

## SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into between the Indiana Horse Racing Commission ("Commission"), by Deena Pitman ("Director Pitman"), Executive Director of the Indiana Horse Racing Commission Staff ("Commission Staff") and Nate C. Brannin ("Brannin"), a licensee subject to regulation by the Commission. Collectively, the Commission Staff and Brannin shall be referred to herein as "the Parties." This Agreement is subject to the review and approval of the Commission.

### RECITALS

1. The Indiana Horse Racing Commission ("IHRC") is the administrative agency in the State of Indiana that regulates horse racing pursuant to provisions of the Indiana Code, Title 4, Article 31.
2. At all times relevant to this Settlement Agreement, Brannin was licensed as an owner with the IHRC.
3. As a licensee of the IHRC, Brannin was subject to IHRC rules and regulations.
4. As a licensee, Brannin was required to be knowledgeable of all IHRC rules and regulations.
5. Pursuant to 71 IAC 5.5-1-6: "By acceptance of a license or by engaging in activities that require a license by the commission, a licensee consents to search and inspection by the commission or its agents and to the seizure of any prohibited medication, controlled substances, paraphernalia, or devices in violation of state or federal law or these rules. ..."
6. Pursuant to 71 IAC 7.5-9-5: "No person, except commission security, track security, and law enforcement officials while engaged in the performance of their official duties, shall possess or discharge any firearm within any race track property."
7. IHRC Investigators Harold Davis, Jr. ("Investigator Davis") and Gabe Fresquerz ("Investigator Fresquerz") were conducting random vehicle searches at the stable gate entrance of Indiana Grand Racing & Casino ("Indiana Grand") on July 23, 2019.
8. Brannin entered the Indiana Grand stable gate at approximately 3:15 p.m. on July 23, 2019, driving a gray Ford F150, bearing Indiana license plate number TK801LVE, and was informed that the IHRC was conducting random searches per IHRC rules.
9. Brannin pulled the vehicle over and Investigators Davis and Fresquerz began searching the vehicle.

10. Investigator Fresquerz located a firearm in the vehicle in the backseat floorboard, which Investigator Davis photographed.
11. The firearm, a Stevens .410 gauge bolt-action shotgun, was unloaded with the action open, and no ammunition was located in the vehicle.
12. On or about July 23, 2019, Brannin verbally waived the opportunity to attend a hearing on July 24, 2019, in front of the Stewards at Indiana Grand.
13. On July 25, 2019, the Stewards issued Ruling No. IG-2019-1802 fining Brannin \$500.00 for being in possession of a firearm in the stable area on July 23, 2019, a violation of IHRC regulation 71 IAC 7.5-9-5.
14. Brannin filed an appeal of Steward's Ruling No. IG-2019-1802 on July 31, 2019, stating as a reason for appeal: "This was an honest mistake not a blatant disregard to the procedure. ..."
15. Mitigating circumstances include: the firearm was an old Stevens .410 gauge bolt-action shotgun; the firearm was found in the backseat floorboard, a location not readily accessible from the driver's seat; the firearm was unloaded with the action open; no ammunition was in the vehicle; and Brannin's cooperation with IHRC investigators.
16. Brannin wishes to settle the alleged violation in order to avoid the expense, distraction and uncertainties associated with further litigation.
17. The Parties now have reached a resolution of the claims at issue in this dispute.
18. Now, in full and complete resolution of any and all further administrative proceedings involving Brannin relative to Steward's Ruling No. IG-2019-1802 and the violation referenced above, the Commission Staff and Brannin agree to the terms and conditions set forth in this Agreement.

#### AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and the promises and covenants to be performed as set forth herein, the Parties agree as follows:

19. Brannin concedes that the Indiana Horse Racing Commission Staff has sufficient evidence to prove by a preponderance of the evidence that he has committed the violation.
20. This agreement does not cover any violations that may be discovered that are not referenced in Steward's Ruling No. IG-2019-1802.

21. Brannin agrees to dismiss with prejudice, withdraw and/or waive all related pending legal and administrative proceedings including any related appeals, and release all claims and potential claims against the Commission, the Commission Staff and/or its current or former representatives, agents and/or employees relating to the Commission actions that are the subject of this Settlement Agreement. Brannin specifically agrees to release and forever discharge any claims and/or complaints against the Commission, the Commission Staff and/or its current or former representatives, agents and/or employees and/or the Stewards arising from, relating to, or in any way connected with the issues associated with the Commission Staff's initiation and/or pursuit of the underlying disciplinary action against Brannin.
22. As a result of the disciplinary matter that was the subject of the underlying proceeding, Brannin agrees to pay a fine of \$100.00. See Exhibit A for Steward's Ruling language.
23. Brannin agrees to voluntarily surrender his IHRC owner's license if another violation of 71 IAC 7.5-9-5 occurs on or before September 30, 2021, and not to apply for a new owner's license until 365 days after the new violation occurrence.
24. Brannin agrees that this Agreement is not a guarantee of future licensure.
25. The Parties specifically agree that this Agreement shall be governed by applicable Indiana regulations, including but not limited to 71 IAC 7.5-9-3, and 71 IAC 7.5-9-4 and any failure to comply with those rules is subject to enforcement by the Stewards and/or the Commission.
26. Brannin and Commission Staff acknowledge that this Agreement is subject to the approval of the Indiana Horse Racing Commission.
27. The Commission will enter a ruling consistent with this Agreement which will make clear that the sanction set forth in Paragraph 22 is the total sanction for the violation referenced in this Settlement Agreement.
28. Should Brannin breach this Agreement, this Agreement shall be deemed void, and the Commission Staff may commence proceedings related to the alleged violation as though the Agreement never existed.
29. Any waiver of any provision of this Agreement must be in writing and must be approved by the Commission or the Commission Staff. No waiver of any provision of this Agreement shall constitute either a waiver of any provision hereof (whether or not similar) or a continuing waiver.
30. If and to the extent any provision of this Agreement is held invalid or unenforceable at law, such provision will be deemed stricken from the Agreement and the remainder

of the Agreement will continue in effect and be valid and enforceable to the fullest extent permitted by law.

31. This Agreement shall be deemed executed in the State of Indiana, and shall be governed and construed in accordance with the laws of Indiana, without regard to its choice of law provisions, and all claims relating to or arising out of this Agreement, or the breach thereof, whether sounding in contract, tort or otherwise, shall likewise be governed by the laws of Indiana, without regard to its choice of law provisions. Exclusive jurisdiction and venue over any and all disputes arising out of or in connection with this Agreement shall be brought only in a state court of competent jurisdiction located in Marion County, Indiana.
32. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, fully enforceable counterpart of all purposes, but all of which constitute one and the same instrument.
33. Brannin represents that he has carefully read and reviewed the foregoing Agreement, acknowledges its contents, has had the right to consult with his own counsel, and agrees to be bound by its terms. Brannin acknowledges that he has voluntarily entered into this Agreement as of the date and year herein set forth.

IN WITNESS HEREOF, the Parties have executed this Agreement on the dates listed below.

I swear, under penalties for perjury, that the foregoing representations that have been made by me are true and correct.

9-28-19  
Date

Nate C Brannin  
Nate C. Brannin

Witnessed and Approved

Anthony Granitz  
Anthony Granitz, Representative for Nate C. Brannin

ON BEHALF OF THE INDIANA HORSE RACING COMMISSION:

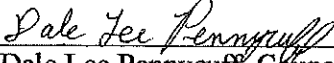
10/4/19

Deena Palmer

Date

Deena Pitman, Executive Director

Approved as to form:

  
\_\_\_\_\_  
Dale Lee Pennycuff, Counsel

## EXHIBIT A

Owner Nate Christopher Brannin is fined \$100.00 for a violation of Indiana Horse Racing Commission ("IHRC") regulation 71 IAC 7.5-9-5 at the Indiana Grand Racing & Casino stable gate on July 23, 2019. The truck Mr. Brannin was driving into the stable area was chosen for a routine, random, search. IHRC investigators noticed a firearm in the backseat floorboard of the truck. The firearm, a Stevens .410 gauge bolt-action shotgun, was unloaded with the action open, and no ammunition was located in the truck. Mitigating circumstances include: the firearm was an old Stevens .410 gauge bolt-action shotgun; the firearm was found in the backseat floorboard, a location not readily accessible from the driver's seat; the firearm was unloaded with the action open; no ammunition was in the vehicle; and Mr. Brannin's cooperation with IHRC investigators and IHRC Staff.

STATE OF INDIANA  
BEFORE THE INDIANA HORSE RACING COMMISSION

2019 NOV -8 P 4: 13

IN RE:

2020 Application for Registration of Indiana )  
Horsemen's Benevolent & Protective Association, Inc. )  
Pursuant to 71 IAC 13-1-1 *et seq.* )

INDIANA  
HORSE RACING COMM.

**NOTICE OF HEARING AND PRE-HEARING ORDER ON 2020 APPLICATION FOR  
REGISTRATION OF INDIANA HORSEMEN'S BENEVOLENT & PROTECTIVE  
ASSOCIATION PURSUANT TO 71 IAC 13-1-1 ET SEQ.**

This matter comes before the Indiana Horse Racing Commission (hereinafter "the Commission") on an Application for Approval as a Registered Horsemen's Association pursuant to 71 IAC 13-1-1 *et seq.* for the calendar year 2020 (hereinafter "the Application"), submitted by the Indiana Horsemen's Benevolent & Protective Association, Inc. (hereinafter "the Applicant" or "IHBPA") on or about August 29, 2019. The Commission, by its Chair, issues this notice and order pursuant to the provisions of the Indiana Administrative Orders and Procedures Act, Indiana Code sections 4-21.5-1-1 *et seq.*

**NOTICE OF HEARING**

The Indiana Horse Racing Commission will hold a hearing on Tuesday, December 3, 2019, at 9:00 a.m. *or* as soon as this matter advances on the Commission's agenda during its regularly scheduled meeting which will commence at 9:00 a.m. in the Authors Room at the Indiana State Library, 315 West Ohio Street, Indianapolis, IN 46204. The Hearing will relate to the following Application that was filed with the Commission on or about August 29, 2019:

2020 Application for Registration of the Indiana Horsemen's Benevolent & Protective Association, Inc. Pursuant to 71 IAC 13-1-1 *et seq.*

The Hearing will be held for the purpose of providing an opportunity for the Applicant to make a presentation of its Application to the Indiana Horse Racing Commission; an opportunity for the Commission to ask questions of any party representatives and witnesses who may testify at the Hearing; and an opportunity for interested nonparty organizations and persons to provide testimony in support of or adverse to the Application.

The Hearing is to be held by the Indiana Horse Racing Commission pursuant to the authority granted to it by Indiana Code section 4-31-1-1, Indiana Code section 4-35-7-12, 71 IAC sections 13-1-1 *et seq.* and Indiana Code sections 4-21.5-3-1 *et seq.* All members of the Indiana Horse Racing Commission intend to act as the Administrative Law Judge for the Hearing. The members include: Philip Borst, Chairman; Greg Schenkel, Vice Chairman; George Pillow, Susie Lightle, and Bill McCarty, Members. Noah Jackson, Esq. is and will act as legal counsel to the Indiana Horse Racing Commission during these proceedings. Deena Pitman, Executive Director,

will also appear for the Indiana Horse Racing Commission Staff. Dale Lee Pennycuff, Esq. is and will act as legal counsel to the IHRC Staff during these proceedings. Mr. Jackson may be contacted for information concerning the proposed Hearing schedule, the procedure to be followed at the Hearing, and for inspection of copies of the notice to the parties, at the offices of the Indiana Horse Racing Commission, 1302 N. Meridian St., Ste. 175, Indianapolis, Indiana 46204 (tel. no. 317-233-3119).

### **PRE-HEARING ORDER**

The Commission, by its Chairman, Philip Borst, pursuant to Indiana Code section 4-21.5-3-19(d), issues the following Pre-Hearing Order with respect to the matters described herein:

I. Purpose of the Hearing on Applicant's Petition.

The Commission will consider IHBPA's 2020 Application for Registration as a Registered Horsemen's Association Pursuant to 71 IAC 13-1-1 *et seq.* filed with the Commission on or about August 29, 2019, requesting Commission approval to serve as the registered horsemen's association for the calendar year 2020 to receive the monies specified by Indiana Code section 4-35-7-12 to be distributed for the benefit of thoroughbred owners and trainers.

II. Application Process Time Line.

a. Hearing Date and Time

The hearing will commence in the Authors Room at the Indiana State Library, 315 West Ohio Street, Indianapolis, IN 46204, on Tuesday, December 3, 2019, at 9 a.m. EST or as soon as it advances on the agenda of the Commission meeting at 9:00 a.m. EST. This matter will be heard and will continue, with appropriate recesses, until completed. The record will be closed at the conclusion of the hearing. Thereafter, the Commission will deliberate on and decide whether the Application will be approved or denied and does not comprehend discussion during the deliberation with the Applicant or other interested parties.

b. Incorporation by Reference of IHBPA's 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, and 2019 Applications and Related Materials.

The Application incorporates by reference any documents submitted, considered or generated with respect to IHBPA's 2011-2019 Applications for Registration, including, but not limited to, any amended commission staff reports. Note: No substantive changes to the Application made after Monday, November 25, 2019, will be considered as part of the Application.

c. Report of the Commission Staff.



The Commission Staff will review the Application and related information provided and may submit a Staff Report on the Application, which would be distributed to the Applicant on or before the close of business on Friday, November 22, 2019.

d. Exhibits the Commission Proposes to Make a Part of the Record.

A list of exhibits which the Commission intends to make a part of the record may be prepared by the Commission's counsel and distributed to the Applicant's representative or counsel for the Applicant on or before the close of business on Thursday, November 21, 2019. It should be understood that even in the absence of filing a list of exhibits, the Commission will offer into evidence the Application, any supplements thereto timely filed by the Applicant and any Staff Report issued by the Commission Staff. It should also be understood that the Commission will take official notice of any record of prior related hearings (including Final Orders) involving the Applicant, pursuant to Indiana Code section 4-21.5-3-26(c). The Applicant must notify the Commission in writing of any exhibit to which it objects on or before noon on Monday, November 25, 2019. If no objection is timely made, all specified exhibits will be made a part of the record at the commencement of the hearing. The Commission may expand that list prior to or at the scheduled hearing, however, the Applicant will be given an opportunity to make an objection to any such additional materials.

e. Witness and Exhibit Lists of Applicants.

Unless the Applicant intends to submit an additional filing or supplement to the Application, no Witness List is contemplated. In the event that the Applicant does submit an additional filing, or otherwise determines that witness testimony is necessary, any such Witness and Exhibit List are to be filed with the Commission on or before noon on Monday, November 25, 2019. When the Applicant files the Witness and Exhibit List, copies of the exhibits are to be left with the Commission so that they can be marked sequentially by the court reporter. While the Applicant may retain its oversized exhibits, reduced copies must be made available to the Commission on or before noon on Monday, November 25, 2019. Documents or exhibits not identified on Applicant's Exhibit List may not be introduced by Applicant.

f. Request for Official Notice.

The Applicant should submit in writing any request for matters to be officially noticed pursuant to Indiana Code section 4-21.5-3-26(f) on or before noon on Friday, November 22, 2019.

g. Issuance of Subpoenas.

The Applicant should submit proposed subpoenas to be issued by the Commission no later than the time that the Witness and Exhibit Lists are filed so that they can be issued pursuant to Indiana Code section 4-21.5-3-22. Subpoenas shall be issued on the signature of the Chair, or on the signature of the Vice Chairman in the event the Chair is unavailable.

III. Matters Relating to the Conduct of the Hearing.

a. The Commission will be sitting as an Administrative Law Judge at the Hearing.

The Commission is sitting both as an Administrative Law Judge and as “ultimate authority” (pursuant to Indiana Code section 4-21.5-1-15) with respect to this Application for Registration. Indiana Code section 4-21.5-3-11 provides in part that an Administrative Law Judge serving in a proceeding may not communicate directly or indirectly, regarding any issue in the proceeding while the proceeding is pending with any party or any individual who has a direct or indirect interest in the outcome of the proceeding. Such communications are prohibited and are referred to as “ex parte communications.” Additionally, while a Commission Member may communicate separately with another Commission Member and may receive aid from members of the Commission Staff, the Commission Staff is prohibited from having ex parte communications with a Commission member which contain information that would furnish, augment, diminish, or modify the evidence in the record. If the Commission receives an ex parte communication in violation of this statute, please contact counsel for the Commission so that an appropriate public disclosure can be prepared pursuant to the Administrative Orders and Procedures Act. In appropriate circumstances, a Commission Member receiving or otherwise participating in such a prohibited communication can be disqualified from acting further on the Application before the Commission.

Additionally, when acting as an Administrative Law Judge, each Commission Member is prohibited (pursuant to Indiana Codes section 4-21.5-3-12) from commenting publicly, except as to hearing schedules or procedures, about pending proceedings. Accordingly, both the Commission Members and the members of the public are to be mindful of this limitation as the Commission moves forward to consider the evidence and to make a decision on the Application.

b. Hearing to be Conducted under Oath.

The hearing will be conducted under oath or affirmation pursuant to Indiana Code section 4-21.5-3-26(b). In order to insure consistency, any non-party statements are to be given under oath or affirmation pursuant to Indiana Code section 4-21.5-3-25(f).

c. Staff Review and Presentation of Findings.

The Commission Staff is conducting a review of the Application and may speak to its report (*see* II.d., *supra*) at the hearing.

d. Application Hearing Time Schedule.

The maximum time allotted for each part of the hearing is as follows:

Opening Statement of Applicant	Up to 10 minutes
Oral Presentation by Applicant	Up to 15 minutes
Testimony of Commission Staff	Up to 10 minutes
Testimony of Interested Persons And Organizations	Up to 10 minutes
Rebuttal and Final Statements	Up to 5 minutes

e. Chairman to Rule on Procedural Issues.

The Chair will rule on any procedural issues requiring an immediate ruling which are raised at the hearing on the Application.

f. Commission Free to Ask Questions.

During the hearing on the Applicant's presentation, any Commissioner, the Commission's counsel, or the Commission's Executive Director may ask questions of any witness in the nature of cross-examination or to assist the Commission's understanding of the issues relevant to the Application and any appropriate action to be taken.

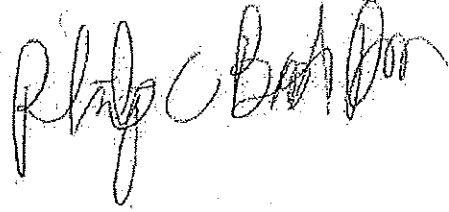
g. Individuals Requesting Time to Speak to the Application.

A sign-up sheet will be made available on the date of the hearing for those interested in speaking during the time allotted for Testimony of Interested Persons and Organizations. An appropriate amount of time will be determined by the Chair at the hearing with consideration of the number of individuals who wish to speak and the total amount of time available in which to do so.

IV. Notice of Pre-Hearing Order

The Applicant is advised that if it fails to attend or participate in the scheduled hearing, or any other stage of the proceeding, the proceeding may be dismissed pursuant to Indiana Code section 4-21.5-3-24.

This Pre-Hearing Order is issued by the Indiana Horse Racing Commission this 8<sup>th</sup> day of November, 2019.

A handwritten signature in black ink, appearing to read "Philip C. Borst". The signature is written in a cursive, somewhat stylized font.

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Philip Borst, DVM  
Chairman  
Indiana Horse Racing Commission

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the following parties by email and by first class United States mail, postage prepaid, this 8<sup>th</sup> day of November, 2019.

Indiana Horse Racing Commission:

Philip Borst, Chairman  
Greg Schenkel, Vice Chair  
George E. Pillow, Jr., Member  
Susie Lightle, Member  
William D. McCarty, Member  
1302 N. Meridian Street  
Ste. 175  
Indianapolis, IN 46202


Deena Pitman, Executive Director  
Indiana Horse Racing Commission  
1302 N. Meridian St. Ste. 175  
Indianapolis, IN 46202

Steven C. Shockley, Esq.  
Taft  
One Indiana Square, Ste. 3500  
Indianapolis, IN 46204

Jeffrey Stemerick, Esq.  
Taft  
One Indiana Square, Ste. 3500  
Indianapolis, IN 46204

Joseph Davis  
IHBPA President  
1682 Asher Ct.  
Hebron, KY 41048

Brian Elmore  
IHBPA Executive Director  
7539 W. Village Way  
New Palestine, IN 46163

  
Dale Lee Pennycuff



STATE OF INDIANA  
BEFORE THE INDIANA HORSE RACING COMMISSION

2019 NOV -8 P 4: 13

IN RE:

2020 Application for Registration of Quarter )  
Horse Racing Association of Indiana, Inc. )  
Pursuant to 71 IAC 13-1-1 *et seq.* )

INDIANA  
HORSE RACING COMMISSION

**NOTICE OF HEARING AND PRE-HEARING ORDER ON 2020 APPLICATION FOR  
REGISTRATION OF QUARTER HORSE RACING ASSOCIATION OF INDIANA, INC.  
PURSUANT TO 71 IAC 13-1-1 ET SEQ.**

This matter comes before the Indiana Horse Racing Commission (hereinafter “the Commission”) on an Application for Approval as a Registered Horsemen’s Association pursuant to 71 IAC 13-1-1 *et seq.* for the calendar year 2020 (hereinafter “the Application”), submitted by the Quarter Horse Racing Association of Indiana, Inc. (hereinafter “the Applicant” or “QHRAI”) on or about August 29, 2018. The Commission, by its Chair, issues this notice and order pursuant to the provisions of the Indiana Administrative Orders and Procedures Act, Indiana Code sections 4-21.5-1-1 *et seq.*

**NOTICE OF HEARING**

The Indiana Horse Racing Commission will hold a hearing on Tuesday, December 3, 2019, at 9:00 a.m. *or* as soon as this matter advances on the Commission’s agenda during its regularly scheduled meeting which will commence at 9:00 a.m. in the Authors Room at the Indiana State Library, 315 West Ohio Street, Indianapolis, IN 46204. The Hearing will relate to the following Application that was filed with the Commission on or about August 29, 2019:

2020 Application for Registration of the Quarter Horse Racing  
Association of Indiana, Inc. Pursuant to 71 IAC 13-1-1 *et seq.*

The Hearing will be held for the purpose of providing an opportunity for the Applicant to make a presentation of its Application to the Indiana Horse Racing Commission; an opportunity for the Commission to ask questions of any party representatives and witnesses who may testify at the Hearing; and an opportunity for interested nonparty organizations and persons to provide testimony in support of or adverse to the Application.

The Hearing is to be held by the Indiana Horse Racing Commission pursuant to the authority granted to it by Indiana Code section 4-31-1-1, Indiana Code section 4-35-7-12, 71 IAC sections 13-1-1 *et seq.* and Indiana Code sections 4-21.5-3-1 *et seq.* All members of the Indiana Horse Racing Commission intend to act as the Administrative Law Judge for the Hearing. The members include: Philip Borst, Chairman; Greg Schenkel, Vice Chairman; George Pillow, Susie Lightle, and Bill McCarty, Members. Dale Lee Pennycuff, Esq. is and will act as legal counsel to the Indiana Horse Racing Commission during these proceedings. Deena Pitman, Executive

Director, will also appear for the Indiana Horse Racing Commission Staff. Noah Jackson is and will act as legal counsel to the IHRC Staff during these proceedings. Mr. Pennycuff may be contacted for information concerning the proposed Hearing schedule, the procedure to be followed at the Hearing, and for inspection of copies of the notice to the parties, at the offices of the Indiana Horse Racing Commission, 1302 N. Meridian St., Ste. 175, Indianapolis, Indiana 46204 (tel. no. 317-233-3119).

### PRE-HEARING ORDER

The Commission, by its Chairman, Philip Borst, pursuant to Indiana Code section 4-21.5-3-19(d), issues the following Pre-Hearing Order with respect to the matters described herein:

I. Purpose of the Hearing on Applicant's Petition.

The Commission will consider QHRAI's 2020 Application for Registration as a Registered Horsemen's Association Pursuant to 71 IAC 13-1-1 *et seq.* filed with the Commission on or about August 29, 2019, requesting Commission approval to serve as the registered horsemen's association for the calendar year 2020 to receive the monies specified by Indiana Code section 4-35-7-12 to be distributed for the benefit of thoroughbred owners and trainers.

II. Application Process Time Line.

a. Hearing Date and Time

The hearing will commence in the Authors Room at the Indiana State Library, 315 West Ohio Street, Indianapolis, IN 46204, on Tuesday, December 3, 2019, at 9:00 a.m. EST or as soon as it advances on the agenda of the Commission meeting at 9:00 a.m. EST. This matter will be heard and will continue, with appropriate recesses, until completed. The record will be closed at the conclusion of the hearing. Thereafter, the Commission will deliberate on and decide whether the Application will be approved or denied and does not comprehend discussion during the deliberation with the Applicant or other interested parties.

b. Incorporation by Reference of QHRAI's 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, and 2019 Applications and Related Materials.

The Application incorporates by reference any documents submitted, considered or generated with respect to QHRAI's 2011-2019 Applications for Registration, including, but not limited to, any amended commission staff reports. Note: No substantive changes to the Application made after Monday, November 25, 2019, will be considered as part of the Application.

c. Report of the Commission Staff.



The Commission Staff will review the Application and related information provided and may submit a Staff Report on the Application, which would be distributed to the Applicant on or before the close of business on Friday, November 22, 2019.

d. Exhibits the Commission Proposes to Make a Part of the Record.

A list of exhibits which the Commission intends to make a part of the record may be prepared by the Commission's counsel and distributed to the Applicant's representative or counsel for the Applicant on or before the close of business on Thursday, November 21, 2019. It should be understood that even in the absence of filing a list of exhibits, the Commission will offer into evidence the Application, any supplements thereto timely filed by the Applicant and any Staff Report issued by the Commission Staff. It should also be understood that the Commission will take official notice of any record of prior related hearings (including Final Orders) involving the Applicant, pursuant to Indiana Code section 4-21.5-3-26(c). The Applicant must notify the Commission in writing of any exhibit to which it objects on or before noon on Monday, November 25, 2019. If no objection is timely made, all specified exhibits will be made a part of the record at the commencement of the hearing. The Commission may expand that list prior to or at the scheduled hearing, however, the Applicant will be given an opportunity to make an objection to any such additional materials.

e. Witness and Exhibit Lists of Applicants.

Unless the Applicant intends to submit an additional filing or supplement to the Application, no Witness List is contemplated. In the event that the Applicant does submit an additional filing, or otherwise determines that witness testimony is necessary, any such Witness and Exhibit List are to be filed with the Commission on or before noon on Monday, November 25, 2019. When the Applicant files the Witness and Exhibit List, copies of the exhibits are to be left with the Commission so that they can be marked sequentially by the court reporter. While the Applicant may retain its oversized exhibits, reduced copies must be made available to the Commission on or before noon on Monday, November 25, 2019. Documents or exhibits not identified on Applicant's Exhibit List may not be introduced by Applicant.

f. Request for Official Notice.

The Applicant should submit in writing any request for matters to be officially noticed pursuant to Indiana Code section 4-21.5-3-26(f) on or before noon on Friday, November 22, 2019.

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a. The Commission will be sitting as an Administrative Law Judge at the Hearing.

The Commission is sitting both as an Administrative Law Judge and as “ultimate authority” (pursuant to Indiana Code section 4-21.5-1-15) with respect to this Application for Registration. Indiana Code section 4-21.5-3-11 provides in part that an Administrative Law Judge serving in a proceeding may not communicate directly or indirectly, regarding any issue in the proceeding while the proceeding is pending with any party or any individual who has a direct or indirect interest in the outcome of the proceeding. Such communications are prohibited and are referred to as “ex parte communications.” Additionally, while a Commission Member may communicate separately with another Commission Member and may receive aid from members of the Commission Staff, the Commission Staff is prohibited from having ex parte communications with a Commission member which contain information that would furnish, augment, diminish, or modify the evidence in the record. If the Commission receives an ex parte communication in violation of this statute, please contact counsel for the Commission so that an appropriate public disclosure can be prepared pursuant to the Administrative Orders and Procedures Act. In appropriate circumstances, a Commission Member receiving or otherwise participating in such a prohibited communication can be disqualified from acting further on the Application before the Commission.

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b. Hearing to be Conducted under Oath.

The hearing will be conducted under oath or affirmation pursuant to Indiana Code section 4-21.5-3-26(b). In order to insure consistency, any non-party statements are to be given under oath or affirmation pursuant to Indiana Code section 4-21.5-3-25(f).

c. Staff Review and Presentation of Findings.

The Commission Staff is conducting a review of the Application and may speak to its report (*see* II.d., *supra*) at the hearing.

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e. Chairman to Rule on Procedural Issues.

The Chair will rule on any procedural issues requiring an immediate ruling which are raised at the hearing on the Application.

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During the hearing on the Applicant's presentation, any Commissioner, the Commission's counsel, or the Commission's Executive Director may ask questions of any witness in the nature of cross-examination or to assist the Commission's understanding of the issues relevant to the Application and any appropriate action to be taken.

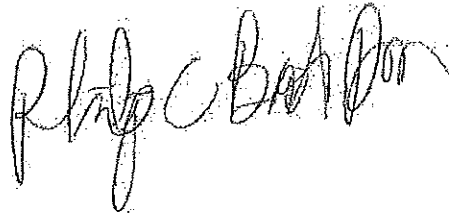
g. Individuals Requesting Time to Speak to the Application.

A sign-up sheet will be made available on the date of the hearing for those interested in speaking during the time allotted for Testimony of Interested Persons and Organizations. An appropriate amount of time will be determined by the Chair at the hearing with consideration of the number of individuals who wish to speak and the total amount of time available in which to do so.

IV. Notice of Pre-Hearing Order

The Applicant is advised that if it fails to attend or participate in the scheduled hearing, or any other stage of the proceeding, the proceeding may be dismissed pursuant to Indiana Code section 4-21.5-3-24.

This Pre-Hearing Order is issued by the Indiana Horse Racing Commission this 8<sup>th</sup> day of November, 2019.

A handwritten signature in black ink, appearing to read "Philip Borst", written in a cursive style.

---

Philip Borst, DVM  
Chairman  
Indiana Horse Racing Commission

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the following parties by email and by first class United States mail, postage prepaid, this 8<sup>th</sup> day of November, 2019.

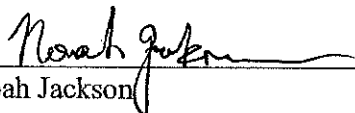
Indiana Horse Racing Commission:

Philip Borst, Chairman  
Greg Schenkel, Vice Chair  
George E. Pillow, Jr., Member  
Susie Lightle, Member  
William D. McCarty, Member  
1302 N. Meridian Street  
Ste. 175  
Indianapolis, IN 46202

Deena Pitman, Executive Director  
Indiana Horse Racing Commission  
1302 N. Meridian St. Ste. 175  
Indianapolis, IN 46202

Dianne Bennett  
Executive Director  
6384 E 500 N  
Franklin, IN 46131

Paul Martin  
QHRAI President  
P.O. Box 399  
Shelbyville, IN 46176

  
Noah Jackson



STATE OF INDIANA  
BEFORE THE INDIANA HORSE RACING COMMISSION

2019 NOV -8 P 4: 13

IN RE:

2020 Application for Registration of Indiana )  
Thoroughbred Owner's and Breeder's Association )  
Pursuant to 71 IAC 13-1-1 *et seq.* )

INDIANA  
HORSE RACING COMMISSION

**NOTICE OF HEARING AND PRE-HEARING ORDER ON 2020 APPLICATION FOR  
REGISTRATION OF INDIANA THOROUGHBRED OWNER'S AND BREEDER'S  
ASSOCIATION PURSUANT TO 71 IAC 13-1-1 ET SEQ.**

This matter comes before the Indiana Horse Racing Commission (hereinafter "the Commission") on an Application for Approval as a Registered Horsemen's Association pursuant to 71 IAC 13-1-1 *et seq.* for the calendar year 2020 (hereinafter "the Application"), submitted by the Indiana Thoroughbred Owner's and Breeder's Association (hereinafter "the Applicant" or "ITOBA") on or about September 4, 2019. The Commission, by its Chair, issues this notice and order pursuant to the provisions of the Indiana Administrative Orders and Procedures Act, Indiana Code sections 4-21.5-1-1 *et seq.*

**NOTICE OF HEARING**

The Indiana Horse Racing Commission will hold a hearing on Tuesday, December 3, 2019, at 9:00 a.m. *or* as soon as this matter advances on the Commission's agenda during its regularly scheduled meeting which will commence at 9:00 a.m. in the Authors Room at the Indiana State Library, 315 West Ohio Street, Indianapolis, IN 46204. The Hearing will relate to the following Application that was filed with the Commission on or about September 4, 2019:

2020 Application for Registration of the Indiana Thoroughbred Owner's  
And Breeder's Association Pursuant to 71 IAC 13-1-1 *et seq.*

The Hearing will be held for the purpose of providing an opportunity for the Applicant to make a presentation of its Application to the Indiana Horse Racing Commission; an opportunity for the Commission to ask questions of any party representatives and witnesses who may testify at the Hearing; and an opportunity for interested nonparty organizations and persons to provide testimony in support of or adverse to the Application.

The Hearing is to be held by the Indiana Horse Racing Commission pursuant to the authority granted to it by Indiana Code section 4-31-1-1, Indiana Code section 4-35-7-12, 71 IAC sections 13-1-1 *et seq.* and Indiana Code sections 4-21.5-3-1 *et seq.* All members of the Indiana Horse Racing Commission intend to act as the Administrative Law Judge for the Hearing. The members include: Philip Borst, Chairman; Greg Schenkel, Vice Chairman; George Pillow, Susie Lightle, and Bill McCarty, Members. Noah Jackson, Esq. is and will act as legal counsel to the Indiana Horse Racing Commission during these proceedings. Deena Pitman, Executive Director,

will also appear for the Indiana Horse Racing Commission Staff. Dale Lee Pennycuff, Esq. is and will act as legal counsel to the IHRC Staff during these proceedings. Mr. Jackson may be contacted for information concerning the proposed Hearing schedule, the procedure to be followed at the Hearing, and for inspection of copies of the notice to the parties, at the offices of the Indiana Horse Racing Commission, 1302 N. Meridian St., Ste. 175, Indianapolis, Indiana 46204 (tel. no. 317-233-3119).

### **PRE-HEARING ORDER**

The Commission, by its Chairman, Philip Borst, pursuant to Indiana Code section 4-21.5-3-19(d), issues the following Pre-Hearing Order with respect to the matters described herein:

#### **I. Purpose of the Hearing on Applicant's Petition.**

The Commission will consider ITOBA's 2020 Application for Registration as a Registered Horsemen's Association Pursuant to 71 IAC 13-1-1 *et seq.* filed with the Commission on or about September 4, 2019, requesting Commission approval to serve as the registered horsemen's association for the calendar year 2020 to receive the monies specified by Indiana Code section 4-35-7-12 to be distributed for the benefit of thoroughbred owners and trainers.

#### **II. Application Process Time Line.**

##### **a. Hearing Date and Time**

The hearing will commence in the Authors Room at the Indiana State Library, 315 West Ohio Street, Indianapolis, IN 46204, on Tuesday, December 3, 2019, at 9:00 a.m. EST or as soon as it advances on the agenda of the Commission meeting at 9:00 a.m. EST. This matter will be heard and will continue, with appropriate recesses, until completed. The record will be closed at the conclusion of the hearing. Thereafter, the Commission will deliberate on and decide whether the Application will be approved or denied and does not comprehend discussion during the deliberation with the Applicant or other interested parties.

##### **b. Incorporation by Reference of ITOBA's 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, and 2019 Applications and Related Materials.**

The Application incorporates by reference any documents submitted, considered or generated with respect to ITOBA's 2011-2019 Applications for Registration, including, but not limited to, any amended commission staff reports. Note: No substantive changes to the Application made after Monday, November 25, 2019, will be considered as part of the Application.

##### **c. Report of the Commission Staff.**



The Commission Staff will review the Application and related information provided and may submit a Staff Report on the Application, which would be distributed to the Applicant on or before the close of business on Friday, November 22, 2019.

d. Exhibits the Commission Proposes to Make a Part of the Record.

A list of exhibits which the Commission intends to make a part of the record may be prepared by the Commission's counsel and distributed to the Applicant's representative or counsel for the Applicant on or before the close of business on Thursday, November 21, 2019. It should be understood that even in the absence of filing a list of exhibits, the Commission will offer into evidence the Application, any supplements thereto timely filed by the Applicant and any Staff Report issued by the Commission Staff. It should also be understood that the Commission will take official notice of any record of prior related hearings (including Final Orders) involving the Applicant, pursuant to Indiana Code section 4-21.5-3-26(c). The Applicant must notify the Commission in writing of any exhibit to which it objects on or before noon on Monday, November 25, 2019. If no objection is timely made, all specified exhibits will be made a part of the record at the commencement of the hearing. The Commission may expand that list prior to or at the scheduled hearing, however, the Applicant will be given an opportunity to make an objection to any such additional materials.

e. Witness and Exhibit Lists of Applicants.

Unless the Applicant intends to submit an additional filing or supplement to the Application, no Witness List is contemplated. In the event that the Applicant does submit an additional filing, or otherwise determines that witness testimony is necessary, any such Witness and Exhibit List are to be filed with the Commission on or before noon on Monday, November 25, 2019. When the Applicant files the Witness and Exhibit List, copies of the exhibits are to be left with the Commission so that they can be marked sequentially by the court reporter. While the Applicant may retain its oversized exhibits, reduced copies must be made available to the Commission on or before noon on Monday, November 25, 2019. Documents or exhibits not identified on Applicant's Exhibit List may not be introduced by Applicant.

f. Request for Official Notice.

The Applicant should submit in writing any request for matters to be officially noticed pursuant to Indiana Code section 4-21.5-3-26(f) on or before noon on Friday, November 22, 2019.

g. Issuance of Subpoenas.

The Applicant should submit proposed subpoenas to be issued by the Commission no later than the time that the Witness and Exhibit Lists are filed so that they can be issued pursuant to Indiana Code section 4-21.5-3-22. Subpoenas shall be issued on the signature of the Chair, or on the signature of the Vice Chairman in the event the Chair is unavailable.

III. Matters Relating to the Conduct of the Hearing.

a. The Commission will be sitting as an Administrative Law Judge at the Hearing.

The Commission is sitting both as an Administrative Law Judge and as “ultimate authority” (pursuant to Indiana Code section 4-21.5-1-15) with respect to this Application for Registration. Indiana Code section 4-21.5-3-11 provides in part that an Administrative Law Judge serving in a proceeding may not communicate directly or indirectly, regarding any issue in the proceeding while the proceeding is pending with any party or any individual who has a direct or indirect interest in the outcome of the proceeding. Such communications are prohibited and are referred to as “ex parte communications.” Additionally, while a Commission Member may communicate separately with another Commission Member and may receive aid from members of the Commission Staff, the Commission Staff is prohibited from having ex parte communications with a Commission member which contain information that would furnish, augment, diminish, or modify the evidence in the record. If the Commission receives an ex parte communication in violation of this statute, please contact counsel for the Commission so that an appropriate public disclosure can be prepared pursuant to the Administrative Orders and Procedures Act. In appropriate circumstances, a Commission Member receiving or otherwise participating in such a prohibited communication can be disqualified from acting further on the Application before the Commission.

Additionally, when acting as an Administrative Law Judge, each Commission Member is prohibited (pursuant to Indiana Codes section 4-21.5-3-12) from commenting publicly, except as to hearing schedules or procedures, about pending proceedings. Accordingly, both the Commission Members and the members of the public are to be mindful of this limitation as the Commission moves forward to consider the evidence and to make a decision on the Application.

b. Hearing to be Conducted under Oath.

The hearing will be conducted under oath or affirmation pursuant to Indiana Code section 4-21.5-3-26(b). In order to insure consistency, any non-party statements are to be given under oath or affirmation pursuant to Indiana Code section 4-21.5-3-25(f).

c. Staff Review and Presentation of Findings.

The Commission Staff is conducting a review of the Application and may speak to its report (*see* II.d., *supra*) at the hearing.

d. Application Hearing Time Schedule.

The maximum time allotted for each part of the hearing is as follows:

Opening Statement of Applicant	Up to 10 minutes
Oral Presentation by Applicant	Up to 15 minutes
Testimony of Commission Staff	Up to 10 minutes
Testimony of Interested Persons And Organizations	Up to 10 minutes
Rebuttal and Final Statements	Up to 5 minutes

e. Chairman to Rule on Procedural Issues.

The Chair will rule on any procedural issues requiring an immediate ruling which are raised at the hearing on the Application.

f. Commission Free to Ask Questions.

During the hearing on the Applicant's presentation, any Commissioner, the Commission's counsel, or the Commission's Executive Director may ask questions of any witness in the nature of cross-examination or to assist the Commission's understanding of the issues relevant to the Application and any appropriate action to be taken.

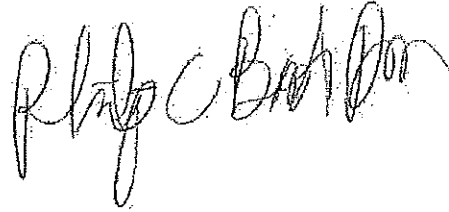
g. Individuals Requesting Time to Speak to the Application.

A sign-up sheet will be made available on the date of the hearing for those interested in speaking during the time allotted for Testimony of Interested Persons and Organizations. An appropriate amount of time will be determined by the Chair at the hearing with consideration of the number of individuals who wish to speak and the total amount of time available in which to do so.

IV. Notice of Pre-Hearing Order

The Applicant is advised that if it fails to attend or participate in the scheduled hearing, or any other stage of the proceeding, the proceeding may be dismissed pursuant to Indiana Code section 4-21.5-3-24.

This Pre-Hearing Order is issued by the Indiana Horse Racing Commission this 8<sup>th</sup> day of November, 2019.

A handwritten signature in black ink, appearing to read "Philip C. Borst". The signature is written in a cursive, somewhat stylized font.

---

Philip Borst, DVM  
Chairman  
Indiana Horse Racing Commission

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the following parties by email and by first class United States mail, postage prepaid, this 8<sup>th</sup> day of November, 2019.

Indiana Horse Racing Commission:

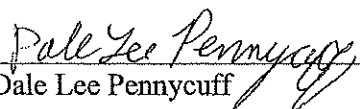
Philip Borst, Chairman  
Greg Schenkel, Vice Chair  
George E. Pillow, Jr., Member  
Susie Lightle, Member  
William D. McCarty, Member  
1302 N. Meridian Street  
Ste. 175  
Indianapolis, IN 46202

Deena Pitman, Executive Director  
Indiana Horse Racing Commission  
1302 N. Meridian St. Ste. 175  
Indianapolis, IN 46202

Bruce Murphy  
ITOBA President  
2730 N 175 W  
Crawfordsville, IN 47933

Herb Likens  
ITOBA Registered Agent  
7609 West 300 North  
Anderson, IN 46011

Pete Sacopulos  
Sacopulos Johnson & Sacopulos  
676 Ohio Street  
Terre Haute, IN 47807

  
Dale Lee Pennycuff



STATE OF INDIANA  
BEFORE THE INDIANA HORSE RACING COMMISSION

2019 NOV -8 P 4: 13

IN RE:

2020 Application for Registration of )  
Indiana Standardbred Association )  
Pursuant to 71 IAC 13-1-1 *et seq.* )

INDIANA  
HORSE RACING COMMISSION

**NOTICE OF HEARING AND PRE-HEARING ORDER ON 2020 APPLICATION FOR  
REGISTRATION OF INDIANA STANDARDBRED ASSOCIATION  
PURSUANT TO 71 IAC 13-1-1 ET SEQ.**

This matter comes before the Indiana Horse Racing Commission (hereinafter “the Commission”) on an Application for Approval as a Registered Horsemen’s Association pursuant to 71 IAC 13-1-1 *et seq.* for the calendar year 2020 (hereinafter “the Application”), submitted by the Indiana Standardbred Association (hereinafter “the Applicant” or “ISA”) on or about August 29, 2019. The Commission, by its Chair, issues this notice and order pursuant to the provisions of the Indiana Administrative Orders and Procedures Act, Indiana Code sections 4-21.5-1-1 *et seq.*

**NOTICE OF HEARING**

The Indiana Horse Racing Commission will hold a hearing on Tuesday, December 3, 2019, at 9:00 a.m. *or* as soon as this matter advances on the Commission’s agenda during its regularly scheduled meeting which will commence at 9:00 a.m. in the Authors Room at the Indiana State Library, 315 West Ohio Street, Indianapolis, IN 46204. The Hearing will relate to the following Application that was filed with the Commission on or about August 29, 2019:

2020 Application for Registration of the Indiana Standardbred  
Association Pursuant to 71 IAC 13-1-1 *et seq.*

The Hearing will be held for the purpose of providing an opportunity for the Applicant to make a presentation of its Application to the Indiana Horse Racing Commission; an opportunity for the Commission to ask questions of any party representatives and witnesses who may testify at the Hearing; and an opportunity for interested nonparty organizations and persons to provide testimony in support of or adverse to the Application.

The Hearing is to be held by the Indiana Horse Racing Commission pursuant to the authority granted to it by Indiana Code section 4-31-1-1, Indiana Code section 4-35-7-12, 71 IAC sections 13-1-1 *et seq.* and Indiana Code sections 4-21.5-3-1 *et seq.* All members of the Indiana Horse Racing Commission intend to act as the Administrative Law Judge for the Hearing. The members include: Philip Borst, Chairman; Greg Schenkel, Vice Chairman; George Pillow, Susie Lightle, and Bill McCarty, Members. Dale Lee Pennycuff, Esq. is and will act as legal counsel to the Indiana Horse Racing Commission during these proceedings. Deena Pitman, Executive Director, will also appear for the Indiana Horse Racing Commission Staff. Noah Jackson is and

will act as legal counsel to the IHRC Staff during these proceedings. Mr. Pennycuff may be contacted for information concerning the proposed Hearing schedule, the procedure to be followed at the Hearing, and for inspection of copies of the notice to the parties, at the offices of the Indiana Horse Racing Commission, 1302 N. Meridian St., Ste. 175, Indianapolis, Indiana 46204 (tel. no. 317-233-3119).

### PRE-HEARING ORDER

The Commission, by its Chairman, Philip Borst, pursuant to Indiana Code section 4-21.5-3-19(d), issues the following Pre-Hearing Order with respect to the matters described herein:

#### I. Purpose of the Hearing on Applicant's Petition.

The Commission will consider ISA's 2020 Application for Registration as a Registered Horsemen's Association Pursuant to 71 IAC 13-1-1 *et seq.* filed with the Commission on or about August 29, 2019, requesting Commission approval to serve as the registered horsemen's association for the calendar year 2020 to receive the monies specified by Indiana Code section 4-35-7-12 to be distributed for the benefit of thoroughbred owners and trainers.

#### II. Application Process Time Line.

##### a. Hearing Date and Time

The hearing will commence in the Authors Room at the Indiana State Library, 315 West Ohio Street, Indianapolis, IN 46204, on Tuesday, December 3, 2019, at 9:00 a.m. EST or as soon as it advances on the agenda of the Commission meeting at 9:00 a.m. EST. This matter will be heard and will continue, with appropriate recesses, until completed. The record will be closed at the conclusion of the hearing. Thereafter, the Commission will deliberate on and decide whether the Application will be approved or denied and does not comprehend discussion during the deliberation with the Applicant or other interested parties.

##### b. Incorporation by Reference of ISA's 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, and 2019 Applications and Related Materials.

The Application incorporates by reference any documents submitted, considered or generated with respect to ISA's 2011-2019 Applications for Registration, including, but not limited to, any amended commission staff reports. Note: No substantive changes to the Application made after Monday, November 25, 2019, will be considered as part of the Application.

##### c. Report of the Commission Staff.

The Commission Staff will review the Application and related information provided and may submit a Staff Report on the Application, which would be



distributed to the Applicant on or before the close of business on Friday, November 22, 2019.

d. Exhibits the Commission Proposes to Make a Part of the Record.

A list of exhibits which the Commission intends to make a part of the record may be prepared by the Commission's counsel and distributed to the Applicant's representative or counsel for the Applicant on or before the close of business on Thursday, November 21, 2019. It should be understood that even in the absence of filing a list of exhibits, the Commission will offer into evidence the Application, any supplements thereto timely filed by the Applicant and any Staff Report issued by the Commission Staff. It should also be understood that the Commission will take official notice of any record of prior related hearings (including Final Orders) involving the Applicant, pursuant to Indiana Code section 4-21.5-3-26(c). The Applicant must notify the Commission in writing of any exhibit to which it objects on or before noon on Monday, November 25, 2019. If no objection is timely made, all specified exhibits will be made a part of the record at the commencement of the hearing. The Commission may expand that list prior to or at the scheduled hearing, however, the Applicant will be given an opportunity to make an objection to any such additional materials.

e. Witness and Exhibit Lists of Applicants.

Unless the Applicant intends to submit an additional filing or supplement to the Application, no Witness List is contemplated. In the event that the Applicant does submit an additional filing, or otherwise determines that witness testimony is necessary, any such Witness and Exhibit List are to be filed with the Commission on or before noon on Monday, November 25, 2019. When the Applicant files the Witness and Exhibit List, copies of the exhibits are to be left with the Commission so that they can be marked sequentially by the court reporter. While the Applicant may retain its oversized exhibits, reduced copies must be made available to the Commission on or before noon on Monday, November 25, 2019. Documents or exhibits not identified on Applicant's Exhibit List may not be introduced by Applicant.

f. Request for Official Notice.

The Applicant should submit in writing any request for matters to be officially noticed pursuant to Indiana Code section 4-21.5-3-26(f) on or before noon on Friday, November 22, 2019.

g. Issuance of Subpoenas.

The Applicant should submit proposed subpoenas to be issued by the Commission no later than the time that the Witness and Exhibit Lists are filed so that they can

be issued pursuant to Indiana Code section 4-21.5-3-22. Subpoenas shall be issued on the signature of the Chair, or on the signature of the Vice Chairman in the event the Chair is unavailable.

III. Matters Relating to the Conduct of the Hearing.

a. The Commission will be sitting as an Administrative Law Judge at the Hearing.

The Commission is sitting both as an Administrative Law Judge and as “ultimate authority” (pursuant to Indiana Code section 4-21.5-1-15) with respect to this Application for Registration. Indiana Code section 4-21.5-3-11 provides in part that an Administrative Law Judge serving in a proceeding may not communicate directly or indirectly, regarding any issue in the proceeding while the proceeding is pending with any party or any individual who has a direct or indirect interest in the outcome of the proceeding. Such communications are prohibited and are referred to as “ex parte communications.” Additionally, while a Commission Member may communicate separately with another Commission Member and may receive aid from members of the Commission Staff, the Commission Staff is prohibited from having ex parte communications with a Commission member which contain information that would furnish, augment, diminish, or modify the evidence in the record. If the Commission receives an ex parte communication in violation of this statute, please contact counsel for the Commission so that an appropriate public disclosure can be prepared pursuant to the Administrative Orders and Procedures Act. In appropriate circumstances, a Commission Member receiving or otherwise participating in such a prohibited communication can be disqualified from acting further on the Application before the Commission.

Additionally, when acting as an Administrative Law Judge, each Commission Member is prohibited (pursuant to Indiana Codes section 4-21.5-3-12) from commenting publicly, except as to hearing schedules or procedures, about pending proceedings. Accordingly, both the Commission Members and the members of the public are to be mindful of this limitation as the Commission moves forward to consider the evidence and to make a decision on the Application.

b. Hearing to be Conducted under Oath.

The hearing will be conducted under oath or affirmation pursuant to Indiana Code section 4-21.5-3-26(b). In order to insure consistency, any non-party statements are to be given under oath or affirmation pursuant to Indiana Code section 4-21.5-3-25(f).

c. Staff Review and Presentation of Findings.

The Commission Staff is conducting a review of the Application and may speak to its report (*see* II.d., *supra*) at the hearing.

d. Application Hearing Time Schedule.

The maximum time allotted for each part of the hearing is as follows:

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Oral Presentation by Applicant	Up to 15 minutes
Testimony of Commission Staff	Up to 10 minutes
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Rebuttal and Final Statements	Up to 5 minutes

e. Chairman to Rule on Procedural Issues.

The Chair will rule on any procedural issues requiring an immediate ruling which are raised at the hearing on the Application.

f. Commission Free to Ask Questions.

During the hearing on the Applicant's presentation, any Commissioner, the Commission's counsel, or the Commission's Executive Director may ask questions of any witness in the nature of cross-examination or to assist the Commission's understanding of the issues relevant to the Application and any appropriate action to be taken.

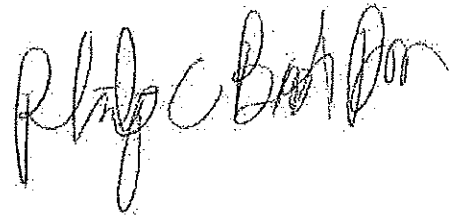
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IV. Notice of Pre-Hearing Order

The Applicant is advised that if it fails to attend or participate in the scheduled hearing, or any other stage of the proceeding, the proceeding may be dismissed pursuant to Indiana Code section 4-21.5-3-24.

This Pre-Hearing Order is issued by the Indiana Horse Racing Commission this 8<sup>th</sup> day of November, 2019.

A handwritten signature in black ink, appearing to read "Philip Borst". The signature is written in a cursive, somewhat stylized font.

---

Philip Borst, DVM  
Chairman  
Indiana Horse Racing Commission

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the following parties by email and by first class United States mail, postage prepaid, this 8<sup>th</sup> day of November, 2019.

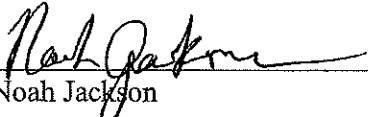
Indiana Horse Racing Commission:

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1302 N. Meridian Street  
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Indiana Horse Racing Commission  
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Indianapolis, IN 46202

Roger Young, Esq.  
40 W. Court St., Ste. D  
Franklin, IN 46131

Joe Putnam  
ISA President  
311 American Legion Place  
Greenfield, IN 46140

  
\_\_\_\_\_  
Noah Jackson

