutuel racing in Indiana, set forth rules to govern horse racing in Indiana. The rules, at 71 IAC *et. seq.*, address a multitude of topics, including licensing, equine medication, and due process, among others.

The IHRC, in interpreting I.C. 4-31-13-2(a), I.C. 4-31-12-15(a), reasonably concluded that, pursuant to its broad charging order to maintain integrity, it was vital to allow the Stewards and Judges the ability to summarily suspend a licensee whose actions presented an immediate harm to horse racing in Indiana. Consistent with the statutory charge at I.C. 4-31-1-2 (“...to ensure that pari-mutuel wagering on horse races in Indiana will be conducted with the highest of standards and the greatest level of integrity.”), the IHRC enacted 71 IAC 10-2-3(a), which allows for summary suspensions as provided in I.C. 4-31-13-2, and includes authority to summarily suspend a license if a licensee’s actions are not in the best interest of racing, or compromise the integrity of operations at a track or satellite facility.

The Commission is given broad authority to impose regulations that reflect the purposes of the statute, including the importance of protecting the integrity of pari-mutuel racing in Indiana.

The IHRC rule regarding summary suspension acts in concert with the statute. It does not exceed the scope of the statute or expand upon on it. Rather, the IHRC regulation provides

clarification. Public safety, health and welfare are very broad terms. The integrity of racing and the racing product fits firmly under the rubric of the public welfare.

An administrative agency is given wide latitude when an administrative rule is promulgated as an interpretation of a statute. “An interpretation of a statute by an administrative agency charged with the duty of enforcing the statute is entitled to great weight, unless this interpretation would be inconsistent with the statute itself,” *Dev. Servs. Alts., Inc. v. Ind. Family & Social Servs. Admin.*, 915 N.E. 2d, 169, 181 (Ind. Ct. App. 2009, *trans. denied* (citations omitted). Further, “we defer to the agency’s reasonable interpretation of such a statute even over an equally reasonable interpretation by another party,” *Chrysler Group, LLC v. Review Bd. Of Ind. Dep’t of Workforce Dev.*, 960 N.E.2d 118, 124 (Ind. 2012).

The IHRC rule is not inconsistent with the statute. It was not unreasonable to interpret the authority derived from statute in crafting the summary suspension rule. As stated, an interpretation of a statute by an administrative agency charged with the duty of enforcing the statute is entitled to great weight, unless this interpretation would be inconsistent with the statute itself. That is clearly not the case with the statute and regulation before the ALJ.

The Indiana Court of Appeals, in 2013, heard arguments about the IHRC’s interpretation of the pari-mutuel statute that relates to licensing, specifically addressing the Commission’s “broad” interpretation of the term “participate in racing”. *Indiana Horse Racing Commission v. Edmund W. Martin, Jr.*, 990 N.E.2d 498 (Ind. App. 2013).

Protecting the integrity of the horse racing industry in Indiana is of utmost importance to the IHRC and the General Assembly. The industry “has an unsavory, or at least a shadowed, reputation, growing out of a long history of fixing, cheating, doping of horses, illegal gambling, and other corrupt practices.” *Dimeo v. Griffin*, 943 F.2d 679, 681 (7th Cir. 1991). For this reason, the IHRC reasonably takes a broad view of the phrase “participate in racing” to include those individuals who are directly or indirectly participating in pari-mutuel racing.

Id. at 506.

In the *Martin* case, the Court of Appeals approved the Commission's broad interpretation of the language of the enabling statute, focusing on the General Assembly's broad charge to the IHRC to protect the integrity of the pari-mutuel racing in Indiana. Similarly, it is appropriate and reasonable in this case to acknowledge the General Assembly's broad directive, and accept the IHRC summary suspension regulation as well within the scope of Indiana's Pari-Mutuel Wagering on Horse Races statute.

B. The Stewards are statutorily authorized to summarily suspend the Petitioner, and others similarly situated.

The IHRC has plenary control over pari-mutuel wagering on horse racing in Indiana. Among its duties is hiring qualified people to officiate racing. (I.C. 4-31-3-11.5). The IHRC Stewards are the primary officials of the thoroughbred and quarter horse race meets. The three IHRC Stewards have combined industry experience in excess of 100 years.¹ Commission Staff relies on the Stewards' expertise, experience, and knowledge to ensure that pari-mutuel racing in Indiana is conducted with the greatest of integrity and the highest of standards. The Stewards are bound by IHRC rules, and of course Indiana state law. The Stewards have the authority, outlined at 71 IAC 10-2-3(a), to summarily suspend a licensee. To argue that the Stewards lack the authority to summarily suspend a licensee is an attempt to cripple the Commission's ability to maintain control of pari-mutuel racing in Indiana. Without the ability to implement swift and serious penalties when warranted, the Commission lacks teeth to enforce its most important rules, which were promulgated to protect the health and safety of the equine athletes and human participants. This absurd result would deal a swift blow to the IHRC's regulatory scheme.

¹ The IHRC Stewards are Senior State Steward Stan Bowker, and Associate Stewards Tim Day and William Troilo. IHRC rules establish qualification standards for the Stewards, specifically: "... To qualify for appointment as a steward, the appointee shall be accredited as a racing official by the Racing Officials Accreditation Program administered by the Universities of Arizona and Louisville. Exceptions for emergencies may be permitted." 71 IAC 3.5-1-10.

C. Mr. Norris' actions constituted an immediate danger to the public health, safety or welfare, and the Stewards' summary suspension of Mr. Norris was supported by the evidence necessary to meet the standards prescribed in I.C. 4-31-13-2(a) and 71 IAC 10-2-3.²

Commission Staff presented significant evidence that supported Mr. Norris' summary suspension. Mr. Norris' rash of positive drug tests, and an expert's conclusion that the tests were indicative of race-day administration provided the necessary evidence to support a summary suspension. Mr. Norris offered no evidence to dispute the positive tests or the IHRC's expert's analysis. Mr. Norris waived his right to a split sample on any of the positive tests.

The IHRC regulation that prohibits foreign substances is at 71 IAC 8.5-1-2. It provides:

(a) No horse participating in a race shall carry in its body any foreign substance except as provided by these rules. A finding by the chemist or commission designee that a foreign substance is present in the test sample shall be prima facie evidence that such foreign substance was administered and carried in the body of the horse while participating in a race. Such a finding shall also be taken as prima facie evidence that the trainer and his or her agents responsible for the care or custody of the horse have been negligent in the handling or care of the horse.

...

71 IAC 8.5-1-2(a). The Stewards' decision was reasonable and based on substantial evidence. The Stewards considered all five positive test results, as well as the letter from Dr. Sams concluding there was a "high probability" of race day administration by injection. *See*

² Commission Staff argues that this case is not ripe for evidentiary review, pursuant to 71 IAC 10-2-3(c). The sole issue on appeal is whether Mr. Norris' license should remain suspended pending a final disciplinary hearing and ruling. The merits of Commission Staff's underlying case are not at issue. Certainly, a narrow discussion of evidence is appropriate, limited to only that evidence considered by the Stewards. This is not the proper time, procedurally, for a complete evidentiary hearing. To the extent that Petitioner has attempted to make the evidence supporting the summary suspension an issue, Commission Staff will offer a response. However, Commission Staff will not stray into a discussion of evidence not considered by the Stewards in their decision to summarily suspend Mr. Norris. Commission Staff reserves all rights and opportunities to engage in a complete evidentiary review when appropriate.

Exhibit A. The preponderance of the evidence standard was met, and exceeded, by the information presented to the Stewards.

As the ALJ stated in the Recommended Order, preponderance of the evidence means it is “more likely than not that a certain fact existed.” IHRC rules state that a single positive test is prima facie evidence that such a foreign substance was administered and carried in the body of the horse participating in the race. 71 IAC 8.5-1-2(a). The ALJ further stated: prima facie evidence is defined at 71 IAC 1-1-84 to mean evidence that, until its effect is overcome by other evidence, will suffice as proof of fact in issue. Mr. Norris has offered no evidence that is contrary to the five positive test results or Dr. Sams’ statement that the substances were highly probable to have been administered by injection on race day.

Without going further into the details of Mr. Norris’ case, the administration of any substance, other than lasix, on race day is a violation of Indiana rules regulating equine health and medication. 71 IAC 8.5-1-1.5 provides:

- ...
- (b) No substance, foreign or otherwise, shall be administered to a horse entered to race by:
 - (1) injection;
 - (2) jugging;
 - (3) oral administration;
 - (4) tube;
 - (5) rectal infusion or suppository;
 - (6) inhalation; or
 - (7) any other means;
- within twenty-four (24) hours prior to the scheduled post time for the first race except furosemide as provided for in this rule. The prohibitions in this section include, but are not limited to, injection or jugging of vitamins, electrolyte solutions, and amino acid solutions. The prohibition also includes, but is not limited to, the topical, oral, or nasal administration of compounds, such as Traileze, Vapol, Vicks vapor-rub, wind-aid, exhale ease, or containing methylsalicylate, camphor, potassium iodide, or products containing "caine" derivatives or dimethylsulfoxide (DMSO).

...

71 IAC 8.5-5-1.5(b). Further, the administration of *any* substance, other than lasix, on race day is a clear attempt to cheat. Such an action is an attempt to mislead the betting public, the other participants in the race, and IHRC officials. The integrity of the sport is put directly at risk, as is the health and safety of the equine athletes and human participants. The Stewards properly considered the evidence in determining that the summary suspension was appropriate. The decision to issue the summary suspension was fully supported by the evidence reviewed.

As noted by the ALJ, even if it were determined that 71 IAC 10-2-3 is inconsistent with I.C. 4-31-13-2, the summary suspension is still appropriate because Mr. Norris' actions did constitute an immediate danger to the public health, safety, or welfare. Doping horses with substances on race days could potentially lead to a greater risk of breakdown, which risks the jockey and horse, as well as all other participants in the field.

D. 71 IAC 10-2-3(a) was promulgated within the IHRC's statutory authority.

Mr. Norris further objects to the Recommended Order with an argument that the IHRC has failed to promulgate standards of conduct in accordance with its statutory grant of authority. This argument has largely been addressed, *supra*, at Paragraph IV.A. All rules promulgated by the IHRC have been in accordance with the pari-mutuel horse racing enabling statute. As noted above, the IHRC is bound by its enabling statute and AOPA. The IHRC has acted in accordance with both each time it has promulgated a rule, including the rule that provides authority for a summary suspension. The Commission is charged with protecting the integrity of pari-mutuel horse racing in Indiana. It is the Commission's duty and responsibility. The Commission would be shirking its responsibility if it did not create a provision to allow for the Stewards to act in circumstances such as these. Even if there is a determination that the Commission promulgated a regulation that is broader than what is provided for in statute, the rulings against Mr. Norris still falls within the statute. It is not appropriate to limit the analysis to only the words that appear in

I.C. 4-31-13-2 and I.C. 4-31-12-15. The IHRC's charge to protect public health, safety and welfare must be considered in the context of the enabling statute as a whole, and its overarching theme of protecting the integrity of racing in Indiana.

E. Emotional distress and/or financial hardship to licensees who violate rules are not appropriate considerations of the IHRC during the rule promulgation process.

Petitioner attacks the Commission's dealing with all licensees, stating that "acting with compassion" would be a new concept to the Commission, despite claiming that there is a legislative imperative to do exactly that. Petitioner does not cite where the legislature instructs agencies to consider emotional distress and financial hardship. If anything, the Petitioner blatantly misconstrues I.C. 4-22-2-19.5(a). That statutory provision states:

Standards for rules

Sec. 19.5. (a) To the extent possible, a rule adopted under this article or under IC 13-14-9.5 shall comply with the following:

- (1) Minimize the expenses to:
 - (A) *regulated entities that are required to comply with the rule;*
 - (B) persons who pay taxes or pay fees for government services affected by the rule; and
 - (C) consumers of products and services of regulated entities affected by the rule.
- (2) Achieve the regulatory goal in the least restrictive manner.
- (3) Avoid duplicating standards found in state or federal laws.
- (4) Be written for ease of comprehension.
- (5) Have practicable enforcement.

...

I.C. 4-22-2-19.5(a) (emphasis added). Of note is I.C. 4-22-2-19.5(a)(1)(A), which addresses minimizing expenses to regulated entities that are required to comply with the rule. Key in that phrase is the word "comply". Mr. Norris is a regulated entity who was required to comply with the rules of racing in Indiana. However, the preliminary information reviewed by the Stewards indicated he did not comply. The protective nature of I.C. 4-22-2-19.5 extends to those regulated entities that do play by the rules. To the extent possible, an agency should minimize the costs of compliance. The statute does not remotely suggest that if a regulated entity does not comply, the regulator should similarly minimize expenses to that entity. Such a

construction would potentially prevent all administrative agencies from fining any regulated entity. The statute is altogether silent on the issue of emotional distress raised by Petitioner.

Petitioner additionally fails to consider that if the Commission were to act with “compassion”³ toward licensees who cheat and blatantly violate rules, the Commission is then in a position where it is forced to ignore the potential hardship and distress to which hundreds of other licensed horsemen would be subjected. The vast majority of those other licensees agreed to and do play by the rules, and wish to participate in clean, safe, and fair races. If Mr. Norris is suffering financial loss after his summary suspension, that financial loss is not the fault of the IHRC, the Stewards, or the ALJ. Any financial loss suffered by Mr. Norris stems from his decision in July to play by his own rules. The reality that Mr. Norris does not want to face is that to the extent emotional distress and financial hardships exist, his own actions are to blame. It is certainly easier to attempt to shift blame rather than taking responsibility. But Mr. Norris risked trying to cheat the system, and he was caught. Any emotional distress and financial hardship suffered are of Mr. Norris’ own creation, and have nothing to do with the IHRC’s promulgation of 71 IAC 10-2-3, which in no way violates I.C. 4-22-2-19.5(a).

The question of the Petitioner’s alleged emotional distress and financial hardship is also not appropriate for consideration, because it is founded upon the argument that the Stewards acted outside of their authority. The Stewards did not act outside of their authority. Further, even if it were appropriate to consider such claims, the Petitioner has not provided any evidence that supports the contention that he has suffered emotional distress or financial hardship.

Participation in pari-mutuel horse racing in Indiana is a privilege, not a right. It is a privilege afforded to those people who agree to play by the rules. Mr. Norris tried to cheat the

³ Petitioner does not state what “compassion” looks like in this sense, but seems to suggest it would include no consequences for licensees who behave as Petitioner has.

system, and he was caught. The financial and emotional fallout that accompanies getting caught is his burden to bear.

F. The Stewards did find that an emergency existed.

The Stewards initial ruling (No. 14624) provided that Mr. Norris was suspended pursuant to 71 IAC 10-2-3(a), “that a licensee’s actions constitute an immediate danger to public health, safety or welfare, or are not in the best interest of racing, or compromises the integrity of operation at a track or satellite facility.” The reference to and reliance upon 71 IAC 10-2-3(a), the rule regulating summary suspension for emergency purposes, clearly implies the emergent nature of the allegations against Mr. Norris. The Stewards’ second ruling (14633) states: “Based on evidence presented at the hearing by Mr. Norris and IHRC deputy counsel, the Stewards find that there is sufficient evidence to indicate that Mr. Norris’s actions constitute an immediate danger to public health, safety or welfare, or are not in the best interest of racing, or compromises [sic] the integrity of operation at a track or satellite facility.”

There is no statutory or regulatory requirement that the Stewards prepare findings of fact. 71 IAC 10-2-7 governs rulings, and makes no such demand on Stewards’ rulings. The rule provides:

- Sec. 7. (a) The issues at a disciplinary hearing shall be decided by a majority vote of the judges. If the vote is not unanimous, the dissenting judge shall include with the record of the hearing a written statement of the reasons for the dissent.
- (b) A ruling by the judges must be on a form prescribed by the commission and include the following:
- (1) The full name, Social Security number (optional), date of birth, last record address, license type, and license number of the person who is the subject of the hearing.
 - (2) A statement of the charges against the person, including a reference to the specific section of the Act or rules of the commission that the licensee is found to have violated.
 - (3) The date of the hearing and the date the ruling was issued.
 - (4) The penalty imposed.
 - (5) If there was a settlement agreement, the terms of the settlement agreement.
 - (6) Any changes in the order of finish or purse distribution.

- (7) A statement of the available procedures and time limit for appealing the ruling to the commission.
- (8) Other information required by the commission.
- (c) A ruling must be signed by a majority of the judges.
- (d) If possible, the judges or their designee shall hand deliver a copy of the ruling to the person who is the subject of the ruling. If hand delivery is not possible, the judges shall mail the ruling to the person's last known address, as found in the commission's licensing files, by regular mail. If the identity, address, or existence of a person is not ascertainable, service shall be made by a single publication in a newspaper of general circulation under IC 4-21.5-3-1. If the ruling includes the disqualification of a horse, the judges shall provide a copy of the ruling to the owner of the horse in the manner provided by this subsection.
- (e) At the time the judges inform a person who is the subject of the proceeding of the ruling, the judges shall inform the person of the person's right to appeal the ruling to the commission.
- (f) The suspension of a license or the imposition of a civil penalty must occur within one hundred eighty (180) days after the date of the violation under IC 4-31-13-2(b).
- (g) All fines imposed by the judges shall be paid to the commission in accordance with 71 IAC 7-5-3.

In his Recommended Order, ALJ Pylitt appropriately identified the emergent nature of the situation: "The Stewards appropriately took swift action, based upon the emergency situation and the evidence before them."

Petitioner's argument that the conclusion of the race meet renders the emergency or immediate threat moot is not appropriate for Commission review. The Petitioner did not raise this issue prior to filing his objections to the ALJ's Recommended Order. Judge Pylitt was not advised of this argument, and accordingly did not consider it. It is likewise inappropriate for the Commission to consider the objection. However, even if the Commission were to consider the objection, it would not survive scrutiny. If his summary suspension were lifted by the IHRC, Mr. Norris could cultivate training business in Indiana. He could be present at the track and stable area (with a visitor's pass). A person with this type of an alleged violation pending a hearing should not have that kind of unfettered access to the Indiana racing product. The Stewards appropriately found Mr. Norris to be a threat to racing in Indiana, and lifting his summary suspension could falsely suggest otherwise.

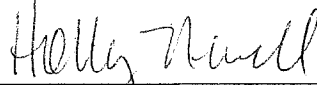
The jurisdiction of the IHRC is not limited to the time period between the opening and closing of the Indiana race meets. Lifting a summary suspension at the close of a race meet could contradict the General Assembly's mandate to the IHRC, specifically to protect the integrity of the race product. As stated in *Dimeo, Id.*, horse racing has something of a toxic reputation. It is imperative that the agency tasked with regulating the sport consider public perception. IHRC regulation continues year-round, with the most pointed examples being off-track betting facilities and simulcast signals. OTB's and simulcast signals allow for public consumption and participation throughout the year. If the public is aware of an alleged violation that has resulted in a summary suspension, and comes to realize that a summary suspension will be lifted concurrently with the completion of the race meet, confidence in the sport and regulation will be harmed. Administering anything (other than lasix) to a horse on race day, as it alleged Mr. Norris did, is a serious event. The Stewards considered the evidence in front of them and concluded that Mr. Norris is a threat to the racing product in Indiana. The legislature gave the Commission a very powerful tool when it allowed for summary suspensions. If that tool is limited to the race meet calendar, the result defeats the purpose of protecting the integrity of racing.

V. CONCLUSION

The ALJ's Recommended Order is well-supported by the evidence that he considered. ALJ Pylitt clearly provides support for each of his findings.

The Petitioner's objections to the ALJ's well-reasoned Recommended Order are without merit. Accordingly, Commission Staff respectfully requests that the Commission enter a Final Order affirming in all respects ALJ Pylitt's Recommended Order of November 5, 2014, and that it keep in place Mr. Norris' summary suspension.

Respectfully submitted,



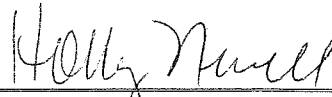
Holly Newell 25029-29
Counsel to Indiana Horse Racing Commission Staff
1302 North Meridian, Suite 175
Indianapolis, IN 46204

CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2015, I served the following parties with the foregoing Brief, via email and U.S. Mail, first class, postage paid, and email:

John Shanks
931 Meridian Street, #403
Anderson, IN 46016
jnshanks@aol.com

Lea Ellingwood *via hand delivery*
Counsel to the IHRC
1302 North Meridian Street, Suite 175
Indianapolis, IN 46202
lellingwood@hrc.in.gov



Holly Newell
Deputy General Counsel
Indiana Horse Racing Commission

BEFORE THE ADMINISTRATIVE LAW JUDGE
THE HONORABLE BERNARD PYLITT
APPOINTED BY THE INDIANA HORSE RACING COMMISSION

2014 OCT 15 P 12:45

Michael Norris,
Petitioner,

v.

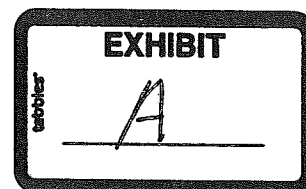
INDIANA HORSE RACING COMMISSION STAFF,
Respondent

)
)
) STEWARDS
) RULING Nos.
) 14624 and 14655
)
)
)
)
)

AFFIDAVIT OF DR. RICHARD SAMS

Comes now the undersigned, and being duly sworn upon his oath, alleges and says as follows:

1. I am an adult, over eighteen (18) years of age, of sound mind, and have personal knowledge of and am competent to testify as to the matters contained herein.
2. I am employed as the Laboratory Director of LGC Science, Inc. ("LGC"), an approved laboratory of the Indiana Horse Racing Commission ("Commission"). At all times relevant, LGC has regularly conducted tests of samples taken from race horses to detect the presence of any foreign substance in the horse's system at the time of a race.
3. On or about May 31, 2014, LGC received blood/serum and urine Sample No. 0045563 taken from Indiana Grand on May 28, 2014.
4. LGC was engaged to perform an analysis of serum and urine of Samples No. 0045563, which were collected following a race at Indiana Grand in Shelbyville, Indiana, on May 28, 2014.
5. In my role as the Laboratory Director at LGC, the testing of serum and urine Samples No. 0045563 was conducted under my supervision and control.



6. LGC testing determined that serum Sample No. 0045563 contained hydrocortisone succinate. Detection, identification and confirmation of the presence of hydrocortisone succinate was performed utilizing liquid chromatography-mass spectrometry.

7. I sent a Certificate of Analysis to Joe Gorajec, Executive Director of the Commission, confirming these results on August 8, 2014. A true and accurate copy of Certificate of Analysis No. 8168 is attached to this Affidavit and identified as Exhibit 1.

8. On or about June 11, 2014, LGC received blood/serum and urine Sample No. 0045655 taken from Indiana Grand on June 7, 2014.

9. LGC was engaged to perform an analysis of serum and urine of Samples No. 0045655, which were collected following a race at Indiana Grand in Shelbyville, Indiana, on June 7, 2014.

10. In my role as the Laboratory Director at LGC, the testing of serum and urine Samples No. 0045655 was conducted under my supervision and control.

11. LGC testing determined that serum Sample No. 0045655 contained hydrocortisone succinate. Detection, identification and confirmation of the presence of hydrocortisone succinate was performed utilizing liquid chromatography-mass spectrometry.

12. I sent a Certificate of Executive Director Gorajec, confirming these results on August 8, 2014. A true and accurate copy Certificate of Analysis No. 8169 is attached to this Affidavit and identified as Exhibit 2.

13. On or about June 14, 2014, LGC received blood/serum and urine Sample No. 0045669 taken from Indiana Grand on June 10, 2014.

14. LGC was engaged to perform an analysis of serum and urine of Samples No. 0045669, which were collected following a race at Indiana Grand in Shelbyville, Indiana, on June 10, 2014.

15. In my role as the Laboratory Director at LGC, the testing of serum and urine Samples No. 0045669 was conducted under my supervision and control.

16. LGC testing determined that serum Sample No. 0045669 contained hydrocortisone succinate. Detection, identification and confirmation of the presence of hydrocortisone succinate was performed utilizing liquid chromatography-mass spectrometry.

17. I sent a Certificate of Analysis to Executive Director Gorajec of the Commission, confirming these results on August 11, 2014. A true and accurate copy of Certificate of Analysis No. 8214 is attached to this Affidavit and identified as Exhibit 3.

18. On or about June 18, 2014, LGC received blood/serum and urine Sample No. 0045754 taken from Indiana Grand on June 14, 2014.

19. LGC was engaged to perform an analysis of serum and urine of Samples No. 0045754, which were collected following a race at Indiana Grand in Shelbyville, Indiana, on June 14, 2014.

20. In my role as the Laboratory Director at LGC, the testing of serum and urine Samples No. 0045754 was conducted under my supervision and control.

21. LGC testing determined that serum Sample No. 0045754 contained hydrocortisone succinate. Detection, identification and confirmation of the presence of hydrocortisone succinate was performed utilizing liquid chromatography-mass spectrometry.

22. I sent a Certificate of Analysis to Executive Director Gorajec confirming these results on August 12, 2014. A true and accurate copy of Certificate of Analysis No. 8227 is attached to this Affidavit and identified as Exhibit 4.

23. On or about June 25, 2014, LGC received blood/serum and urine Sample No. 0045800 taken from Indiana Grand on June 20, 2014.

24. LGC was engaged to perform an analysis of serum and urine of Samples No. 0045800, which were collected following a race at Indiana Grand in Shelbyville, Indiana, on June 20, 2014.

25. In my role as the Laboratory Director at LGC, the testing of serum and urine Samples No. 0045800 was conducted under my supervision and control.

26. LGC testing determined that serum Sample No. 0045800 contained hydrocortisone succinate. Detection, identification and confirmation of the presence of hydrocortisone succinate was performed utilizing liquid chromatography-mass spectrometry.

27. I sent a Certificate of Analysis to Executive Director Gorajec confirming these results on August 12, 2014. A true and accurate copy of Certificate of Analysis No. 8228 is attached to this Affidavit and identified as Exhibit 5.

28. After receiving confirmation of the presence of hydrocortisone succinate in Sample Nos. 0045563, 0045655, 0045669, 0045754, 0045800, Executive Director Gorajec requested that I prepare a letter offering information about hydrocortisone succinate and the concentrations found present in the samples. A true and accurate copy of the letter that I prepared and sent to Mr. Gorajec is attached to this Affidavit and identified as Exhibit 6.

Further Affiant Sayeth Not.

I affirm under the penalties for perjury that the foregoing representations are true and correct to the best of my knowledge.

14 Oct 2014

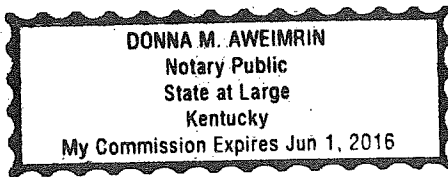
Date

Richard A Sams

Dr. Richard Sams

STATE OF KENTUCKY)
) SS:
COUNTY OF FAYETTE)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared Dr. Richard Sams and acknowledged the execution of the foregoing instrument this 14th day of October, 2014.



Donna M. Aweimrin (405845)
Notary Public
Donna M. Aweimrin
Printed Name

My Commission Expires:
June 1, 2016

County of Residence:
Fayette



LGC Science, Inc.
1745 Alysheba Way
Suite 160
Lexington, KY 40509

Tel: 859-721-0180
Fax: 859-264-0371

CERTIFICATE OF ANALYSIS: 8168

Date Issued: 8 August, 2014

Mr Joe Gorajec
Executive Director
Indiana Horse Racing Commission
1302 N. Meridian, Suite 175
Indianapolis, IN 46202

RE: Report of Finding

<u>Tag Number</u>	<u>Laboratory Number</u>	<u>Specimen</u>	<u>Final Weight</u>
0045563	USA-IHRC-104786	Paired	Blood 7.1(g), Urine 56.3(g)
<u>Collected From</u>	<u>Date Collected</u>	<u>Date Received</u>	<u>Seal</u>
Indiana Grand	05/28/2014	05/31/2014	INTACT

Sample 0045563 has been analysed by liquid chromatography-mass spectrometry (LC-MS) and found to contain the following:

Hydrocortisone succinate found in Blood
2.8 ng/ml

A handwritten signature in black ink, appearing to read "Richard Sams".

Signed

Richard Sams, Laboratory Director

This certificate may not be reproduced other than in full, except with the prior written approval of the issuing laboratory.



LGC Science, Inc.
1745 Alysheba Way
Suite 160
Lexington, KY 40509

Tel: 859-721-0180
Fax: 859-264-0371

CERTIFICATE OF ANALYSIS: 8169

Date Issued: 8 August, 2014

Mr Joe Gorajec
Executive Director
Indiana Horse Racing Commission
1302 N. Meridian, Suite 175
Indianapolis, IN 46202

RE: Report of Finding

<u>Tag Number</u>	<u>Laboratory Number</u>	<u>Specimen</u>	<u>Final Weight</u>
0045655	USA-IHRC-107275	Paired	Blood 3.3(g), Urine 44.8(g)
<u>Collected From</u>	<u>Date Collected</u>	<u>Date Received</u>	<u>Seal</u>
Indiana Grand	06/07/2014	06/11/2014	INTACT

Sample 0045655 has been analysed by liquid chromatography-mass spectrometry (LC-MS) and found to contain the following:

Hydrocortisone succinate found in Blood
2.7 ng/ml

A handwritten signature in black ink, appearing to read "Richard Sams".

Signed

Richard Sams, Laboratory Director

This certificate may not be reproduced other than in full, except with the prior written approval of the issuing laboratory.



LGC Science, Inc.
1745 Alysheba Way
Suite 160
Lexington, KY 40509

Tel: 859-721-0180
Fax: 859-264-0371

CERTIFICATE OF ANALYSIS: 8214

Date Issued: 11 August, 2014

Mr Joe Gorajec
Executive Director
Indiana Horse Racing Commission
1302 N. Meridian, Suite 175
Indianapolis, IN 46202

RE: Report of Finding

<u>Tag Number</u>	<u>Laboratory Number</u>	<u>Specimen</u>	<u>Final Weight</u>
0045669	USA-IHRC-108170	Paired	
<u>Collected From</u>	<u>Date Collected</u>	<u>Date Received</u>	<u>Seal</u>
Indiana Grand	06/10/2014	06/14/2014	INTACT

Sample 0045669 has been analysed by liquid chromatography-mass spectrometry (LC-MS) and found to contain the following:

Hydrocortisone succinate found in Blood

A handwritten signature in black ink, appearing to read "Richard Sams".

Signed

Richard Sams, Laboratory Director

This certificate may not be reproduced other than in full, except with the prior written approval of the issuing laboratory.



LGC Science, Inc.
 1745 Alysheba Way
 Suite 160
 Lexington, KY 40509

Tel: 859-721-0180
 Fax: 859-264-0371

CERTIFICATE OF ANALYSIS: 8227

Date Issued: 12 August, 2014

Mr Joe Gorajec
 Executive Director
 Indiana Horse Racing Commission
 1302 N. Meridian, Suite 175
 Indianapolis, IN 46202

RE: Report of Finding

<u>Tag Number</u>	<u>Laboratory Number</u>	<u>Specimen</u>	<u>Final Weight</u>
0045754	USA-IHRC-108769	Paired	Blood 6(g), Urine 61.9(g)
<u>Collected From</u>	<u>Date Collected</u>	<u>Date Received</u>	<u>Seal</u>
Indiana Grand	06/14/2014	06/18/2014	INTACT

Sample 0045754 has been analysed by liquid chromatography-mass spectrometry (LC-MS) and found to contain the following:

Hydrocortisone succinate found in Blood

Signed

Richard Sams, Laboratory Director

This certificate may not be reproduced other than in full, except with the prior written approval of the issuing laboratory.



LGC Science, Inc.
 1745 Alysheba Way
 Suite 160
 Lexington, KY 40509

Tel: 859-721-0180
 Fax: 859-264-0371

CERTIFICATE OF ANALYSIS: 8228

Date Issued: 12 August, 2014

Mr Joe Gorajec
 Executive Director
 Indiana Horse Racing Commission
 1302 N. Meridian, Suite 175
 Indianapolis, IN 46202

RE: Report of Finding

<u>Tag Number</u>	<u>Laboratory Number</u>	<u>Specimen</u>	<u>Final Weight</u>
0045800	USA-IHRC-110090	Paired	Blood 5.7(g), Urine 47.1(g)
<u>Collected From</u>	<u>Date Collected</u>	<u>Date Received</u>	<u>Seal</u>
Indiana Grand	06/20/2014	06/25/2014	INTACT

Sample 0045800 has been analysed by liquid chromatography-mass spectrometry (LC-MS) and found to contain the following:

Hydrocortisone succinate found in Blood

Signed

Richard Sams, Laboratory Director

This certificate may not be reproduced other than in full, except with the prior written approval of the issuing laboratory



LGC Science, Inc.
1745 Alysheba Way
Suite 160
Lexington, KY 40509

Tel: 859-721-0180
Fax: 859-264-0371

August 13, 2014

Joe Gorajec
Executive Director
Indiana Horse Racing Commission
1302 N. Meridian, Suite 175
Indianapolis, IN 46202

Dear Mr. Gorajec:

Hydrocortisone (also known as cortisol) is an endogenous steroid hormone produced by the adrenal glands of all mammals including horses. It is released in response to stress and is involved in the regulation of a number of bodily functions including suppression of the immune system, increasing the concentration of glucose in the blood, and regulating metabolism of fats, proteins, and carbohydrates.

Hydrocortisone (Figure 1) is used in veterinary and human medicine as an anti-inflammatory and immunosuppressive drug. It may be administered orally, intravenously, or topically. It is administered intravenously in the treatment of severe allergic reactions such as anaphylaxis and other life-threatening conditions. It is used topically for local treatment of allergic rashes, eczema, psoriasis, and other inflammatory skin conditions.

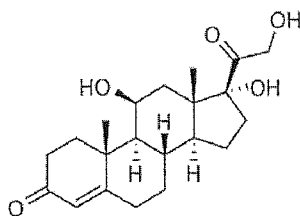


Figure 1. Chemical structure of hydrocortisone.

Hydrocortisone is considered a prohibited substance in racing because of its anti-inflammatory and immunosuppressive effects on horses. Since it is an endogenous substance, one means of regulating its use in horse racing is a threshold for its concentration in urine. Consequently, various regulatory agencies have adopted a urine threshold of 1 microgram per milliliter of urine for total hydrocortisone. However, the detection period for elevated hydrocortisone in urine is relatively short after administration of clinically used systemic doses of hydrocortisone. De Koch *et al.* (2010) recently demonstrated that the detection period for systemic administration of

hydrocortisone as its succinate ester could be increased to about 24 hours by measuring the succinate ester in urine. Detection of the succinate ester is proof of administration of an exogenous substance because it is a synthetic substance that is not found naturally in the horse at any time except after intravenous or intramuscular administration of a succinate ester formulation of hydrocortisone such as Solu-Cortef®. They also demonstrated that the succinate ester could be detected in blood but that the detection period was limited to about 8 hours.

Hydrocortisone sodium succinate (Figure 2) is an ester pro-drug of hydrocortisone which is hydrolyzed after parenteral administration to release the active drug into the systemic circulation. The presence of hydrocortisone sodium succinate in the blood at a concentration greater than 250 picograms per milliliter is indicative of administration on race day (de Kock *et al.*, 2010).

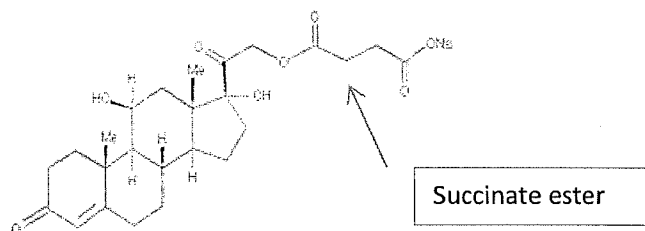


Figure 2. Chemical structure of hydrocortisone succinate.

Hydrocortisone succinate is marketed for parenteral use (*i.e.*, intravenous or intramuscular administration) as a sterile powder that is mixed with Bacteriostatic Water for Injection or Bacteriostatic Sodium Chloride Solution for Injection before administration. Hydrocortisone succinate is not administered orally or topically and would not be absorbed from these sites if administration were attempted due to the highly polar nature of the succinate ester. Therefore, a finding for hydrocortisone succinate in the blood or urine is indicative of parenteral administration only and a finding above 250 pg/mL in the blood is indicative of administration of clinically used doses within 24 hours of the time of sample collection.

Table 1 reports concentrations of hydrocortisone succinate that were found in five test post-race blood samples submitted by the Indiana Horse Racing Commission to LGC Science, Inc. for routine testing. Concentrations of hydrocortisone succinate in the blood samples were determined by a liquid chromatographic-mass spectrometric procedure using the internal standard method of quantification. Calibrators and control materials were prepared from traceable standards and the results meet requirements for quantitative and qualitative determinations as established by the laboratory.

The concentrations of hydrocortisone succinate in these samples are all above 250 pg/mL indicating a high probability that they were administered parenterally within 24 hours of sample collection.

Table 1. Serum concentrations of hydrocortisone succinate (ng/mL) in test samples submitted by the Indiana Horse Racing Commission.

Sample Tag #	Collection Date	Hydrocortisone succinate, ng/mL
0045563	05/28/2014	2.8
0045655	06/07/2014	2.7
0045669	06/10/2014	1.7
0045754	06/14/2014	0.7
0045800	06/20/2014	1.5

Please let me know if you have any questions or need any additional information.

Sincerely,



Richard Sams, Ph.D.
Laboratory Director

**INDIANA HORSE RACING COMMISSION
BEFORE ADMINISTRATIVE LAW JUDGE**

MICHAEL NORRIS,)	
Petitioner,)	
)	
vs.)	Stewards Rulings No.
)	14624 and 14655
)	
INDIANA HORSE RACING COMMISSION,)	
Respondent.)	

**PETITIONER'S OBJECTION TO ADMINISTRATIVE LAW JUDGE'S
RECOMMENDED ORDER TO THE COMMISSION**

Comes now the Petitioner, by counsel, and offers his objection to the Administrative Law Judge's recommended order to the Commission and in support thereof says :

1. The IHRC had authority to promulgate 71 IAC 10-2-3 but only with language authorized by law. The language of I.C. 4-31-13-2(a) clearly gives the Stewards the power to conduct disciplinary hearings on behalf of the Commission but with limitation. It is well known that the general authority of administrative agencies to promulgate rules is subject to the oversight and restriction of the Indiana General Assembly, a power which has been exercised in this instance and limits the Stewards' authority.
2. The Stewards did not have the statutory authority to summarily suspend the Petitioner.
3. The summary suspension of the Petitioner was not supported by evidence necessary to meet the standard prescribed by I.C. 4-31-13-2(a). There is nothing in the transcript which would reasonably support, by a preponderance of the evidence, that the Petitioner's "*actions constitute an immediate danger to the public health, safety or welfare*". The Stewards failed to specifically describe how his alleged action "constitutes and immediate danger" to anyone.
4. The IHRC promulgated standards of conduct which are not in accordance with its statutory authority. 71 IAC 10-2-3(a) is inconsistent consistent with its limited statutory authority.
5. When promulgating rules the IHRC should consider the emotional distress or financial hardship they could cause upon those subject to their rules. I.C. 4-22-2-19.5(a) provides:

"(a) To the extent possible, a rule adopted under this article or under I.C. 13-14-9.5 shall comply with the following:

- (1) Minimize the expenses to :
 (A) regulated entities that are required to comply with the rule"...*
- (2) Achieve the regulatory goal in the least restrictive manner.*
- (3) Avoid duplicating standards found in state or federal laws.*

71 IAC 10-2-3 does not comply with the legislative intent of the rulemaking standards set by the Indiana General Assembly because it does not minimize the expenses of the licensees,

tries to achieve a regulatory standard in a very restrictive manner, duplicates state law and exaggerates its statutory authority. The Petitioner recognizes that acting in a compassionate manner toward licensees may be a new concept for the Commission it is still one that the Indiana General Assembly has recognized by setting standards for administrative agencies to follow in their rulemaking. The Petitioner's immediate distress was caused by the Stewards acting outside their statutory authority and if given the opportunity could offer evidence of the emotional distress and financial hardship their actions have caused. Had the Commission followed the law the Petitioner would not have been subject to any sanctions until the merits of the case were heard.

6. The Petitioner argues that his due process rights were violated because of the lack of a preponderance of the evidence substantiating a summary suspension as required by the Indiana General Assembly at I.C. 4-31-12-5. Were this case to go forward to judicial review, the standard for review is outlined in several cases including Kroger Co. v. Planning Commission of Town of Plainfield, 953 N.E. 2d 536, 539 (Ind. Ct App. 2011) which states that the administrative agency's decision will be affirmed unless it: "(1) arbitrary, capricious and an abuse of discretion, or otherwise not in compliance with law; (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; (5) unsupported by substantial evidence." The Stewards action is:

a) arbitrary and capricious because it is willful and unreasonable without consideration of the limitations placed on that action by law and disregarding the facts of the case as presented to the Stewards;

(b) in excess of its statutory authority, and

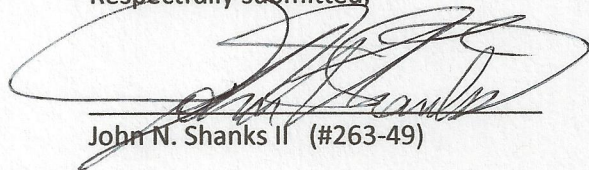
(c) is unsupported by a preponderance of the evidence.

7. Although I.C. 4-21.5-4-1 allows agencies of state government to conduct special proceedings where an emergency exists, the Stewards made no finding of fact in their ruling that an "emergency existed" and because of the timing of this action against the Petitioner the racing season has ended therefore there is no emergency or immediate threat within Indiana horse racing.

RECOMMENDED ORDER

For the reasons stated above the Petitioner objects to the Recommended Order and recommends the Commission sustain the Petitioner's Motion to Vacate the Summary Suspension, vacate the rulings and remand the case to the Administrative Law Judge for a hearing on the merits.

Respectfully submitted,



John N. Shanks II (#263-49)

SHANKS LAW OFFICE
931 Meridian Street, Suite 403
Anderson, IN 46016
765/649-3840

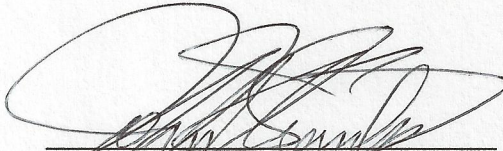
CERTIFICATE OF SERVICE

The undersigned certifies that a true and exact copy of the foregoing has been served upon the following by U.S. Mail, first class postage prepaid or by electronic means this 14th day of November, 2014:

Holly Newell, IHRC Counsel
1302 North meridian Street, Suite 175
Indianapolis, IN 46202
Email: hnewell@hrc.in.gov

Bernard L. Pylitt
Katz & Koris, PC
334 North Senate Avenue
Indianapolis, IN 4604
Email: bpylitt@katzkorin.com

Joseph Gorejec, IHRC Executive Director
1302 North meridian Street, Suite 175
Indianapolis, IN 46202
Email: jgorajec@hrc.in.gov



John N. Shanks II

BEFORE THE
INDIANA HORSE RACING COMMISSION

MICHAEL NORRIS,
Petitioner,

vs.

INDIANA HORSE RACING COMMISSION,
Respondent.

)
)
)
)
)
)
)

715 JAN 16 P 1:47
Stewards Rulings No.
14624 and 14633

BRIEF IN SUPPORT OF
PETITIONER'S OBJECTION TO ADMINISTRATIVE LAW JUDGE'S
RECOMMENDED ORDER TO THE COMMISSION

Comes now the Petitioner, by counsel, and offers his brief in support of his objection to the Administrative Law Judge's recommended order to the Commission and says:

1. On August 26, 2014, the Stewards at Indiana Grand issued a ruling summarily suspending the Petitioner, known as Ruling #14624 (attached hereto as **Exhibit "A"**).
2. On September 6, 2014, the Stewards at Indiana Grand, following a hearing on September 5, 2014, where the Petitioner appeared pro se, issued a second ruling known as Ruling #14633 (the same being attached hereto as **Exhibit "B in two parts"**).
3. The Indiana Horse Racing Commission had authority to promulgate 71 IAC 10-2-3 (attached hereto as **Exhibit "C"**) but only with language authorized by law.
4. The language of I.C. 4-31-13-2(a), attached hereto as **Exhibit "D"**, clearly gives the Stewards the power to conduct disciplinary hearings on behalf of the Commission and to summarily suspend a licensee but only when there is evidence to substantiate that the licensee's "*actions constitute an immediate danger to the public health, safety or welfare*".
5. It is well known that the general authority of administrative agencies to promulgate rules is subject to the oversight and restriction of the Indiana General Assembly, a power which has been exercised in this instance and limited the Stewards' authority.
6. The summary suspension of the Petitioner was not supported by evidence necessary to meet the standard prescribed by I.C. 4-31-13-2(a). There is no evidence in the transcript of the Stewards' hearing on September 6, 2014, which reasonably supports the ALJ's conclusion that the Petitioner's "*actions constitute an immediate danger to the public health, safety or welfare*". The Stewards failed to specifically describe how his alleged action constituted an immediate danger of any sort to anyone.
7. If there was evidence to support such a conclusion the Stewards failed to reiterate it in their ruling following the hearing.

8. The Commission has promulgated a rule which is not in accordance with its statutory authority. When promulgating rules the Commission must consider the unreasonable burden it could cause upon those subject to their rules. I.C. 4-22-2-19.5(a) provides:

"(a) To the extent possible, a rule adopted under this article or under I.C. 13-14-9.5 shall comply with the following:

(1) Minimize the expenses to :

(A) regulated entities that are required to comply with the rule"...

(2) Achieve the regulatory goal in the least restrictive manner.

(3) Avoid duplicating standards found in state or federal laws.

71 IAC 10-2-3 does not comply with the legislative intent of the rulemaking standards set by the Indiana General Assembly. In fact it puts an unreasonable and undue burden on licensees and thereby does not "minimize the expenses" of the licensees. It tries to achieve a regulatory standard in a very restrictive manner, and exaggerates its statutory authority. This rule creates an undue emotional and financial burden on those persons subject to regulation by the Commission. The Petitioner recognizes that acting in a compassionate manner toward licensees should not be an unfamiliar concept for the Commission and is one that the Indiana General Assembly has recognized by setting standards for administrative agencies to follow in their rulemaking. The Petitioner's immediate and irreversible distress was caused by the Stewards acting without conformity to statutory authority to which the Petitioner testified before the Stewards. Had the Commission followed the law the Petitioner would not have been subject to any sanctions with undue financial burden until the merits of the case were heard.

10. The Petitioner argues that his due process rights were violated causing him undue burden because of the lack of a preponderance of the evidence substantiating a summary suspension as required by the Indiana General Assembly at I.C. 4-31-12-5. Were this case to go forward to judicial review, the standard for review is outlined in several cases including Kroger Co. v. Planning Commission of Town of Plainfield, 953 N.E. 2d 536, 539 (Ind. Ct App. 2011) which states that the administrative agency's decision will be affirmed unless it: *"(1) arbitrary, capricious and an abuse of discretion, or otherwise not in compliance with law; (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; (5) unsupported by substantial evidence."* The Stewards action is:

a) arbitrary and capricious because it is willful and unreasonable without consideration of the limitations placed on that action by law and disregarding the facts of the case as presented to the Stewards;

(b) in excess of its statutory authority, and

(c) is unsupported by a preponderance of the evidence.

7. Although I.C. 4-21.5-4-1 allows agencies of state government to conduct special proceedings where an emergency exists, the Stewards made no finding of fact in their ruling to justify that an "emergency existed" and because of the timing of this action against the Petitioner the racing season has ended therefore there is no emergency or immediate threat within Indiana horse racing.

8. On February 6, 2013, Indiana Governor Michael R. Pence, in recognition of the need to reign in state agencies issued an Executive Order No. 13-03 encouraging the repeal of "*outdated, ineffective, excessively burdensome, or unnecessary administrative rules and regulations*" and the involvement of the Office of Management and Budget in that process. (A copy of the Executive Order 13-03 is attached hereto as "Exhibit E in two parts".

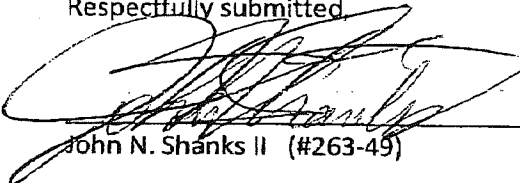
9. 71 IAC 10-2-3 is an ineffective and excessively burdensome rule which should be repealed and a proper rule pursuant to I.C. 4-31-12-5 adopted.

10. The due process clause of the 14th Amendment to the U.S. Constitution requires states to provide their citizens fair process and procedures before the government may deprive a citizen of "*life, liberty or property*".

11. When a state takes away an entitlement to the continued receipt of a benefit, such as a means of earning a living, there has been a substantial lack of procedural due process as has happened in this case where the Petitioner has been intentionally and recklessly deprived of a means of familial financial support and interfered with his contractual arrangement with the owners he represents.

For the reasons stated above the Petitioner asks the Commission to reject the ALJ's Recommended Order, vacate the Stewards' rulings and remand the case to the Administrative Law Judge for a hearing on the merits before sanctions are considered or imposed.

Respectfully submitted,




John N. Shanks II (#263-49)

SHANKS LAW OFFICE
931 Meridian Street, Suite 403
Anderson, IN 46016
765/649-3840

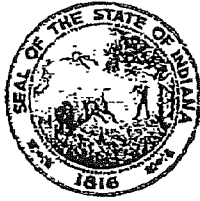
CERTIFICATE OF SERVICE

The undersigned certifies that a true and exact copy of the foregoing has been served upon the following by electronic means this 16th day of January, 2015:

Holly Newell, IHRC Deputy General Counsel
Lea Ellingwood, IHRC General Counsel
1302 North Meridian Street, Suite 175
Indianapolis, IN 46202
Email: hnewell@hrc.in.gov
LEllingwood@hrc.in.gov



John N. Shanks II



INDIANA HORSE RACING COMMISSION

RULING # 14624
INDIANA GRAND

IHRC License #: 972870
Infraction Date: 5/28/2014
Date of Hearing: 8/29/2014
Date of Ruling: 8/26/2014
Horse Name: N/A
Race #: N/A

Mike Norris
1740 Tollsworth Road
Shelbyville, IN 46176

Penalty

Fine:
Total number of Suspended days: INDEFINITE
Suspension Begins: 8/26/2014 Ends:
Number of Drives:
Drug Name:

Rule Violation(s): 71 IAC 10-2-3(a) & 71 IAC 8.5-1-4.2(1)(B)

Violation Declaration: Owner/Trainer Mike Norris is summarily suspended pursuant to IHRC Rule #71 IAC 10-2-3(a), that a licensee's actions constitute an immediate danger to public health, safety or welfare, or are not in the best interest of racing, or compromises the integrity of operation at a track or satellite facility.

Also pursuant to the provisions of I.C. 4-21.5-4, a hearing on the summary suspension is scheduled for Friday, August 29, 2014 at 11:00a.m. in the Steward's Office at Indiana Grand.

During the period of the summary suspension, Mr. Norris is not permitted on all facilities under the jurisdiction of the Indiana Horse Racing Commission and is not permitted to run or enter horses at Indiana Grand.

Stanley R. Brewster
Senior State Steward

8/26/14
Date

William Trulls
Associate Steward

8/26/14
Date

Anthony M. Day
Associate Steward

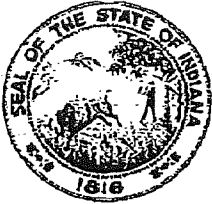
8/26/14
Date

Appeal Process: Pursuant to 71 IAC 10-2-9, anyone who is aggrieved or adversely affected by this ruling may appeal to the Commission. Such appeal must be filed with the Commission within fifteen (15) days of this ruling.

Fine Statement: Any Person failing to pay a fine within seven (7) days may be summarily suspended pending the payment of the fine, however when a fine and suspension is imposed, the fine shall be due and payable at the time the suspension expires, unless otherwise ordered. All fines shall be paid to the Commission.

Suspended Persons: Unless the ruling specifically states otherwise, any person suspended or determined to be ineligible for licensing shall be excluded and denied access to all facilities under the jurisdiction of the Commission, including satellite facilities, during the period of suspension or ineligibility.

Exhibit A



INDIANA HORSE RACING COMMISSION

RULING # 14633

INDIANA GRAND

Mike Norris
1740 Tollsworth Road
Shelbyville, IN 46176

IHRC License #: 972870
Infraction Date: 8/26/2014
Date of Hearing: 9/5/2014
Date of Ruling: 9/6/2014
Horse Name: N/A
Race #: N/A
License Type: Owner/Trainer T8-QH

Penalty

Fine:
Total number of Suspended days: Indefinite
Suspension Begins: 9/5/2014 Ends:
Number of Drives:
Drug Name:

Rule Violation(s): 71 IAC 8.5-1-1(b) and 71 IAC 8.5-1-2(a)

Violation Declaration: On September 5, 2014 the Board of Stewards at Indiana Grand Racecourse conducted a hearing at the request of Owner/Trainer Mike Norris who was seeking to have his summary suspension, as ordered in ruling #14624 dated August 26, 2014, set aside.

Based on evidence presented at the hearing by Mr. Norris and IHRC deputy counsel, the Stewards find that there is sufficient evidence to indicate that Mr. Norris's actions constitute an immediate danger to public health, safety or welfare, or are not in the best interest of racing, or compromises the integrity of operation at a track or satellite facility.

Therefore Mr. Norris's request to set aside the summary suspension is hereby DENIED. Mr. Norris shall continue to be suspended pending a hearing on the merits of the positive tests.

Stanley K. Brewster 9/6/14
Senior State Steward Date

William Troilo 9/6/14
Associate Steward Date

Lucy M. [Signature] 9/6/14
Associate Steward Date

Appeal Process: Pursuant to 71 IAC 10-2-9, anyone who is aggrieved or adversely affected by this ruling may appeal to the Commission. Such appeal must be filed with the Commission within fifteen (15) days of this ruling.

Fine Statement: Any Person failing to pay a fine within seven (7) days may be summarily suspended pending the payment of the fine, however when a fine and suspension is imposed, the fine shall be due and payable at the time the suspension expires, unless otherwise ordered. All fines shall be paid to the Commission.

Suspended Persons: Unless the ruling specifically states otherwise, any person suspended or determined to be ineligible for licensing shall be excluded and denied access to all facilities under the jurisdiction of the Commission, including satellite facilities, during the period of suspension or ineligibility.

Exhibit B in 2 parts 1/2



State of Indiana Indiana Horse Racing Commission

Michael R. Pence, Governor

www.in.gov/hrc

September 6, 2014

In The Matter of Michael Norris

Pursuant to the provisions of I.C. 4-21.5-4 the Board of Stewards at Indiana Grand Racecourse conducted a hearing on behalf of Owner/Trainer Michael Norris who had requested that the Stewards set aside their decision to summarily suspended Mr. Norris which was issued in IHRC Rulling #14624 on August 26, 2014.

The Stewards had based their issuance of the summary suspension on a report from LGC Science, Inc., of Lexington, KY, the official testing laboratory of the Indiana Horse Racing Commission (IHRC) indicating five positive tests for hydrocortisone succinate, considered a prohibited substance in horse racing, which had been found in the urine of five horses that the stewards determined were trained by Mr. Norris.

In requesting that the summary suspension be set aside, Mr. Norris, who was not represented by legal counsel after dismissing him earlier this week, stated he was not a threat to the integrity of racing, that he has always acted in the best interest of racing in Indiana and tried to help racing in Indiana, that whatever happened to the horses was accidental and not deliberate and the drug found in the five horses was not performance enhancing.

Ms. Holly Newell, Deputy Counsel for the Indiana Horse Racing Commission, argued against setting aside the summary suspension. She presented a letter from Dr. Richard Sams, Laboratory Director of LGC, that explained hydrocortisone is used as an anti-inflammatory and immunosuppressive drug that may be administered orally, intravenously or topically. It is an endogenous steroid hormone which also is produced by the adrenal glands of a horse.

Ms. Newell added that Dr. Sams, in his letter, said the finding for hydrocortisone succinate in the urine or blood is indicative of parenteral administration only and a finding in excess of 250 pg/mL in the blood is indicative of administration of clinically used doses within 24 hours of the time of sample collection.

It should be noted administration of any drugs within 24 hours of a horse's race other than furosimide (salix) also is a violation of IHRC Rules, specifically 71 IAC 8.5-1-1(b).

While the merits of this case will be argued at a later date, the Stewards are mindful that the presence of prohibited drugs in horse racing is prima facie evidence that such drug was administered and carried in the body of the horse while participating in a race which is a violation of the prohibited substance rule, 71 IAC 8-5-1-2(a), and violation of the 24-hour rule may constitute a second violation of IHRC rules for each horse.

The Stewards find that there is sufficient evidence to indicate that Mr. Norris's actions constitute an immediate danger to public health, safety or welfare, or are not in the best interest of racing or compromises the integrity of operation at a track or satellite facility. Therefore Mr. Norris's request to set aside the summary suspension is hereby DENIED. Mr. Norris shall continue to be suspended pending a hearing on the merits of the positive tests.

BOARD OF STEWARDS:

Stanley K. Bowker *William Troilo* *Lucy M. De...*

Ph: 317/713-3350

Indiana Horse Racing Commission at Indiana Downs
4425 N 200 W, Shelbyville, IN 46176

Fax: 317/713-3355

SECTION 10. 71 IAC 10-2-3 IS AMENDED TO READ AS FOLLOWS:

71 IAC 10-2-3 Summary suspension

Authority: IC 4-31-3-9

Affected: IC 4-21.5-4; IC 4-31-13

Sec. 3. (a) If the judges determine that a licensee's actions constitute an immediate danger to the public health, safety, or welfare, or are not in the best interest of racing, or compromise the integrity of operations at a track or satellite facility, the judges may summarily suspend the license pending a hearing pursuant to the provisions of IC 4-21.5-4.

(b) A licensee whose license has been summarily suspended by the judges is entitled to a hearing following a written request by the licensee.

(c) The judges shall conduct a hearing on the summary suspension in the same manner as other disciplinary hearings. At a hearing on a summary suspension, the sole issue is whether the licensee's license should remain suspended pending a final disciplinary hearing and ruling.

~~(d) Notwithstanding the provisions of 71 IAC 10-3-20, the commission delegates to the executive director the authority to summarily suspend licenses at any time that a live race meeting is not being conducted on association premises or when the judges are not otherwise available. The commission delegates to the executive director the authority to summarily suspend licenses at satellite facilities at any time. In the event of a summary suspension by the executive director and if the licensee makes a written request for a hearing, a hearing on the summary suspension shall be conducted by the commission or an administrative law judge as quickly as is practicable.~~

(Indiana Horse Racing Commission; 71 IAC 10-2-3; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1198; emergency rule filed Jan 27, 1995, 3:30 p.m.: 18 IR 1505; emergency rule filed Nov 30, 1995, 1:00 p.m.: 19 IR 688; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2162; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2426; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed Dec 23, 2013, 1:43 p.m.: 20140108-IR-071130567ERA)

Exhibit C

IC 4-31-13-2**Disciplinary hearings; sanctions, maximum civil penalty; appeals**

Sec. 2. (a) The commission may adopt rules under IC 4-22-2 to delegate to the stewards and judges of racing meetings under the jurisdiction of the commission the power to conduct disciplinary hearings on behalf of the commission. The stewards and judges shall give at least twelve (12) hours notice of any such hearing. The stewards and judges, on behalf of the commission, may impose one (1) or more of the following sanctions against a licensee who violates this article or the rules or orders of the commission:

- (1) A civil penalty not to exceed five thousand dollars (\$5,000).
- (2) A temporary order or other immediate action in the nature of a summary suspension if a licensee's actions constitute an immediate danger to the public health, safety, or welfare.
- (3) Suspension of a license held by the licensee for not more than one (1) year. The suspension of a license under this subdivision is:
 - (A) valid even though the suspension extends beyond the period of the racing meeting for which the stewards and judges have been appointed; and
 - (B) effective at all other racing meetings under the jurisdiction of the commission.

(4) A rule that a person must stay off the premises of one (1) or more permit holders if necessary in the public interest to maintain proper control over recognized meetings.

(5) Referral of the matter to the commission for its consideration.

However, at least two (2) of the stewards or judges at a racing meeting must concur in a suspension or civil penalty.

(b) Unless a suspension of a license or the imposition of a civil penalty under this section is appealed by the person sanctioned not more than fifteen (15) days after being sanctioned, the suspension of a license or the imposition of a civil penalty under this section must occur within one hundred eighty (180) days after the date of the violation.

(c) A suspension or civil penalty under this section may be appealed to the commission. Judges and stewards imposing sanctions under this section must prove the person's violation by a preponderance of the evidence. The commission shall adopt rules establishing procedures for appeals and stays of appeals. The commission shall conduct a hearing on an appeal filed under this section as provided in IC 4-21.5.

As added by P.L.341-1989(ss), SEC.2. Amended by P.L.24-1992, SEC.44; P.L.50-1995, SEC.11; P.L.210-2013, SEC.10.

Exhibit D

Indiana Register

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 13-03

FOR: PROMOTING JOB CREATION, ECONOMIC DEVELOPMENT, AND FREEDOM BY ORDERING A MORATORIUM ON REGULATIONS

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, over several decades the proliferation of administrative rules and regulations at all levels of government has increased the complexity and expense of economic life;

WHEREAS, reducing this regulatory burden on Hoosiers will promote citizens' freedom to engage in individual, family, and business pursuits;

WHEREAS, a comprehensive evaluation of existing administrative rules is essential to determine their current necessity and effectiveness within an ever-changing economic landscape;

WHEREAS, outmoded, ineffective, excessively burdensome, or unnecessary administrative rules and regulations should be repealed;

WHEREAS, Article V, Section 1 of the Indiana Constitution vests the executive power of the State of Indiana in the Governor;

WHEREAS, Ind. Code § 4-3-22-1 tasks the Indiana Office of Management and Budget (OMB) with, among other duties, the responsibility to "[a]scertain whether the burdens imposed by laws and rules are justified by their benefits using a rigorous cost benefit analysis";

WHEREAS, an administrative-rulemaking moratorium will permit OMB to devote resources to a comprehensive evaluation and rigorous cost benefit analysis of existing administrative rules; and

WHEREAS, wherever possible, and without compromising the health and safety of Hoosiers, this review should result in the elimination or simplification of unnecessary or unduly burdensome rules and regulations so that private sector employment and new investment in Indiana increases and the quality of our Hoosier workforce improves.

NOW, THEREFORE, I, Michael R. Pence, by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. Agencies, as defined by Ind. Code § 4-22-2-3, shall suspend rulemaking action on any proposed rules for which a notice of intent to adopt a rule (under Ind. Code 4-22-2) or notice under Ind. Code 13-14-9 was not submitted to the office of the *Indiana Register* on or before January 14, 2013. This action shall be known as the "Regulatory Moratorium." This Regulatory Moratorium shall not apply to any separately elected statewide office set forth at Ind. Code § 3-10-2-6(3), (4), and 3-10-2-7.
2. OMB shall perform a comprehensive evaluation and rigorous cost benefit analysis of existing administrative rules as adopted under Ind. Code 4-22-2 and Ind. Code 13-14-9. Agencies shall fully assist OMB in this evaluation by providing timely information and analysis when requested by OMB.
3. OMB shall give review priority to rules with the most negative effect on job creation and economic development in the private sector.
4. OMB shall solicit the participation of all interested citizens in the evaluation of existing administrative rules, including the effect of compliance with those rules.
5. OMB shall make recommendations to the Governor and the General Assembly regarding rules whose modification or repeal would lift unjustifiable burdens from Hoosier citizens, especially such burdens that discourage creation of jobs and economic development.

Exhibit E in 2 parts 1/2

Indiana Register

6. The following rules shall be excluded from the suspension ordered in Paragraph 1 of this Executive Order:
- rules to fulfill an objective related to job creation and increasing investment in Indiana or to improve the quality of Indiana's workforce;
 - rules that repeal existing rules or reduce their regulatory impact;
 - rules that implement a federal mandate and no waiver is permitted;
 - rules necessary to avoid a violation of a court order or federal law that would result in sanctions by a court or the federal government against the state for failure to conduct the rulemaking action;
 - rules to address matters pertaining to the control, mitigation or eradication of waste, fraud or abuse within a state agency or wasteful or abusive activities perpetrated against a state agency;
 - rules that reduce State spending; or
 - rules whose predominate purpose and effect are to address matters of emergency or health or safety, including the promulgation of an emergency rule under Ind. Code § 4-22-2-37.1.
7. Before initiating rulemaking action, agencies shall notify OMB of any proposed rules believed to satisfy an exception in Paragraph 6 of this Executive Order, with an accompanying explanation. Agencies shall then follow all existing rules and procedures, including those set forth in Executive Order No. 2-89 and Financial Management Circular No. 2010-4.
8. Agencies shall notify OMB as soon as practicable of all pending, non-final rules, namely all proposed rules for which a notice of intent to adopt a rule pursuant to Ind. Code 4-22-2 or a notice under Ind. Code 13-14-9 was submitted to the *Indiana Register* on or before January 14, 2013, and provide:
- a summary of the proposed rule;
 - a statement regarding the proposed rule's potential to promote private-sector job growth or foster private-sector economic development; and
 - an estimated date of the proposed rule's adoption.
9. Agencies shall notify OMB as soon as practicable of any proposed or pending rulemaking action for which legal authority is beyond the scope of Ind. Code 4-22-2 or Ind. Code 13-14-9, and provide the following:
- a summary of the proposed rule;
 - a statement regarding the proposed rule's potential to promote private-sector job growth or foster private-sector economic development; and
 - an estimated date of the proposed rule's adoption.
10. All agencies shall cooperate with and provide assistance to OMB in the implementation of this Executive Order to the fullest extent permitted by law.
11. This Regulatory Moratorium shall remain in effect until expressly modified or terminated by a subsequent Executive Order.

IN TESTIMONY WHEREOF, I, Michael R. Pence, have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 14th day of January 2013.

Michael R. Pence
Governor of Indiana

SEAL
ATTEST: Connie Lawson
Secretary of State

Posted: 02/06/2013 by Legislative Services Agency
An [html](#) version of this document.

Agenda Item #3



For Immediate Release

Contact: Tammy Knox

tammy.knox@indy-grand.com

RECAP OF 2014 RACING SEASON AT INDIANA GRAND RACING & CASINO

SHELBYVILLE, Ind.; – Dec. 29, 2014 – Below is a list of the top five racing stories, quotes and a timeline prepared by the race marketing department at Indiana Grand Racing & Casino. The 120-day racing season was conducted from Tuesday, May 6 through Saturday, Nov. 1.

TOP FIVE STORIES

1. Jockey killed in racing incident

Apprentice rider Juan Saez died from injuries sustained in a racing incident in the eighth race at Indiana Grand Racing & Casino Tuesday, Oct. 14. Following an investigation by Indiana Horse Racing Commission Stewards, it was determined that Saez, 17, fell after his horse, Montezuma Express, clipped heels with the horse in front of him. A trailing horse, Masaru, ridden by Ricardo Santana, Jr., was unable to avoid the fallen horse and rider, and also fell. Saez was airlifted to Methodist Hospital in critical condition and passed away from his injuries later in the evening.

A native of Panama, Saez was honored in a special memorial service before racing resumed Thursday, Oct. 16. No racing was held on Wednesday, Oct. 15. The jockey colony at Indiana Grand accepted the leading apprentice award for Saez at the conclusion of the meet.

Jockey colonies around the nation held moments of silence and special ceremonies in honor of Saez. In addition, jockeys competing in the 2014 Breeders' Cup also wore special ribbons in memory of the rider.

2. East Hall wins Indiana Derby

Late in the stretch, East Hall and Luis Saez had the most momentum to roll by Vicar's in Trouble and Rosie Napravnik on the outside and secure the victory by one length in the 20th running of the Grade II \$500,000-added Indiana Derby.

A nice payout for his backers, East Hall returned \$35.80, \$10.60 and \$13.40 across the board, marking the largest \$2 payoff for an Indiana Derby winner in the history of the race. The

previous record was set by Orientate in 2001 when he returned \$32.60 to win. The time of the one and one-sixteenth mile race was 1:42.24.

East Hall is owned by Jack Hendricks and Roger Justice, who have been partners in both business and horses for many years. Both men worked at UPS near their hometown in Lexington, Ky. for 35 years, and their partnership currently owns seven horses together. Bill Kaplan serves as their trainer.

Indiana Derby Night at Indiana Grand brought in a total handle of \$1,668,745 with a total of \$406,909 wagered on the Derby race. Despite cooler temperatures, a large crowd was on hand to witness Indiana's richest Thoroughbred race and the state's richest night of racing ever with more than \$1.4 million in purses over the 11-race card. Coach Rick Pitino of University of Louisville and Coach Tom Crean of Indiana University served as co-chairs of the Indiana Derby and presented the trophy to the winning connections following the race.

3. Racing improvements include new Video Display Board

Indiana Grand Racing & Casino implemented several new upgrades and additions for the 2014 racing season. The most visual change was the installation of a new state of the art 10mm LED Video Display board that has become the centerpiece on the tote board in the infield of the racetrack. The Video Display will enhance all television production from the facility and offer a larger than life look at live racing. The new Video Display Board, also known by the term "Jumbotron," is 20 feet tall by 32 feet wide. The clubhouse was also equipped with new flat screen televisions throughout the facility.

Another technology upgrade included the addition of the FastBet Mobile wagering system. The fully mobile race wagering technology offered guests the ability to wager directly from a supplied mobile tablet or their own Smartphone, iPad or Android device. Indiana Grand was the third Centaur Gaming property in Indiana to install the technology, following installations at Hoosier Park Racing & Casino in Anderson and the Winner's Circle Pub, Grille, & OTB in downtown Indianapolis.

Other racing improvements included a new racing surface and an enhanced turf course. The old circumference of the dirt oval was stripped of all materials and the angles of both the turns and the straight-aways were lowered to be more conducive to Thoroughbred and Quarter Horse racing. Other racing upgrades included a new starting gate, eight electronic walking machines, the addition of two new barns, which increased the number of stalls available at Indiana Grand to just under 1,000, and a new Backstretch Café.

4. Mobley Futurity becomes richest Quarter Horse race in state of Indiana

Cant Catcha Corona and jockey Harold Collins rallied home to win the richest Quarter Horse race ever held in the state of Indiana Saturday, July 26. The duo earned the title in the fifth

running of the \$199,200 Gordon Mobley Futurity Final by only the margin of a head over Stone Toasted and Juan Guerrero at the finish of the 300-yard dash.

It was a big victory for trainer Randy Smith, who also saddled Stone Toasted to a second place finish in the race. Also owned by Smith, Cant Catcha Corona is now three for three in his brief career.

Later in the season, the largest Quarter Horse program ever held in the state included a racing card with purses in excess of \$700,000. Highlighting the six-race stakes program was the \$198,900 Miss Roxie Little Futurity, which was won by Stinkin Rich and Ben Creed in a new stakes record time of :17.592 seconds for the 300-yard dash.

5. Unreachable Star, Indiana's richest horse, retires

It was a tribute only fitting for a champion as Unreachable Star took his final steps into a winner's circle Wednesday, Oct. 1. After a soft tissue problem was discovered on his front leg, Trainer Tim Glyshaw and David and Loren Hebel-Osborne, owners of Loosen Up Stable, made the decision to retire Indiana's richest Thoroughbred.

Unreachable Star was greeted by a winner's circle full of well wishers, including breeder Dr. Crystal Chapple. Track Announcer Bill Downes read the many accomplishments over the years by Unreachable Star, including his Indiana Horse of the Year title in 2009 as well as being named Indiana's Older Horse of the Year four years in a row.

With more than \$784,000 in career earnings, 17 wins and seven stakes victories, Unreachable Star has shown how versatile he is, winning on different surfaces and different distances. His final win was recorded in the 2013 in the \$85,000 William Henry Harrison Stakes, a stakes race he won three times during his career. His final race was in early August over the turf in the \$85,000 AJ Foyt Stakes where he finished third.

MEMORABLE QUOTES

Jockey Perry Ouzts, 60, on earning win number 6,385 to move into 14th place on the list of all-time leading jockeys in the history of Thoroughbred racing:

"I only need four more wins to pass Larry Snyder to be in 13th place and I hope to be able to do that by the end of this year. Then, next year, I'll start working on moving up to 12th place (Sandy Hawley) and then 11th place, which will be the big one. Earlie (Fires) holds down that spot with 6,470 wins. If I can break that, then there will be a lot of trash talking back home in Arkansas."

Kentucky Legislator David Osborne, on the retirement of Unreachable Star, the richest Indiana bred Thoroughbred ever with earnings of nearly \$775,000:

"We bought (Unreachable) 'Star' privately from the breeder, Dr. Crystal Chapple because we used to own his sire (Unloosened). He only stood two seasons and he died. We had bred a couple

of mares to him, and so had Crystal. We were trying to accumulate a few more of his offspring, so we bought a package deal. Besides the two colts, we purchased a Welsh Corgi. That's what sealed the deal. So, we got two horses and one dog in the deal."

Quarter Horse Jockey Juan Guerrero on learning the trade of becoming a jockey:

"Last year was the first year I took out my license to ride professionally. I've been riding horses in Mexico since I was 12 years old, but just in match races. I never went to jockey school. I'm the only one in my family that rides. I came from a very poor family and riding horses was an opportunity to do something to help my family out, so I learned how to ride."

Patron Roger Browning following his win in April's \$2,000 Road to the Derby contest leading up to the Kentucky Derby:

"I've been coming to Indiana Grand since it opened. I haven't missed two weeks total since that time. In fact, my father and uncle won the first "Race to the Derby" contest in 2003."

Jockey Oriana Rossi following her win aboard Cactus Joe in the Ellen's Lucky Star Stakes:

"She (Cactus Joe) keeps improving and improving. She has shown how versatile she can be. She can run short, long and now shows she can run on the turf. When we broke from the gate, I had a little trouble getting her settled because the 12 (Shes Dangerous) was on our hip and she felt it and wanted to go, but as soon as we got clear, she settled nicely. She had never been on the turf before. In fact, she wanted to eat the grass when we walked onto the course."

Mike McCauley, Indiana Thoroughbred owner and breeder, on establishing a Childhood Cancer Awareness Month nationally:

"We as a family wanted to do something to bring awareness to childhood cancer and wanted to do something to bring the jockeys into it in honor of our daughter, Cierra, who is now a cancer survivor at the age of eight. So, I sent an email to Terry Meyocks at the Jockey's Guild asking what we could do. He contacted John Velazquez, Javier Castellano and a few others and came back and said they were ready to go. We got together and came up with a gold patch to represent Childhood Cancer Awareness Month which will be worn by more than 15 riding colonies at tracks across the United States in September, including Indiana Grand."

CW Mullenix, owner of Born Runner, on the addition of the Quarter Horse stakes race named in his horse's honor:

"We brought Born Runner in to our farm in Carbon, Ind. from Oklahoma in 1988. He changed the scenery of Quarter Horse racing in the state of Indiana. I'm very touched with what the folks at QHRAI (Quarter Horse Racing Association of Indiana) have done in honor of him with this race. And, all five years the winners have been out of Born Runner mares, and that makes it exceptionally nice."

Jon Schuster, vice president and general manager of racing, following the donation of more than \$36,000 to SCUFFY:

"This is one of those days where it is fun to come to work and do good things. Our president and COO, Jim Brown, challenged our team members to step up and get behind our campaign for SCUFFY. This organization makes a huge commitment to our community and I am proud

to work for a company with the foresight and vision to support this effort. I'm also proud of our team members for their commitment to this cause."

Ron McKay, owner of Thank You Kisses, on the alternative start to life for his stakes winning horse:

"When Thank You Kisses was born, her mother didn't have any milk. The mare (Lady Cherie) has a tendency not to have good milk. This is the second time we had to have a different plan with her, so we rented a Quarter Horse mare named 'Kisses,' who had recently lost her foal. The nurse mare provided the necessary milk to keep the colt going for the first three to four months of his life. Therefore when it came time for a name, it was an easy selection to name him 'Thank You Kisses.'"

Tony Shockley, following his correct selection of winner Tonalist in the \$1,000 Belmont Stakes Megabet at Indiana Grand:

"My friend, Erv, brings me here. We live close to one another and we have a lot in common. I asked him one day what he liked to do for fun and he said 'bet the horses' so I came out with him last year to the Indiana Derby, and we've been coming out together ever since. We were here for the Kentucky Derby, the Preakness and now the Belmont so we've been here for all three of the big races. And, I am still in disbelief. I can't believe my name got selected for the \$1,000 Megabet. I just won over \$10,000."

2014 RACING TIMELINE

- 04/12 Roger Browning wins the grand prize in the \$2,000 Road to the Derby handicapping contest.
- 04/21 The newly renovated racetrack opens for training in preparation for the 12th season of racing. Two new barns, a new Video Display Board and a new Backstretch Café are just some of the upgrades and improvements unveiled.
- 05/03 Indiana Grand plays host to a full house for the 140th running of the Kentucky Derby. Numerous activities are held to complement the simulcast program from Churchill Downs, including one \$10,000 Megabet on the Kentucky Derby.
- 05/06 Indiana Grand Racing & Casino opens for the 12th season of Thoroughbred and Quarter Horse racing under a new name, logo and color scheme. Also, the latest technology for placing wagers, FastBet, is unveiled to offer convenience to patrons.
- 05/10 The first weekend of racing for 2014 is capped off with a tremendous fireworks display following racing, which attracted more than 5,000 people to the facility.
- 05/23 Seventeen-year-old apprentice rider Cheyanna Patrick won her first career race aboard Diego, which is owned by her mother, Cindy, and trained by her father, Gary. Also, during the evening, a check for \$36,535 is presented to representatives of SCUFFY through donation efforts of the entire Indiana Grand team.
- 05/30 The first of six programs dedicated to all-Quarter Horse racing for 2014 is held.
- 06/07 Tony Shockley correctly chooses Tonalist as the Belmont Stakes winner and wins \$10,200 in the special \$1,000 Belmont Stakes Megabet Drawing.
- 06/11 Nancy Ury-Holthus, former host at TVG, is added to the broadcast team as a track analyst.
- 06/28 Indiana Grand hosts Artisan Fest, featuring more than a dozen booths from area vendors and is complemented by numerous kids' activities and other promotions during racing. Also, more

than a dozen teenagers from the Midwest participate in the day-long Quarter Horse Youth Day Experience with a \$2,000 scholarship awarded to the top participant for the event.

- 07/01 General Jack wins the \$200,000-added Centaur Stakes, which is the only open stakes race created during the first year in 2003 to still be held at the track. Peter Lurie, host at HRTV, is trackside to assist with the broadcast of the afternoon's events.
- 07/05 The second all-Quarter Horse Night is capped off by a concert featuring The Willis Clan from America's Got Talent followed by a fireworks show that lasts nearly 30 minutes in front of a packed house.
- 07/10 Steve Peterman joins the Indiana Grand team as the starter
- 07/15 Indiana Grand joins the Jockeys and Jeans committee to announce that the second annual event to raise money for the PDJF will be held at Indiana Grand on Saturday, May 30, 2015
- 07/26 An all-Quarter Horse racing card features the richest race ever contested for the sprinters in the state of Indiana as Cant Catcha Corona and Harold Collins win the \$199,200 Gordon Mobley Futurity.
- 07/30 Tom Amoss, four-time leading trainer at Indiana Grand, recorded his 3,000th win with Infinity Humor and jockey Jeremy Rose in the third race on the afternoon card.
- 08/01 Roy Smith joins the Indiana Grand team as the track superintendent.
- 08/06 Two-time Kentucky Derby winning jockey Calvin Borel gets his first win at Indiana Grand aboard Dark Rain in a two-year-old maiden race over the turf course.
- 08/10 Team USA wins the inaugural International Jockey Challenge, which featured riders from eight different countries.
- 08/20 All valets and paddock personnel conducted the Ice Bucket Challenge for ALS following the last race of the day.
- 08/22 A total of 21 jockeys performed the Ice Bucket Challenge for ALS during the races.
- 08/28 Indiana Grand team members took part in a group Ice Bucket Challenge on the apron during racing.
- 09/06 Cierra McCauley, eight year old cancer survivor, is honored in the winner's circle and to help kick off Childhood Cancer Awareness Month. Her father, Mike McCauley, worked with the Jockey's Guild to get 22 tracks across the nation to wear special gold patches during the month of September to commemorate the cause.
- 09/12 Five jockeys from Indiana Grand accompanied Cierra McCauley to Riley Children's Hospital and visited with more than 20 kids on the cancer floor as part of the Childhood Cancer Awareness Month initiatives.
- 09/13 Jockeys participate in PDJF Night to raise funds for the national organization. Included in the night's activities are a tug of war contest, dunk tank, and donation rally.
- 09/30 Jockey Lori Wydick recorded her 1,500th career win aboard Reflector.
- 10/01 Unreachable Star, the richest Indiana bred in the history of the state with nearly \$775,000 in earnings, was retired in a special ceremony in the winner's circle during the races.
- 10/04 East Hall rallied late for jockey Luis Saez to win the 20th running of the Grade II \$500,000-added Indiana Derby and set a new stakes record for the largest \$2 payoff of \$35.80. The race was one of nine stakes races on the card with total purses in excess of \$1.4 million, a new record for most purse money offered for Thoroughbred racing in Indiana. Also, four executives from Centaur, Inc. take part in the Ice Bucket Challenge and announce a joint donation of \$10,000 to the cause from Indiana Grand and Hoosier Park.

- 10/14 Jockey Juan Saez, 17, of Panama, clipped heels with another horse in the final turn and fell with injuries resulting in his passing later in the evening. The remaining race on the card was canceled due to the incident on the track.
- 10/15 In honor of the passing of Jockey Juan Saez, the 10-race card is canceled.
- 10/16 Prior to the start of the afternoon's racing program, a special memorial service in honor of Jockey Juan Saez is held in the winner's circle with members of his family present. Following several speeches from track executives, jockeys and the track chaplain, 50 white balloons are released in his honor.
- 10/25 The richest night ever in the state of Indiana is held for Quarter Horse racing with purse money in excess of \$700,000. The highlight of the card is the \$198,900 Miss Roxie Little Futurity won by Stinkin Rich and Ben Creed.
- 10/29 Sandra Cook had the highest bankroll between 19 finalists in Winsday Wagering Warriors to win the \$2,000 jackpot which included players from Indiana Grand and Clarksville OTB.
- 11/01 Perry Ouzts, 60, wins his 6,385th win to move into 14th place on the list of all-time leading jockeys in the history of Thoroughbred racing. Also, the 12th season of racing comes to a close with Tom Amoss receiving his fourth straight leading trainer title, Fernando De La Cruz winning the jockey title, Our Valid Twirl earning the leading horse title and Cindy Patrick winning the leading owner title. Jockeys at Indiana Grand accept the leading apprentice rider award on behalf of Juan Saez, and the award will be called the Juan Saez Leading Apprentice Award moving forward. In the Quarter Horse divisions, Ron Raper and Randy Smith tied atop the leading trainer standings while Shanley Jackson and Juan Guerrero tied atop the leading jockey standings. Smith also won the leading owner award with Pistolpacking Pepsi earning the leading horse award for the year.

About Indiana Grand Racing & Casino: Indiana Grand Racing & Casino holds multiple awards from industry publications for customer service, entertainment, gaming and dining. Located in Shelbyville, Ind., Indiana Grand features 2,200 of the latest slots and electronic table games in addition to a one-mile dirt race course and a seven-eighths mile turf course offering live Thoroughbred and Quarter Horse racing each year. Simulcast wagering is also offered year-round at Winner's Circle Brewpub & OTB located on the casino floor as well as an off-track betting facility located in Clarksville, Ind. For more information, please visit www.IndianaGrand.com.

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Hoosier Park Continues Positive Trend

Hoosier Park's 2014 Meet Reports Strong Numbers

ANDERSON, Ind.—December 15, 2014—The 2014 live racing season at Hoosier Park Racing & Casino, which concluded on Saturday, November 15, produced encouraging gains on many fronts as well as sizeable gains in all-sources handle during the 160-day, all harness racing season.

Buoyed by a sensational 27% increase in all-sources handle for the 2013 season, Hoosier Park Racing & Casino continued the positive trend in 2014 to report an all sources handle increase of 6.2% over the previous year's numbers.

In a continued effort to provide the highest quality racing experience for racing fans, Hoosier Park Racing & Casino continued its focus on all encompassing marketing efforts, facility enhancements and an increase in overall quality of racing.

“We couldn't be more pleased with the results of the 2014 racing season.” Hoosier Park's Vice President and General Manager of Racing, Rick Moore noted. “The positive trend in handle that we experienced during the 2013 season carried over into 2014. Beyond handle, the competition on the race track continues to get even more spirited. Together, we are buoyed by the reception we have received throughout the simulcast market and look forward to building on these successes when we open the 2015 season in late March.”

For the first time in its 21 year history, Hoosier Park Racing & Casino expanded its viewing public to include Australia in June of 2014. Through a partnership between Hoosier Park and the Australian racing broadcaster, *Sky Racing*, Hoosier Park harness racing became a regular morning feature on Thursday, Friday and Sunday on *Sky Racing2* between 8 a.m. and 10 a.m. Australian time.

Hoosier Park's signature race, the \$250,000 Dan Patch Invitational pace, saw marked success while placing the national spotlight on Hoosier Park, as the best in the sport of harness racing took to the racetrack on Friday, August 8. Excitement pervaded throughout the grandstand as an enthusiastic crowd watched Sweet Lou, driven by Ron Pierce, pace the fastest mile in Hoosier Park history with a 1:47.2 score in the 21st edition of the Dan Patch Invitational. The previous track record of 1:48.1, a mark that stood for four years, was established by Shark Gesture and George Brennan in the 2010 Dan Patch Invitational.

On the wagering front, the Dan Patch card offered remarkable value to horseplayers with the continuation of a \$25,000 Guaranteed Superfecta on the Dan Patch Invitational race. The bettors came out in full force to watch the harness racing superstars compete at Hoosier Park as the handle increases were felt both on track and through export wagering and produced the biggest handle night of the season. The total handle for the night was up 25% over the previous year's numbers.

Hoosier Park hosted Grand Circuit racing action four different times this season and welcomed the top-rated horses in North America to compete in races like the \$275,000 Hoosier Park Pacing Derby, the \$230,000 Carl Erskine, the \$250,000 Monument Circle, the \$193,000 Nadia Lobell and the \$211,500 Hoosier Park Pacing Derby.

Trace Tetrick led all forces on the track and took home the 2014 leading driver title with 289 victories and accumulated over \$3.6 million in purse earnings throughout the season. Tetrick, who led the driver standings from start to finish, earned his third leading driver title at Hoosier Park in 2014. Tetrick also earned a spot in

Hoosier Park's record books as he re-established the record for most wins in one season, a record that was previously held by Tony Morgan during the 1998 season with 262 victories.

Also new to the 2014 season, Hoosier Park Racing & Casino unveiled a driver challenge like never seen before in the sport of harness racing. The 2014 Champion Driver Series pitted the top-ten drivers at Hoosier Park Racing & Casino against one another in a five-race challenge not once, but twice, throughout the season with the champion driver driving away in a 2014 Chevrolet Corvette Stingray.

It was LeWayne Miller who not only took home the \$5,000 first place prize in the opening round of the series, but was crowned the ultimate champion after winning the second round of the series and drove away in a 2014 Chevrolet Corvette Stingray.

Weekends during the meet encouraged fans to enjoy live racing and numerous entertainment opportunities throughout the venue. Each weekend was highlighted by 'Fan-tastic Fridays,' live racing action that featured \$1 customer specials including beer, hot dogs, wagers, and racing programs. Saturdays at the track, designated as 'Family Fun Days,' featured live entertainment, kid-friendly outdoor games and activities, winner's circle giveaways, and dining specials.

Hoosier Park Racing & Casino continued the annual summer concert series in 2014 and welcomed a series of national headlining acts to the outdoor music center. In conjunction with the racing action on the track, fans enjoyed Grammy-Award winners, Billboard chart toppers and thrilling entertainers throughout the summer.

"We would like to thank all the horsemen and racing fans that contributed to the successful 2014 season at Hoosier Park Racing & Casino," Moore continued. "Their support, along with the hard work and dedication from the entire Hoosier Park team, made for a tremendous season and we are already looking forward to next season."

The 22nd season of live harness racing at Hoosier Park Racing & Casino is set to get underway on March 27, 2015. Live racing at Hoosier Park Racing & Casino will follow a Friday, Saturday schedule the opening week, a Thursday, Friday, Saturday schedule the second week and then resume a Tuesday through Saturday schedule throughout the remainder of the meet. With a daily post time of 5:15 p.m. each night, the live racing season will be conducted through November 14, 2015.

About Hoosier Park Racing & Casino: Hoosier Park Racing & Casino, a fully integrated gaming and racing facility, features 2,000 of the latest slots and electronic table games and a 7/8 mile oval horse track offering live harness racing each year. Simulcast wagering is offered year-round at Hoosier Park Racing & Casino, the Winner's Circle Pub, Grille & OTB in Indianapolis and two off-track betting facilities located in Fort Wayne and Merrillville, Ind. For more information, please visit www.HoosierPark.com

About Centaur Gaming: Founded in 1993, Indianapolis-based Centaur Gaming's mission is to bring the entertainment and economic benefits of casino gaming and horse racing to communities across Indiana. Centaur, a privately held Indiana owned and managed company, employs more than 2,000 Indiana residents through the award-winning entertainment destinations of Hoosier Park Racing & Casino in Anderson, Ind. and Indiana Grand Racing & Casino and Indiana Downs in Shelbyville, Ind. In addition to the two racetrack and casino properties, Centaur's operations extend to nearly every corner of the state with Hoosier Park's Winner's Circle Pub, Grille & OTB in Indianapolis and Off-Track Betting facilities in Clarksville, Fort Wayne and Merrillville, Ind.

Agenda Item #4

STATE OF INDIANA

BEFORE THE INDIANA HORSE RACING COMMISSION

IN RE:

NOTICE OF CLOSURE AND PETITION OF)
CENTAUR HOLDINGS, LLC,)
NEW CENTAUR, LLC AND HOOSIER)
PARK, LLC TO: (1) ADVISE THE COMMISSION)
OF ITS INTENT TO PERMANETLY CLOSE THE)
SATELLITE FACILITY LOCATED IN)
MERRILLVILLE, INDIANA; (2) REQUEST THE)
COMMISSION TO APPROVE THE CONTINUED)
EXISTENCE OF MERRILLVILLE SATELLITE)
FACILITY LICENSE; AND (3) APPROVE HOOSIER)
PARK ENTERING INTO A REAL ESTATE LISTING)
AGREEMENT FOR THE SALE OF THE)
MERRILLVILLE SATELLITE FACILITY REAL)
ESTATE)

NOTICE AND PETITION

Comes Now Petitioners, Centaur Holdings, LLC (**Holdings**), New Centaur, LLC (**Centaur**), and Hoosier Park, LLC (**Hoosier Park**), by counsel, and (1) Serves notice on the Commission that it intends to permanently close its Merrillville satellite facility located at 7610 Broadway, Merrillville, Indiana (**Merrillville Satellite Facility**) on March 15, 2015; (2) Requests the Commission to approve the continued existence of the Merrillville Satellite Facility license; and (3) Approve Hoosier Park entering into a real estate listing agreement for the sale of the Merrillville Satellite Facility real estate. In support of this Notice and Petition, petitioners state that:

1. Holdings is the owner of Centaur, which is the owner of Hoosier Park;
2. Hoosier Park is the holder of a permit to conduct a horse racing meeting at its facilities located in Anderson, Indiana, which permit was issued by the Commission pursuant to IC 4-31-5-8. The permit issued to Hoosier Park was most recently renewed by the Commission at its regular meeting on November 17, 2014;
3. Hoosier Park is the holder of (3) licenses to conduct pari-mutuel wagering at its satellite facilities in Fort Wayne, Indianapolis and Merrillville. These (3) licenses were issued by the Commission pursuant to IC 4-31-5.5 -3 and were most recently renewed by the Commission at its regular meeting on November 17, 2014;
4. On or about 4, 1994, the Commission entered the Final Order granting Hoosier Park a license to operate its Merrillville Satellite Facility. The facility began operation prior to

January 2, 1996 and Hoosier Park is operating the Merrillville Satellite Facility as of the date of the filing of this Petition. The Merrillville Satellite Facility is located at 7610 Broadway, Merrillville, Indiana;

5. In 2011, after having experienced several years of substantial and continuing decline in handle and other revenues at its satellite facilities, Hoosier Park began the process of re-examining its satellite facility business model and the location of its satellite facilities. Hoosier Park conducted an in-depth study of off-track betting facilities throughout the nation, including visiting several locations in other states. The conclusion of the study was that a ground floor location with easy pedestrian and vehicular visibility, convenient access and ample parking were essential ingredients to a successful and profitable satellite facility. Further, a business model that included food and beverage service of a high caliber in an aesthetically pleasing and comfortable environment was necessary to succeed. The review also determined that capital allocated to satellite facilities was more efficiently deployed by investments in high quality leasehold improvements rather than real estate ownership. After conducting the study, Hoosier Park, with Commission approval, relocated its Indianapolis Satellite Facility from Claypool Courts to 20 N. Pennsylvania Street in leased space and began operations using the name "The Winner's Circle Pub, Grille & OTB" (**Winner's Circle**). The Winner's Circle became a "work in progress" where Hoosier Park experimented with various menus, themes, promotions, decors, smoking options and technologies such as Fast Bet Mobile®. The goal was to develop a successful business model which could be adapted with modifications to its other satellite facility locations. To date, over Three Million Dollars (\$3,000,000) has been invested in the downtown Indianapolis Winner's Circle;

6. After several years of development and experimentation with the Winner's Circle concept and brand in Indianapolis, Hoosier Park petitioned the Commission for authority to move its Fort Wayne Satellite Facility from Fort Wayne to New Haven. The Commission approved the relocation at its meetings on December 10, 2013 and March 5, 2014. The New Haven Satellite Facility is scheduled to open on or about January 19, 2015, in leased space. The total expenditures to construct the New Haven location amounted to approximately Two Million Dollars (\$2,000,000);

7. On or about July 9, 2014, Hoosier Park's corporate sister, Centaur Acquisition, LLC d/b/a Indiana Grand Racing and Casino, opened a simulcast wagering facility within the Indiana Grand Casino located in Shelbyville, Indiana employing the Winners' Circle brand and format. Approximately One Million Two Hundred Thousand Dollars (\$1,200,000) was expended on this project and simulcast handle since then and of the 2014 race meet has increased by approximately 24 percent for the period November 2 – December 12. This project increased employment at Indiana Grand by approximately 20 jobs;

8. The Merrillville Satellite Facility has experienced a continued and substantial decline in handle and profitability. For example, in 2005 the handle was \$30,128,469 and in 2013 the handle was \$15,432,512. The facility lost approximately \$200,000 in 2014 without considering the costs of interests, taxes, depreciation and amortization. This decline in handle and profitability is the result of a proliferation of competitive wagering opportunities in the Merrillville market, such as online pari-mutuel wagering on horse racing, slot machines in Illinois bars and truck stops, proximity of Illinois and Indiana riverboat gambling (there are four riverboats in Lake County, Indiana), Native American gaming in Michigan, and an aging, inappropriately sized, and unattractive facility. After a thorough review of Merrillville Satellite Facility operations and the competitive environment, Hoosier Park has reluctantly reached the conclusion that the continued operation of its Merrillville Satellite Facility in its current format is not economically feasible and that conversion to the Winner's Circle format would not substantially increase handle and profitability in an amount sufficient to justify the outlay of capital required to make the conversion. Therefore, Hoosier Park will close the Merrillville Satellite Facility on March 15, 2015 and hereby notifies the Commission of the same.

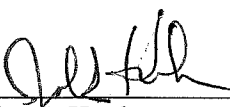
9. Hoosier Park respectfully requests that the Commission enter an Order declaring that effective upon the closure of the Merrillville Satellite Facility, that its license shall continue in existence and that such license be held by the Commission until such time as Hoosier Park requests (and the Commission approves) the transfer of the license to another location. This request is in accordance with the Commission's past precedent when the Evansville Satellite Facility was closed by its former owner, Indianapolis Downs, LLC, and subsequently acquired by Centaur Acquisition, LLC, a subsidiary of Centaur. The Commission's order dated January 17, 2013 stated in part that:

"Centaur covenants to seek and obtain the Commission's approval before re-opening or re-locating (if Centaur desires) the satellite wagering facility previously operated by Indiana Downs in Evansville, IN and acknowledges that such determination will be deferred pending an appropriate petition (that complies with statutory and regulatory requirements..."; and

10. Hoosier Park is the owner of the real estate upon which the current Merrillville Satellite Facility is located. Following the closure of the Merrillville Satellite Facility, Hoosier Park will have no use for the real estate and desires to enter into a real estate listing agreement with Ginter Real Estate, Inc. (Listing Agreement) to facilitate its sale. A true and accurate copy of the proposed Listing Agreement marked "Confidential" is attached hereto as Exhibit A and by reference made a part hereof. Because it is contemplated that the consideration required to be paid pursuant to the Listing Agreement will be \$50,000.00 or greater, 71 IAC 12-1-15 requires Commission approval for Hoosier Park to enter into the Listing Agreement. Hoosier Park therefore requests the Commission's approval to enter into the Listing Agreement.

WHEREFORE, Petitioners respectfully request that the Commission enter an order that: (1) Declares the continued existence of the Merrillville Satellite Facility license as the property of Hoosier Park to be held by the Commission until such time as Hoosier Park requests its transfer to another location (and the Commission approves); (2) Authorizes Hoosier Park to enter into the Listing Agreement; and (3) Grants such other relief as may be right and proper in the premises.

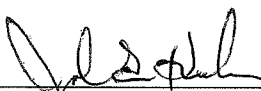
Respectfully Submitted,



John S. Keeler
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon Lea Ellingwood, 1302 N. Meridian Street, Suite 175, Indianapolis, Indiana 46202, by hand delivery, this 8th day of January, 2015.



John S. Keeler

John S. Keeler, Attorney # 5110-49
Attorney for Petitioner
10 West Market Street, Suite 200
Indianapolis, IN 46204
(317)656-8782
jkeeler@centaurgaming.net

Agenda Item #5

Ruling Log

Ruling Number	Ruling Date	Name	Breed	Violation Date	Violation	Fines	Suspended From	Suspended To	Days Suspended
14685	11/1/2014	Richard Rettele	QH	6/20/2014	Dexamethasone	\$1000			
14684	11/1/2014	Benjie Larue	TB	6/6/2014	Dexamethasone	\$1000			
14688	11/3/2014	Ricardo Martinez	QH	8/19/2014	Clenbuterol	\$500	11/2/2014	11/16/14	15
14687	11/3/2014	Jeffrey Greenhill	TB	6/28/2014	Dexamethasone	\$1000			
14686	11/3/2014	Manuel Perez	TB	9/10/2014	Dexamethasone	\$1000			
14113	11/6/2014	Benjamin Warner	SB	10/30/2014	Financial responsibility		11/7/2014	Indefinite	
14109	11/6/2014	Donald Harmon	SB	10/11/2014	Miscellaneous	Rescinded			
14110	11/6/2014	Charles Conrad	SB	11/4/2014	Whip-indiscriminate	\$100			
14112	11/6/2014	Tyler Smith	SB	10/30/2014	Fail to obey judges	\$100			
14111	11/6/2014	Joseph Putnam	SB	10/29/2014	Whip-indiscriminate	\$100			
14689	11/6/2014	Phillip Clark	TB	8/7/2014	Flunixin	Warning			
14114	11/8/2014	Michael Johnson	SB	10/1/2014	Cobalt				
14692	11/12/2014	Edward Scott	QH	8/19/2014	Betamethasone	\$1000			
14690	11/12/2014	Jeffrey Yoder	QH	10/11/2014	Cobalt	Referred			
14691	11/12/2014	Wayne Minnock	TB	6/3/2014	Dexamethasone				
14115	11/12/2014	Jeffrey Miller	SB	7/22/2014	Phenylbutazone	\$1000			
14116	11/12/2014	Brandon Bates	SB	8/8/2014	Dexamethaxone	\$1000			
14693	11/13/2014	Francisco Ramos	QH	5/30/2014	Clenbuterol (4) Dex(3)	\$2000	7/26/2014	11/1/14	99
14117	11/15/2014	Bradley Moffitt	SB	5/13/2014	Stay Granted				

Ruling Number	Ruling Date	Name	Breed	Violation Date	Violation	Fines	Suspended From	Suspended To	Days Suspended
14695	11/18/2014	Anthony Granitz	TB	9/20/2014	Trainer Responsibility	\$2000			
14120	11/18/2014	Andy Shetler	SB	11/12/2014	Whip-indiscriminate	\$100			
14694	11/18/2014	Richard Estvanko	TB	9/20/2014	Conduct/behavior	\$1000	9/20/2014	11/18/14	60
14122	11/19/2014	Tyler Smith	SB	11/14/2014	Whip-indiscriminate	\$100			
14124	11/19/2014	Michael Peterson	SB	11/14/2014	Whip-excessive	\$100			
14121	11/19/2014	Donald Eash	SB	11/12/2014	Whip-indiscriminate	\$100			
14119	11/19/2014	Robert Johnson	SB	8/30/2014	Methylprednisolone	\$1000			
14118	11/19/2014	Alvin Miller	SB	8/30/2014	5-Hydroxydantrolene	\$1000			
14123	11/19/2014	Peter Wrenn	SB	11/14/2014	Whip-excessive	\$100			
14696	11/26/2014	Thomas Amoss	TB	8/21/2014	5-Hydroxydantrolene	\$1000			
14697	11/26/2014	Christina Estvanko	TB	10/2/2014	Restored-misc				
14698	12/1/2014	Ricardo Martinez	QH	10/25/2014	Methylprednisolone	\$1000			
14125	12/1/2014	Bonnie Mattingly	SB	7/4/2014	Tripelennamine				
14699	12/2/2014	Efrain Bueno	QH	10/25/2014	Methylprednisolone	\$1000			
14126	12/4/2014	Robert Goth	SB	9/23/2014	Methylprednisolone	\$1000			
14128	12/8/2014	Charles Taylor	SB	6/4/2014	Methylprednisolone	\$1000			
14127	12/9/2014	Michael Peterson	SB	11/4/2014	Cobalt				
14129	12/9/2014	Bobby Brower	SB	10/1/2014	Cobalt				
14130	12/10/2014	Brian Hauck	SB	10/9/2014	Cobalt				
14700	12/10/2014	William Connelly	TB	8/7/2014	Dexamethasone	\$1000			
14131	12/15/2014	Joseph Cirasuola	SB	8/7/2014	Isoflupredone	\$1000			
14132	12/16/2014	Ervin Miller	SB	7/8/2014	Flunixin	\$1000			
14701	12/18/2014	Randy Klopp	TB	10/4/2014	Cobalt				
14702	12/22/2014	Julio Almanza	QH	7/26/2014	Methylprednisolone	\$1000			