

Rule 1.1. Mobile Wagering Gaming Definitions

71 IAC 9-1.1-2 "Mobile wagering gaming" defined

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 2. "Mobile wagering gaming" means an electronic wireless system approved by the commission that allows a patron to place wagers funded by a mobile wagering account by means of a mobile wagering gaming device. *(Indiana Horse Racing Commission; 71 IAC 9-1.1-2; emergency rule filed Dec 31, 2012, 11:27 a.m.: 20130109-IR-071120674ERA)*

71 IAC 9-1.1-3 "Mobile wagering account" defined

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 3. "Mobile wagering account" means a system of account wagering available to mobile wagering gaming patrons. *(Indiana Horse Racing Commission; 71 IAC 9-1.1-3; emergency rule filed Dec 31, 2012, 11:27 a.m.: 20130109-IR-071120674ERA)*

71 IAC 9-1.1-4 "Mobile wagering gaming device" defined

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 4. "Mobile wagering gaming device" means an electronic contrivance capable of interacting with a totalizator system, which allows the placing of wagers wirelessly. *(Indiana Horse Racing Commission; 71 IAC 9-1.1-4; emergency rule filed Dec 31, 2012, 11:27 a.m.: 20130109-IR-071120674ERA)*

Rule 1.5. Mobile Wagering Gaming

71 IAC 9-1.5-1 General rules

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 1. (a) A patron utilizing a mobile wagering gaming device must:

- (1) abide by all current commission rules and regulations;
- (2) be eighteen (18) years of age or older;
- (3) establish a mobile wagering account; and
- (4) place all wagers within areas approved by the commission.

(b) The mobile wagering gaming device must be:

- (1) approved by the commission;
- (2) connected to an association's secure network;
- (3) inoperable for wagering when:
 - (A) not connected to an association's secure network; or
 - (B) outside areas approved by the commission; and
- (4) capable of patron review of and cancellation of wagers.

(Indiana Horse Racing Commission; 71 IAC 9-1.5-1; emergency rule filed Dec 31, 2012, 11:27 a.m.: 20130109-IR-071120674ERA)

71 IAC 9-1.5-2 Mobile gaming device account wagering

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 2. (a) A mobile wagering account patron must:

- (1) be eighteen (18) years of age or older;
- (2) provide such personal information as the association and commission require;
- (3) open the mobile wagering account on association grounds; and
- (4) agree in writing to obey all mobile account wagering rules and regulations as the commission and association require.

(b) An association must provide each mobile wagering account patron the following:

- (1) a personal account username or number;
- (2) a confidential account password or pin number;
- (3) an electronic record of information required by section 2(d) of this rule [*subsection (d)*]; and
- (4) a printed or electronic record of the wagers made that day by the patron if requested by the patron.

(c) A mobile wagering account must be:

- (1) funded only by cash, voucher, winning pari-mutuel ticket, or refunded pari-mutuel ticket;
- (2) nontransferable between patrons; and
- (3) subject to withdrawal by the mobile wagering account patron at all times when pari-mutuel tickets may be cashed.

(d) The association must maintain the following information on wagers funded by a mobile wagering account:

- (1) the name of the association operating the meeting;
- (2) a unique identifying number or code;
- (3) identification of the mobile ~~wagering~~ **gaming** device on which the wager was issued;
- (4) a designation of the performance for which the wagering transaction was issued;
- (5) the contest number for which the pool is conducted;
- (6) the type or types of wagers represented;
- (7) the number or numbers representing the betting interests for which the wager is recorded; and
- (8) the amount or amounts of the contributions to the pari-mutuel pool or pools to which mobile wagers were recorded.

(Indiana Horse Racing Commission; 71 IAC 9-1.5-2; emergency rule filed Dec 31, 2012, 11:27 a.m.: 20130109-IR-071120674ERA)



2013 MAY 30 P 4: 15

INDIANA HORSE RACING COMMISSION

Indiana Horsemen's Benevolent & Protective Association, Inc.

32 Hollaway Boulevard
Brownsburg, IN 46112
(317)-903-4382
www.inhbpa.org

May 15, 2013

 COPY

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

Joe,

On behalf of the Indiana HBPA, I would like to take a moment and acknowledge the process, plans and receptiveness to input shown by Centaur and Indiana Downs as they prepare to build four new barns at Indiana Downs.

Before we left Hoosier Park, last year, Centaur sought us out and solicited our thoughts on potential new barns at Indiana Downs – subject to the bankruptcy and purchase process proceeding favorably. We walked through barns at Hoosier Park, pointing out what worked and what didn't. They also asked us what we would like to see included.

Much of what we recommended has been incorporated into the layout and plans we've seen since then, including the full set we recently examined. We truly appreciate the spirit of partnership they have demonstrated throughout this process. That bodes well for the future of thoroughbred racing in Indiana.

We would also like to recognize and thank Centaur and Indiana Downs for the plan they worked out to utilize additional stall space at Turfway. When Centaur originally sought Commission approval for their Indiana Downs purchase, they had only committed to the possibility of new barns at Indiana Downs by the end of July. Yet they took on the added expense of the Turfway stalls from the middle of April on. That, too, bodes well for the shared future of thoroughbred racing in Indiana.

The quality of the planned Indiana Downs barns seems above and beyond what might be merely required. The layout accommodates traffic patterns, efficient use of space and safety, while including most necessary amenities for our trainers and our horses.

However, even as we praise the process and the planning for the new barns, we would be remiss if we didn't note a couple of ongoing concerns.

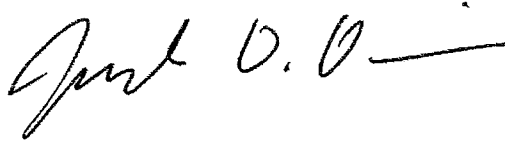
Parking is always a challenge on the backside of a race track. The new barns have some open paved space on one end. We hope that will be adequate.

When we looked at the most recent set of plans, we saw that additional dormitory space was not yet included. Adding 300+ stalls and horses will exacerbate the need for dormitory space at Indiana Downs. A lack of accommodations could make it more difficult to get and keep the best help available during our racing season.

In addition, the current plans include no space for bathrooms in the barns or the immediate vicinity. We raised that concern early on in the pre-planning process. That need still must be addressed.

These concerns can be worked out and, if the process up to now is any indication, they will be worked out. Our track partners have demonstrated thoroughness and responsiveness.

We appreciate and endorse their plans. The Indiana Downs barns will be a great addition to the backside of the track and a key piece in the future success of the thoroughbred racing and breeding industry in the state.

A handwritten signature in black ink, appearing to read "Joe Davis", with a horizontal line extending to the right.

Joe Davis, President
Indiana HBPA

71 IAC 5.5-3-1 Eligibility

Authority: IC 4-31-6-2

Affected: IC 4-31

Sec. 1. (a) An applicant for a license as trainer or assistant trainer shall:

- (1) be at least eighteen (18) years of age; and
 - (2) be qualified, as determined by the stewards or other commission designee, by reason of experience, background, and knowledge of racing.
- (b) A trainer's license from another jurisdiction, having been issued within a prior period as determined by the commission, may be accepted as evidence of experience and qualifications. Evidence of qualifications may require passing one (1) or more of the following:
- (1) A written examination.
 - (2) An interview or oral examination.
 - (3) A demonstration of practical skills in a barn test.
- (c) An applicant not previously licensed as a trainer shall be required to pass a written or oral examination and a demonstration of practical skills, administered by the stewards, prior to being licensed as a trainer.
- (d) Each licensed trainer is responsible for disclosure to the commission or its designee of the true and entire ownership of each of his or her horses registered with the racing secretary. Any change in ownership of a horse registered with the racing secretary shall be approved by the stewards. Each owner shall comply with all licensing requirements.
- (e) Each licensed owner and trainer is responsible for disclosure to the commission or its designee of the true and bona fide trainer of each of his or her horses registered with the racing secretary. Any change in the trainer of a horse registered with the racing secretary shall be approved by the stewards. Each trainer shall comply with all licensing requirements.
- (f) The commission or its designee may refuse, deny, suspend, or revoke a trainer's license for the spouse, member of the immediate family, or household of a person ineligible to be licensed as a trainer, unless there is a showing, by clear and convincing evidence, on the part of the licensed trainer, applicant, or licensed owner (and the commission determines) that participation in racing will not permit a person to serve as a substitute for an ineligible person. The transfer of a horse to a trainer who would circumvent the intent of a commission rule or ruling is prohibited.
- (g) To the extent the commission or its designee obtains information that raises a reasonable suspicion that any other person may be serving as a substitute for a person ineligible to be licensed as a trainer, any horse that the substitute is training may be placed on the stewards' list. In such event, any horse involving an issue of the true and bona fide trainer is ineligible to race until such time that the issue is proven by the entrant of the horse by clear and convincing evidence in accordance with the provisions of 71 IAC 7.5-5-2.
- (h) Beginning in 20132014, trainers must demonstrate, prior to licensure, that they have attended a **three** ~~four~~ (4) hour continuing education course approved by the commission within the past two (2) calendar years. Trainers completing an approved continuing education course in 2011 or 2012 will have met this requirement through the 2014 racing season. The continuing education requirement does not apply to trainers who have started horses six (6) or fewer times in Indiana the previous year. Such trainers may start up to six (6) horses in a year before he or she must fulfill the continuing education requirement. **The following qualifications will exempt a trainer from being required to complete the continuing education requirement:**
- (1) Member of the Official National Thoroughbred Racing Hall of Fame or the American Quarter Horse Hall of Fame;**
 - (2) Recipient of an Eclipse Award for Trainer of the Year;**
 - (3) Trainer of a horse at the time the horse earned an Eclipse Award for Horse of the year;**
 - (4) Trainer of a horse at the time the horse won a Triple Crown race; or**
 - (5) Trainer of a horse at the time the horse won a Breeders' Cup World Thoroughbred Championship race.**

Suggested Waivers For Continuing Education

1. Member of the horse racing Hall of Fame.
2. Earned an Eclipse Award for Trainer of the Year
3. Trained a winner of any one of the Triple Crown Races.
4. Trained a winner of any Breeders' Cup World Thoroughbred Championship Races.
5. Trained a winner of any Graded/Group Stake.
6. Trained a horse that earned an Eclipse Award.
7. Has held a trainers' license for more than 20 years.
8. Attended an industry symposium, seminar ie. University of Arizona Racetrack Industry Symposium.

INTEROFFICE MEMORANDUM

TO: INDIANA HORSE RACING COMMISSION
FROM: JOE GORAJEC
SUBJECT: CENTAUR'S PROPOSED EXCEPTIONS TO CONTINUING
EDUCATION RULE
DATE: JUNE 4, 2013

On Wednesday, May 22, Kevin Greely, Director of Racing at Indiana Downs, submitted to the IHRC Commission Staff a list of eight proposed "waivers" for the IHRC Continuing Education requirement that appears at 71 IAC 5.5-3-1 (Eligibility). The eight proposed "waivers" are:

1. Member of the horse racing Hall of Fame.
2. Earned an Eclipse Award for Trainer of the Year
3. Trained a winner of any one of the Triple Crown Races.
4. Trained a winner of any Breeders' Cup World Thoroughbred Championship Races.
5. Trained a winner of any Graded/Group Stake.
6. Trained a horse that earned an Eclipse Award.
7. Has held a trainers' license for more than 20 years.
8. Attended an industry symposium, seminar ie. University of Arizona Racetrack Industry Symposium.

Commission Staff has had opportunity to review the proposed "waivers" and has determined:

1. To the extent the Commission wishes to consider and implement Centaur's proposed "waivers," the items should be considered exceptions to the rule and codified as such.

2. The IHRC Staff does not object to Centaur's first proposal so long as it is modified to indicate that the excepted trainer is a member of the Official National Thoroughbred Racing Hall of Fame or the American Quarter Horse Hall of Fame.
3. The IHRC Staff does not object to Centaur's proposal at Nos. 2-4 and 6. The IHRC Staff acknowledges that hosting such high-caliber, nationally recognized trainers is a reasonable desire for Indiana Downs and will help to increase the track's national profile. Given that such exceptions are likely to apply on fairly rare occasions, the IHRC Staff does not object.
4. The IHRC Staff objects to Centaur's proposal No. 5. The inclusion of this exception allows for far too many trainers to be exempted from Indiana's continuing education requirement, excessively diluting the rule.
5. The IHRC Staff objects to Centaur's proposal No. 7. The mere length of licensure is not an acceptable consideration for purposes of waiving a continuing education requirement. Given that the Commission began issuing licenses to trainers in 1995, this could potentially exempt a large number of trainers. Additionally, many of trainers might have been licensed in other jurisdictions prior to the inception of pari-mutuel racing in Indiana. The purpose of a continuing education program is to keep trainers up-to-date on issues of interest to the horse racing community. Carving out an exception that absolves significant numbers of trainers obviates the purpose of the program.
6. The IHRC Staff does not object to Centaur's proposal at No. 8, but it is moot because the use of national symposium attendance is addressed in the IHRC Continuing Education Policy, which was adopted by the Commission on April 5, 2013.

Ruling Log

| ID | Ruling Number | Ruling Date | Name | Breed | Violation Date | Violation | Fines | Suspended From | Suspended To | Days Suspended |
|-----|---------------|-------------|-----------------|-------|----------------|------------------------|-------|----------------|--------------|----------------|
| 514 | 13513 | 4/30/2013 | Donald Jacobs | QH | 4/30/2013 | License Surrendered | | | | |
| 515 | 13514 | 4/30/2013 | Roberto Morales | QH | 4/26/2013 | Riding Infraction | \$500 | | | |
| 520 | 13017 | 4/30/2013 | Thomas Russell | SB | 4/24/2013 | Prev ruling rescinded | | | | |
| 521 | 13018 | 4/30/2013 | Andy Shetter | SB | 4/26/2013 | Late to paddock | \$100 | | | |
| 522 | 13019 | 4/30/2013 | Sam Noble | SB | 4/26/2013 | Trainer responsibility | \$100 | | | |
| 523 | 13020 | 4/30/2013 | Tyler Shehan | SB | 4/16/2013 | Whip-indiscriminate | \$100 | | | |
| 538 | 13515 | 4/30/2013 | Deon Gant | TB | 4/12/2013 | Cannabinoids | | 5/1/2013 | 5/30/2013 | 30 |
| 513 | 13512 | 4/27/2013 | Karin Yikes | QH | 4/26/2013 | Trainer responsibility | \$100 | | | |
| 537 | 13511 | 4/26/2013 | John Accardi | TB | 4/23/2013 | Trainer responsibility | \$100 | | | |
| 516 | 13013 | 4/25/2013 | Thomas Russell | SB | 4/24/2013 | Fail to obey judges | \$100 | | | |
| 517 | 13014 | 4/25/2013 | Edward Hensley | SB | 4/23/2013 | Ft-n-stirp/kicking | \$100 | | | |
| 518 | 13015 | 4/25/2013 | Ross Leonard | SB | 4/20/2013 | Driving infraction | \$100 | | | |
| 519 | 13016 | 4/25/2013 | Thomas Russell | SB | 4/25/2013 | Fail to obey judges | \$100 | | | |
| 536 | 13510 | 4/20/2013 | Cesar Carrillo | TB | 4/12/2013 | Cocaine positive | | 4/20/2013 | 5/19/2013 | 30 |
| 525 | 13509 | 4/19/2013 | Victor Olivo | TB | 4/9/2013 | Amphetamine | | 4/19/2013 | 5/18/2013 | 30 |
| 504 | 13011 | 4/18/2013 | Bruce Sturgeon | SB | 4/17/2013 | Starter violation | \$100 | | | |
| 505 | 13012 | 4/18/2013 | Joseph Putnam | SB | 4/17/2013 | Whip-other than wrist | \$100 | | | |
| 524 | 13508 | 4/18/2013 | Jose Villalta | TB | 5/26/2010 | Restored-misc | | | | |
| 502 | 13009 | 4/17/2013 | Tony Hall | SB | 4/13/2013 | Failure to obey judges | \$100 | | | |

| ID | Ruling Number | Ruling Date | Name | Breed | Violation Date | Violation | Fines | Suspended From | Suspended To | Days Suspended |
|-----|---------------|-------------|-----------------|-------|----------------|--------------------------|---------|----------------|--------------|----------------|
| 503 | 13010 | 4/17/2013 | Stanley Miller | SB | 4/2/2013 | Conduct | \$250 | | | |
| 500 | 13001 | 4/13/2013 | Peter Wrenn | SB | 4/4/2013 | Ft-n-stirp/kicking | \$100 | | | |
| 512 | 13008 | 4/11/2013 | Tony Troy | SB | 4/11/2013 | In reciprocity w/Ontario | | 4/11/2013 | 6/9/13 | 60 |
| 511 | 13007 | 4/10/2013 | Scott Christner | SB | 4/3/2013 | Late for Salix | \$100 | | | |
| 510 | 13006 | 4/9/2013 | John Ingram | SB | 4/4/2013 | Exp/msg health paper | \$100 | | | |
| 507 | 13003 | 4/6/2013 | Tyler Smith | SB | 4/5/2013 | Ft-n-stirp/kicking | \$100 | | | |
| 508 | 13004 | 4/6/2013 | Terry Cullipher | SB | 4/5/2013 | Ft-n-stirp/kicking | \$100 | | | |
| 509 | 13005 | 4/6/2013 | Trent Stohler | SB | 4/5/2013 | Ft-n-stirp/kicking | \$100 | | | |
| 501 | 13002 | 4/5/2013 | Tyler Smith | SB | 4/4/2013 | Ft-n-stirp/kicking | \$100 | | | |
| 506 | 13000 | 4/3/2013 | Lewayne Miller | SB | 4/4/2013 | Driving infraction | \$100 | | | |
| 540 | 13507 | 3/20/2013 | Terry Vaughn | TB | 10/1/2012 | Bute overage | \$2,500 | 3/14/2013 | 4/12/13 | 30 |
| 539 | 13506 | 3/5/2013 | Daniel Matthews | TB | 2/8/2013 | Drug Test - human | | 3/1/2013 | 3/30/2013 | 30 |
| 541 | 13504 | 3/4/2013 | Raul Gonzalez | QH | 10/25/2012 | Flunixin overage | \$500 | | | |



KROGER GARDIS & REGAS, LLP

ATTORNEYS

ATTORNEY PROFILES



JAMES G. LAUCK *Partner*

Contact

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Areas of Practice

Real Estate Law & Foreclosure
Bankruptcy & Creditors' Rights
Commercial and Consumer Recovery & Workouts



Mr. Lauck practices primarily in the areas of Real Estate Foreclosure, Bankruptcy Debtor-Creditor Law and Business Litigation. He manages the Real Estate and Foreclosure Practice Group at Kroger, Gardis & Regas, overseeing an extensive foreclosure practice in nearly all counties throughout Indiana.

Mr. Lauck has been a frequent speaker and author on foreclosure, bankruptcy and commercial collections. He served on the Plat Committee for the Metropolitan Development Commission, City of Indianapolis from 2001-2008, and he is a Member of the Indiana Horse Racing Commission.

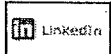
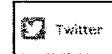
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Education

- Indiana University School of Law, Indianapolis, Indiana, 1979 J.D.
Honors: Cum Laude
- University of Notre Dame, South Bend, Indiana, 1975 B.B.A.
Honors: Cum Laude

Bar Admissions

- Indiana, 1979
- U.S. Court of Appeals 7th Circuit, 1981
- U.S. Federal Court, 1979

Honors

- AV Rated by Martindale-Hubble®
- Best Lawyers® - Banking and Finance Law

Representative Clients

- Citizens Bank
- First Financial Bank
- First Merchants Bank
- KeyBank, N.A.
- J.P. Morgan Chase Bank
- Nationstar Mortgage LLC
- Old National Bank

Professional Associations & Memberships

- Indiana State Bar Association
- Indianapolis Bar Association
- American Bar Association
- Plat committee for the Metropolitan Development Commission, City of Indianapolis, 2001-2008
- Member of the Indiana Horse Racing Commission, 2004-present
- St. Thomas More Society

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into between the Indiana Horse Racing Commission ("Commission"), by Joe Gorajec, Executive Director of the Indiana Horse Racing Commission Staff ("Commission Staff") and Gary Patrick ("Patrick"), a licensee subject to regulation by the Commission. Collectively, the Commission Staff and Patrick 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 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. Patrick was duly licensed as an owner and trainer in 2012 and was at all times relevant subject to regulation by the Commission.

3. The following horses were at all relevant times owned and trained by Patrick:

- a. Hiyaben;
- b. Wildcat Jillee;
- c. Swift Perfection; and
- d. Soda Jerk

4. Patrick entered the aforementioned horses in races during the 2012 thoroughbred race meet, including the following races with finishes denoted:

| | HORSE | RACE DATE | RACE NO. | FINISH |
|----|------------------|---------------|-----------------|-----------------|
| a. | Hiyaben | June 25, 2012 | 5th | 1 st |
| b. | Wildcat Jillee | June 29, 2012 | 2 nd | 1 st |
| c. | Swift Perfection | July 6, 2012 | 6 th | 1 st |
| d. | Soda Jerk | July 10, 2012 | 8 th | 2 nd |

5. Truesdail Laboratories tested urine from each of the horses identified in Paragraph 4 and established the presence of carbazochrome in each of the horses on the race dates identified in Paragraph 4.

6. Split sample testing performed by the University of California-Davis confirmed more than 1,000 nanograms per milliliter of carbazochrome in each of the samples.

7. 71 IAC 8.5-1-1 provides: 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, except as provided for in this rule.

8. Carbazochrome is not among the substances that a horse participating in a race may carry in its body.

9. Pursuant to the authority provided by 71 IAC 10-3-20, the Commission's Executive Director issued Administrative Complaint No. 212007 on or about November 19, 2012. The Executive Director's Administrative Complaint proposed the following penalty: an 18-month suspension and a \$5,000.00 fine.

10. The Commission's Executive Director, given Patrick's willingness to enter into this Agreement, is executing this Agreement in lieu of prosecuting Administrative Complaint No. 212007, issued on November 19, 2012.

11. Now, in full and complete resolution of any and all further administrative proceedings involving Patrick relative to the violations referenced in Preliminary Report No. 212007, the Commission Staff and Patrick 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:

1. Patrick admits he administered carbazochrome to the horse Hiyaben on June 25, 2012, the day said horse was entered for a race at Indiana Downs.

2. Patrick admits he administered carbazochrome to the horse Wildcat Jillee on June 29, 2012, the date said horse was entered for a race at Indiana Downs.
3. Patrick admits he administered carbazochrome to the horse Swift Perfection on July 6, 2012, the day said horse was entered for a race at Indiana Downs.
4. Patrick admits he administered carbazochrome, to the horse Soda Jerk on July 10, 2012, the day said horse was entered for a race at Indiana Downs.
5. Patrick admits that he possessed an injectible bottle on association grounds, in violation of 71 IAC 8.5, et seq.
6. Patrick agrees to a license suspension for a total of ninety (90) days, beginning August 22, 2013. Patrick shall be ineligible to enter a horse in a race at any Indiana track during the period of his suspension. Furthermore, Patrick agrees to pay a fine of \$10,000.00 on or before August 22, 2013.
7. During the period of his suspension, Patrick is prohibited from being on the grounds of any association under the jurisdiction of the Indiana Horse Racing Commission. Patrick is prohibited from transferring his horses at any time to any other trainer for purposes of training during the period of his suspension.

8. The purse money earned by each horse racing at Indiana Downs on the dates outlined in Paragraph 4 of the Recitals shall be forfeited and redistributed.

9. Upon approval from the Indiana Horse Racing Commission, Commission Staff will enter a ruling consistent with this Agreement, which will make clear that the sanctions set forth herein are the total sanctions for the violations referenced in this Settlement Agreement and Administrative Complaint No. 212007.

10. Parties agree to waive any right to appeal the ruling referenced in Paragraph 9 of this Agreement.

11. 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.

12. The Parties agree that this Agreement shall be interpreted, enforced, and governed by the laws of the State of Indiana.

13. 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.

14. Patrick 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. Patrick 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.

5-29-13
Date

Gary Patrick
Gary Patrick

Witnessed and Approved:

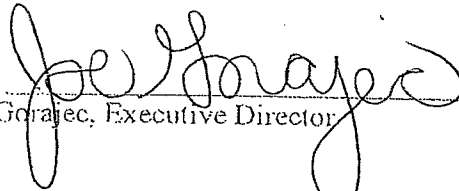
Boj Maroska



ON BEHALF OF THE INDIANA HORSE RACING COMMISSION:

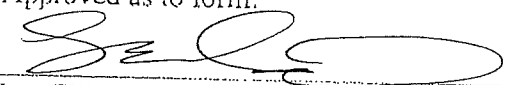
6/4/13

Date



Joe Gorajec, Executive Director

Approved as to form:



Lea Ellingwood, Esq.
General Counsel
Indiana Horse Racing Commission
1302 North Meridian Street
Suite 174
Indianapolis, IN 46202

ADDENDUM TO SERVICE CONTRACT FOR ENTERPRISE WAGERING SOLUTION

This ADDENDUM TO SERVICE CONTRACT FOR ENTERPRISE WAGERING SOLUTION (hereinafter "Addendum") is effective as of the 19th day of December, 2012, ("Effective Date") by and between UNITED TOTE COMPANY, a Montana corporation with offices located at 600 N. Hurstbourne Parkway, Suite 400, Louisville, Kentucky 40222 ("United Tote"), and HOOSIER PARK, LLC, an Indiana Limited Liability Company with its principal address located at 4500 Dan Patch Circle, Anderson, Indiana 46013 (the "Association"). United Tote and the Association may together be referred to as the "Parties" and each a "Party".

BACKGROUND

- A. The Association and United Tote entered into a Service Contract for Enterprise Wagering Solution, dated January 31, 2005, with a First Amendment dated July 12, 2008, a Second Amendment dated April 5, 2009, a Fourth Amendment dated October 1, 2011, a Fifth Amendment dated June 18, 2012 and a Sixth Amendment dated June 6, 2012 (collectively, the "Agreement").
- B. The Parties desire to enter into the agreement pursuant to which the Association will license the FastBet Mobile wagering Software (the "Software") for use in connection with the Association's mobile wagering operation in Indiana; and,
- C. United Tote has agreed to license the Software to the Association and the Association has agreed to license the System on the terms and conditions set forth in this Addendum.

AGREEMENT

In consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, the Parties agree as follows:

ARTICLE 1 SOFTWARE

1.1 **FastBet Mobile Wagering.** United Tote shall provide the Association a limited, non-transferable, non-exclusive license for the use of FastBet Mobile wagering software (the "Software") according to the fees provided in Exhibit B.

1.2 **Software Licenses.** UT hereby grants to the Association a non-exclusive, non-transferrable license to use the Software during the term of this Addendum in accordance with the terms and conditions set forth herein and provided that the Association is current with all financial obligations to United Tote. The license granted under this Addendum shall include those features of the Software identified in the FastBet Mobile Overview attached hereto as Exhibit A.

1.3 **Delivery, Installation and Training.** United Tote will install all hardware and software necessary to complete base implementation of the FastBet Mobile Software. United Tote will provide training services to those associates designated by the Association as trainers in an effort to develop experienced personnel for the benefit of the Association. Specifically, United Tote will provide one (1) technical trainer for a period of three (3) consecutive days of such training on-site at the Facilities, provided that the Association shall be responsible for all associated travel expenses (e.g., airfare, lodging, meals, ground transportation *etc.*) in connection with such training, as well as the expenses of its own personnel in connection with such training services. The Parties will mutually agree upon the schedule for such training.

1.4 **Limited to Racetracks and Platforms.** The Association will use the Software for pari-mutuel wagering on the Association's racing products and only as specifically provided in this Addendum.

1.5 **Ownership.** Title to and ownership of the Software and all intellectual property rights with respect thereto, and all related written materials, shall remain vested in United Tote. The Association acknowledges that it is obtaining only the limited license rights to use the Software strictly in accordance with the terms and conditions set forth herein. This provision shall survive the expiration or termination of this Addendum.

1.6 **Permits and Licenses.** United Tote shall, at its expense, procure and maintain in force all federal, state and local permits, licenses and other approvals required by law and necessary for United Tote to perform its obligations under this Addendum.

1.7 **Other Equipment and Services.** Unless and until a separate agreement is executed in writing by the Parties, United Tote shall be under no obligation to furnish any equipment, products or services other than as specifically provided herein.

ARTICLE 2 LIABILITY AND WARRANTY EXCLUSIONS AND DEFAULT

2.1 **Disclaimer of Warranties Regarding Services.** EXCEPT AS SPECIFICALLY SET FORTH HEREIN, UNITED TOTE IS PROVIDING THE SOFTWARE AND SERVICES ON AN "AS IS" BASIS, WITHOUT ANY WARRANTIES OR REPRESENTATIONS EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION, WARRANTIES OF QUALITY, PERFORMANCE, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NOR ARE THERE ANY WARRANTIES CREATED BY A COURSE OF DEALING, COURSE OF PERFORMANCE OR TRADE USAGE. UNITED TOTE DOES NOT WARRANT THAT THE SOFTWARE OR SERVICES WILL MEET THE ASSOCIATION'S NEEDS OR BE FREE FROM ERRORS, OR THAT THE OPERATION OF FASTBET MOBILE WILL BE UNINTERRUPTED.

2.2 Waiver of Consequential Damages. IN NO EVENT SHALL UNITED TOTE OR ASSOCIATION BE LIABLE WITH RESPECT TO ITS OBLIGATIONS UNDER OR ARISING OUT OF THIS AGREEMENT FOR CONSEQUENTIAL, EXEMPLARY, PUNITIVE, SPECIAL, OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE, OR ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSSES WHETHER DIRECTLY OR INDIRECTLY CAUSED, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

2.3 Limitation of Liability. THE AGGREGATE LIABILITY OF UNITED TOTE OR ASSOCIATION ARISING AT ANY TIME UNDER THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT UNITED TOTE RECEIVES UNDER THIS AGREEMENT OVER THE PRECEDING TWELVE (12) MONTHS.

2.4 Survival of Certain Rights and Obligations. Sections 2.1, 2.2, 2.3 and 4.5 shall survive the termination or expiration of this Addendum.

2.5 Default. In the event either Party fails to perform or abide by any of the material covenants and agreements on its part to be performed under this Addendum, and such breach shall not be corrected within thirty (30) days after receipt by such defaulting Party of written notice of such default from the non-defaulting Party, then the non-defaulting Party may terminate this Addendum, effective on the date specified in written notice to the defaulting Party of such termination, which date shall be not less than thirty (30) days from the date of the notice.

**ARTICLE 3
(Intentionally Omitted)**

**ARTICLE 4
OBLIGATIONS OF THE ASSOCIATION**

4.1 Anti-Corruption

- (1) United Tote has chosen the Association on the basis of the Association's experience and qualifications, including the Association's agreement to comply with applicable laws. In light of the Association's qualifications, United Tote believes and expects that the Association will act ethically and avoid any activity that might result in a violation of the U.S. Foreign Corrupt Practices Act (FCPA), the UK Bribery Act of 2010, or other applicable U.S. or local laws, including foreign laws implementing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the "International Anti-

bribery Convention”), which prohibit the same activities that are prohibited under the FCPA.

- (2) The Association affirms that it will not, in connection with the transactions contemplated by this Agreement or in connection with any other business transaction involving United Tote, make or promise to make any payment, or transfer anything of value, directly or indirectly:
 - (i) to any governmental official or employee (including employees of government corporations and employees of public international organizations), (ii) to any political party, official of a political party or candidate, (iii) to an intermediary for payment to any of the foregoing, (iv) to any officer, director, employee, or representative of any actual or potential customer or sponsor of United Tote, (v) to any officer, director or employee of United Tote or any of its affiliates, or (vi) to any other person or entity if such payment or transfer would violate the laws of the country in which made or the laws of the United States. It is the intent of the Parties that no payments or transfers of value shall be made which have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks or other unlawful or improper means of obtaining business or any improper advantage. This section shall not, however, prohibit normal and customary business entertainment or the giving of business mementos of nominal value.
- (3) The U.S. Foreign Corrupt Practices Act and the UK Bribery Act make it unlawful, among other things, for United Tote or anyone acting on its behalf to make or offer payment, promise to pay, or authorize the payment of anything of value to:
 - (i) any officer or employee of, or any person acting in an official capacity for, a government or any department, agency or corporation thereof, or any public international organization or political party, party official or candidate; or (ii) any person, while knowing that all or a portion thereof will be given or promised, directly or indirectly, to anyone described in (i) above, for the purpose of: (a) influencing any act or decision by such person in his official capacity, inducing such person to violate his lawful duty, or securing any improper advantage; or (b) inducing him to use his influence with a government to affect, either by action or inaction, any act or decision of such government to obtain or retain business for any person. The Association confirms its understanding of the provisions of the entire Foreign Corrupt Practices Act and the UK Bribery Act, and agrees to comply with those provisions and to take no action that might cause United Tote to be in violation of the Acts.
- (4) The Association agrees that should it learn of or have reason to know of any payment, offer, or agreement to make a payment to a government official, political party, or political party official or candidate for the purpose of maintaining or securing business for United Tote, it will immediately advise United Tote in writing of such knowledge or suspicion.

(5) The Association affirms that it has disclosed to United Tote any government official, political party official or candidate or immediate family member of such an official or candidate who has any ownership interest, direct or indirect, in the Association or in the contractual relationship established by this Agreement. In the event that during the term of this Agreement there is acquisition of an interest in the Association or in this Agreement by such an official or candidate, or immediate family member of an official or candidate, the Association agrees to make immediate written disclosure to United Tote and agrees that this Agreement will become subject to termination at the discretion of United Tote. For the purposes of this Agreement, "government official" means any officer or employee of any government or any department, agency, corporation or instrumentality thereof or of any public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, instrumentality or public international organization.

(6) The Association affirms that it has disclosed to United Tote any key management employee, officer, or director of the Association, or any consultant or agent of the Association who will be involved in the Association's work for United Tote, who is a government official, political party official or candidate, or an immediate family member of such an official or candidate. In the event that during the term of this Agreement there is a change in the information contained in this paragraph, the Association agrees to make immediate disclosure to United Tote and that this Agreement will become subject to termination at United Tote' discretion.

4.2 New Accounts. The Association will be responsible for handling online account sign-ups and executing any applicable restrictions as required in order to comply with all applicable law, including, but not limited to, age and jurisdictional restrictions. The Association may choose to accept new account sign-ups on-track at Hoosier Park or at the Association's OTB network through their designated staff. These sign-ups will be subject to the same compliance restrictions and terms and conditions of all accounts.

4.3 Regulatory and Licensing Requirements. The Association is responsible for obtaining any licensing or regulatory approval required to offer FastBet Mobile and providing United Tote with proof of the same. The Association shall be solely responsible for obtaining such license or approval prior to offering FastBet Mobile, as well as any costs associated with obtaining such license or regulatory approval. The Association agrees and understands that if it is unable to acquire or loses any license or necessary approval to operate, then the Association may not offer FastBet Mobile.

4.4 Marketing. The Association shall be solely responsible for marketing its FastBet Mobile business. United Tote may invoke marketing restrictions due to legal or regulatory issues or risks.

4.5 Indemnification. Each Party shall indemnify and hold harmless the other Party and its parent and affiliate companies along with each of their respective officers, directors, employees and agents from and against any claims, suits, judgments, fines,

penalties, costs and expenses (including, but not limited to attorney and legal fees) associated a Party's use, misuse or unauthorized use of the Software and Services hereunder and for the actions and inactions of a Party's employees and agents or the breach of this Addendum by a Party or its employees and agents.

4.6 Networks The Association shall be responsible for the following items and at their sole cost:

(1) All network hardware including wireless access points, switches as well as any other network and hardware related costs resulting from the operation.

ARTICLE 5 TAXES

In accordance with the laws of the United States, the Association shall be responsible for and shall pay any and all taxes, duties, tariffs, assessments, and other governmental charges that are imposed by the government, any agencies of such government, or any local governments, that are based on payments made by the Association to United Tote in connection with this Addendum. The Association may, at its expense, contest the validity of any such tax or fee in the name of United Tote upon furnishing security satisfactory to United Tote for the amount of any tax or fee claimed, including interest and any penalty thereon.

ARTICLE 6 CONFIDENTIALITY

6.1 Definition of Confidential Information. Each of the Parties acknowledges that it will have access to information of the other that is not known by, or generally available to, the public at large and that concerns the business or affairs of the other, and that it may also have access to information provided to the other by third parties on a confidential basis (collectively, "**Confidential Information**"). Confidential Information does not include information that is: (a) available to the public through no fault of the receiving Party; (b) obtained by the receiving Party from third parties that are not, to the knowledge of the receiving Party, under an obligation to maintain its confidentiality; (c) known by the receiving Party prior to disclosure; or (d) independently developed by the receiving Party without the use of any Confidential Information. For clarification purposes, the term Confidential Information shall include any and all wagering data generated or provided by the Association and communicated or delivered to United Tote.

6.2 Non-Disclosure of Confidential Information. Each of the Parties will preserve and protect the confidentiality of Confidential Information of the other and will not disclose Confidential Information of the other to any third party without the prior written consent of the other. Upon request, each of the Parties agrees to return to the other all documents and other tangible media containing Confidential Information of the

other. Neither Party will use Confidential Information of the other for its own benefit or for the benefit of any third party, except as specifically contemplated herein. Notwithstanding the foregoing, the Parties may disclose Confidential Information to their attorneys, accountants, representatives and other agents in the ordinary course of business, subject to appropriate confidentiality agreements. The receiving Party may also disclose Confidential Information of the disclosing Party to the extent necessary to comply with applicable law or legal process, provided that the receiving Party provides notice to the disclosing Party as soon as reasonably practicable in order to give the disclosing Party an opportunity to file an objection to such disclosure with the appropriate governing body.

6.3 **Survival.** This Article 6 shall survive the expiration or earlier termination of this Addendum.

ARTICLE 7 TERM OF AGREEMENT

7.1 **Term.** The term of this Addendum shall commence on December 19, 2012 and continue through December 19, 2013. The term of this Agreement will renew automatically for successive one (1) year periods unless either Party provides written notice of its intent not to renew no later than sixty (60) days prior to the expiration of the then-current term.

ARTICLE 8 EXCLUSIVITY OF REMEDIES

This Addendum sets forth the sole and exclusive remedies available to either Party concerning their performance hereunder and, except as expressly provided in this Addendum, neither Party shall be liable to the other hereunder for any other direct, indirect, consequential, incidental, punitive or special damages, whether or not such Party has been informed of the possibility of such other damages.

ARTICLE 9 MISCELLANEOUS

9.1 **Binding Effect.** All of the terms and conditions of this Addendum shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. In the event that an original counterpart of this Addendum is required to be filed with any governmental authority, the Parties agree to execute an additional copy hereof and to file the same within the time required by any such rule or statute.

9.2 **Notices.** All notices required or permitted to be given under this Addendum will be in writing and addressed as follows:

United Tote: United Tote Company

600 N. Hurstbourne Parkway
Suite 400
Louisville, KY 40222
United States
Attention: Legal Department
Facsimile: (502) 394-1170

The Association: Hoosier Park, LLC
4500 Dan Patch Circle
Anderson, IN 46013
Attention: Brian Elmore
Facsimile: 765-608-2754

or such other address as each Party may designate in writing to the other Party for this purpose. Such notice will be deemed to have been duly given and received either: (a) on the day of delivery, if hand delivered or delivered by overnight mail; (b) on the fifth (5th) day after the date sent, when sent by prepaid certified mail; or (c) on the date sent when sent by facsimile and confirmed the same day by overnight mail or prepaid certified mail, addressed as above.

9.3 Assignment of Addendum. Except as specifically provided herein, the Association shall not assign this Addendum, or any rights or licenses granted hereunder, in whole or in part, without the prior written consent of United Tote, and any such assignment without consent shall be void. All of the terms and conditions of this Addendum shall be binding upon and inure to the benefit of any transferee, successor or permitted assignee of either Party hereto, and such transferee, successor or permitted assignee shall thereafter be subject to the provisions of this Section 9.3 for any further or additional assignments or transfers.

9.4 Entire Addendum. This Addendum contains the entire understanding between the Parties relating to FastBet Mobile and supersedes all prior oral and written understandings, arrangements and agreements between the Parties relating thereto. Each of the Parties hereby confirms that it is not placing any reliance on any covenants, representations or warranty of the other Party, whether oral or in writing, express or implied, except those specifically set forth herein.

9.5 Amendment/Waiver. Any amendment to this Addendum must be in writing and signed by both Parties. Any waiver must be in writing. Any waiver by either Party of a breach of any provision of this Addendum will not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Addendum.

9.6 Governing Law. This Addendum shall be governed by the substantive law of Commonwealth of Kentucky, without reference to its conflict of laws rules. Disputes arising out of or in connection with any of the terms, conditions or provisions

contained in this Addendum shall be finally settled in arbitration in accordance with the International Arbitration Rules of the American Arbitration Association. The Arbitration shall be held in Louisville, KY, or such other location as mutually agreed upon the Parties. Any such decision rendered pursuant to the terms of this Addendum shall be enforceable and judgment upon any award rendered by the arbitrator (s) may be entered in any court of any country having jurisdiction.

9.7 **Force Majeure.** Neither Party shall be liable for any failure or delay in performance of its duties and obligations contained in this Addendum to the extent such failure or delay is caused by causes beyond its reasonable control, including, without limitation, labor disputes, fire or other casualties, weather or natural disasters, acts of God, war, terrorism, riots, electrical outages, communication outages, damage to facilities, equipment failures, telephone failures, internet failures, or the conduct of third Parties.

9.8 **Exclusivity.** During the Term of this Addendum, United Tote shall be the exclusive provider of FastBet Mobile services to the Association and the Association understands and acknowledges that nothing herein shall prevent United Tote from providing FastBet Mobile services to any other Party.

9.9 **Counterparts.** This Addendum may be executed in one or more counterparts, each of which shall be deemed an original and together which shall constitute one and the same document.

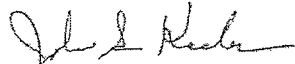
9.10 **Further Assurances.** Each Party hereto will take whatever reasonable steps are necessary to carry out the transactions contemplated herein.

9.11 **Construction.** Each Party has had access to legal counsel in the negotiation and drafting of this Addendum and therefore, no provision shall be construed against a Party in the context of being the drafter hereof.

9.12 **Approval by Commission.** This Addendum is subject to, contingent upon and shall be of no force or effect until approved by the Indiana Horse Racing Commission.

IN WITNESS WHEREOF, the Parties hereto have caused this Addendum to be executed in duplicate by their respective duly authorized officers, as of the Effective Date.

HOOSIER PARK, LLC

By: 
Name: Brian Elmore J.L.D. Keelce
Title: General Manager of Racing
Vice President & General Counsel

UNITED TOTE COMPANY


By: 
Nathaniel J. Simon
President

Exhibit A FastBet Mobile Overview

FastBet™ Mobile supported mobile devices:

- iPhone iOS 4
- Android 2.1 and above
- Samsung Galaxy S2
- Blackberry
- iPad
- Kindle
- Samsung Galaxy Tablet
- Motorola Droid
- iPhone 5
- Windows Surface Tablet
- Windows Smartphone

Compatible web browsers include:

- Safari
- Google Chrome
- Dolphin
- Mozilla Firefox

Minimum Requirements

At a minimum, a site must meet the following requirements to use FastBet Mobile:

Public Wireless Network

- A publicly-accessible wireless network must be installed in all areas of the facility where FastBet Mobile should be available for use.
- FastBet Mobile users must be connected to this network to access the service.
- The network must provide secure Intranet access to all connected users.
- Installation, management and maintenance of the wireless network and secure Intranet connection are the responsibility of the customer.

Firewall

- The wireless network must connect to the Internet via a firewall or router.
- This device must have the capacity for a third connection to the United Tote network
- The customer must be able to configure a static route on the device to redirect FastBet Mobile traffic to the United Tote network instead of sending it to the public Internet.
- Management of this firewall is the responsibility of the customer.

Recommendations

For best results, United Tote recommends that customers comply with the following additional requirements:

Wireless Network

- We require a wireless network site survey to ensure the best performance of the wireless network. This is particularly important at larger sites with many rooms and multiple access points.
- Larger installations (more than 2 access points) should be connected to and managed by a centralized wireless controller system. This increases the reliability of the network by allowing the central controller to assist with management of radio spectrum and power settings, and helps to eliminate configuration errors.

FastBet Mobile Setup Diagram:

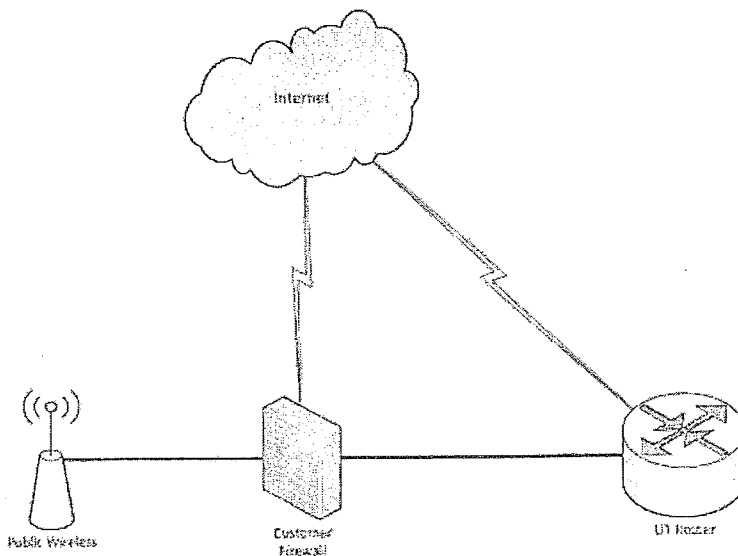


Exhibit B
FastBet Mobile License Fees & Costs

| | |
|---|-------------------------|
| FastBet Mobile intranet & smartphone Wagering Application annual license | \$25,000.00* USD |
|---|-------------------------|

*License fee covers all racetracks and satellite facilities owned by Hoosier Park, LLC and its affiliate, Centaur Acquisition, LLC including the Racetrack in Shelbyville, IN.

\$100 per site monthly maintenance fee.

Should, at the end of the above referenced Term of Agreement, United Tote and the Association execute a new Tote Services Agreement inclusive of the racetrack in Anderson, IN, the amounts paid by the Association through December 19, 2013 towards the \$25,000 annual license shall be credited to the Association during calendar year 2014.

Payment Terms

United Tote shall bill the Association monthly.

Past Due Amounts

Past Due Amounts. Any past due amounts shall bear interest at the rate of one and one-half percent (1 ½ %) per month (or to the extent allowed by law, if less) beginning on the day immediately following the date when due. The Association acknowledges that time is of the essence in respect to its obligations hereunder.

IHRC Policy

Scholarship Criteria

At the request of IHRC Chairman Bill Diener, IHRC staff has compiled the following draft criteria relating to horsemen's groups use of state-directed funds for scholarship programs.

Money distributed to the horsemen's associations may not be expended unless the expenditure is for a purpose authorized in this section and is either for a purpose promoting the equine industry or equine welfare or is for a benevolent purpose that is in the best interests of horse racing in Indiana for the breed represented by the horsemen's association. See I.C. 4-35-7-12(c) and (f). **In an effort to ensure statutory compliance, those associations wishing to earmark funds for scholarships must be able to show that the recipient's studies are directly related to horse racing in Indiana.**

Examples of qualifying areas of study include, but are not limited to:

1. Equine health and/or science and/or nutrition
2. Equine chiropractic studies/equine massage
3. Equine law
4. Equine dentistry
5. Veterinary medicine
6. Veterinary technical
7. USTA's Driving School
8. Judges/Stewards Accreditation School
9. Farrier School
10. The University of Arizona Race Track Industry Program
11. The University of Louisville Equine Industry Program
12. University of Kentucky college of agriculture with participation in the Horse Racing Club
13. North American Racing Academy (Lexington)
14. British Racing School

Other requirements might include:

1. Resident of Indiana;
2. Scholarship applications shall include a one-page essay that answers the question: “What are your educational goals, and how do you plan to apply your education in the horse-racing industry in Indiana upon graduation?”;
3. Scholarships shall be granted on an annual basis with re-application required year-to-year. The student also must provide an annual update on their course of study and plans for participation in the horse-racing industry in Indiana; and
4. The Board of Directors of the horsemen’s association shall certify as part of its annual registration that the above requirements have been met.

YOUNG AND YOUNG
ATTORNEYS AT LAW

40 WEST COURT STREET
SUITE D
FRANKLIN, INDIANA 46131

ROGER A. YOUNG

JOHN T. YOUNG

ROBERT W. YOUNG (1913-1989)

April 24, 2013

2013 MAY -1 P 3 4 TELEPHONE
(317) 736-7117
FAX: (317) 736-4056

Joe Gorajec, Executive Director
Indiana Horse Racing Commission
ISTA Center, Suite 530
150 W. Market Street
Indianapolis, IN 46204

RE: *ISA Input on IHRC Proposed Scholarship Criteria*

Dear Executive Director Gorajec:

Thank you for sharing the Commission's proposed scholarship policy with the ISA.

I believe that the Commission and the ISA share common ground in terms of understanding that slot monies must be spent for benevolent purposes that are in the best interests of horse racing in Indiana for the breed represented by the Horsemen's Association having expenditure authority over the slot revenues. If there is a point of disagreement, it would be based upon the facts and circumstances surrounding a particular expenditure.

The ISA takes the position that, in general, providing educational opportunities to individuals closely connected to standardbred horse racing in the State of Indiana satisfies the statutory imperative. Put another way, while it is true that there must be some nexus between the expenditure and the advancement of the statutory purpose, the nexus can exist in a number of different forms.

Concerning the ISA's specific comments to the proposed policy, the ISA would recommend that the last sentence of the first paragraph be expanded to read as follows:

"In an effort to ensure statutory compliance, those associations wishing to earmark funds for scholarships must be able to show that the recipient's studies **or career objectives** are directly related to horse racing in Indiana."

The ISA believes that the inclusion of this additional language is appropriate, taking into account that the business of horse racing in Indiana necessarily requires education and training in fields that do not, upon their face, appear to have any connection with horse racing. For example, an individual may have a career objective of becoming employed by a racetrack to work in the racetrack's auditing department and, therefore, major in accounting; an individual might seek a degree in radio/television/electronics in order to be involved in the simul-casting industry; an individual might study for a marketing degree intending to work in the promotions department of a racetrack.

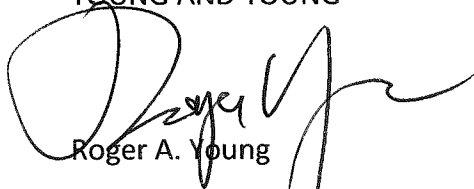
Horseracing in the State of Indiana is a very broad based industry and while the intended course of studies certainly sheds some light on whether a scholarship award is directly related to horseracing in Indiana, the applicant's stated career objective could be more relevant in determining whether the required nexus exists between the individual's educational goals and the statutory mandate.

While the policy that has been circulated is a draft policy, the ISA expects the final policy to be substantially similar to the draft and, therefore, the ISA is revising its scholarship and college assistance applications to include some of the guidance that is contained in the draft policy. When the applications are complete, they will be submitted to you for further review and comment.

The ISA looks forward to working with you and the Commission on this issue and is confident that at the end of the process a policy will be adopted which is in the best interests of horseracing in the State of Indiana.

Yours truly,

YOUNG AND YOUNG

A handwritten signature in black ink, appearing to read 'Roger A. Young', is written over the printed name. The signature is fluid and cursive, with a large initial 'R' and 'Y'.

Roger A. Young

RAY/tav

cc: ISA Board of Directors (via emails)

Pitman, Deena

To: Bill Diener
Subject: RE: Horsemen's Contracts

From: Bill Diener [mailto:diener1@comcast.net]
Sent: Wednesday, May 29, 2013 5:46 PM
To: 'jbarclay@btlaw.com'; 'doug grimes'; 'SSchaefer@SchaeferTech.us'; 'Schenkel, Greg'
Subject: Horsemen's Contracts

Dear Fellow Commissioners.

At our Meeting on April 5, 2013, I abstained from approval of the horsemen's contract between the ISA and Hoosier Park. This e-mail will, hopefully, provide each of you with a context for my concerns.

Contracts between the track and the association for each breed are generally for one-year terms. These contracts are generally approved by the Commission without discussion. Each horsemen's contract provides, and has done so for many years, that the track is to deduct 3% of the purses generated from wagering and pay these funds to the horsemen's association for "its administrative expenses and for services rendered to its members". According to the tracks, these deductions in 2012 were as follows: ISA, \$107,650; HBPA, \$126,172; QHRA, \$6,629.

When slot machines were authorized at the tracks, the statute prescribed specific percentage allocations of the 15% of AGR, including specified percentages to each horseman's association, the uses for which are not specified or restricted by statute. For 2012, the unrestricted amounts were as follows:

- ISA \$409,464.
- HBPA \$354,930.
- QHRA \$\$150,031.

The Commission has limited, if any, oversight of these undesignated funds from slot machines, unlike the Commission oversight of the slot revenues to backside benevolences and equine welfare.

My personal opinion is that there is no need for a horsemen's association to receive both the unrestricted funds from slot revenues and the 3% from purses generated. Stated differently, I find no justification for a reduction in purses for horsemen, when there is a separate, significant source of funding for administrative expenses of a horsemen's association. Each of you will have to make your own decision.

71 IAC 1-1-89 and 71 IAC 1.5-1- 85 are the two rules defining "Purse":

"Purse" means the total cash amount for which a race is contested, provided that the total cash amount for purses may be reduced by any direct remittance by an association to a horsemen's association, subject to the following:

(1) The approval by the commission of the horsemen's contract pursuant to 71 IAC 11-1-12.

(2) Any accounting and disbursement preapproval requirements which the commission may require of the horsemen's association.

I intend to make a motion at the June 11 Commission meeting that Commission counsel and staff prepare a proposed rule eliminating (1) from the rule defining "Purse", i.e. there will be no deduction from purses under a horsemen's contract for an association's administrative expenses, and that such proposed rule be presented to the Commission for its consideration at its next regular meeting, with an effective date of January 1, 2014.

In order that each horsemen's association be treated the same, my suggestion is that the already-approved horsemen's contracts be allowed to run the remaining period of its one-year term, i.e. a waiver of the effective date of the rule would be permitted for the remaining term of any previously-approved contract, if there are any. Thus, each breed and each association would be treated the same. To the best of my knowledge, the ISA contract has a term ending 12/31/2013, and the QHRAI contract to be considered at the June 11 meeting, has not deduction from purses generated for administrative expenses after 12/31/2013. Thus, only the HBPA contract, which has yet to be presented to the Commission, would be potentially affected, if the Commission were to concur with my suggestion and subsequent rule change.

Again, feel free, as I know each of you will, to disagree!

AGREEMENT

THIS AGREEMENT entered into April 01,2013, by and between CENTAUR ACQUISITION, LLC dba INDIANA DOWNS, an Indiana limited liability company and the Quarter Horse Racing Association of Indiana, an Indiana not-for-profit corporation (QHRAI or Association).

WHEREAS, the QHRAI is a trade organization composed of owners, trainers, breeders and sire owners (hereinafter the QHRAI "Members") of Quarter Horse race horses;

WHEREAS, the QHRAI represents that it is the "horsemen's association" representing Quarter Horse owners and trainers for purpose of I.C. 4-31-8-6; and

WHEREAS, the QHRAI provides benevolent programs and other services for its Members and their employees who are engaged in racing at Indiana Downs' racing facility; and

WHEREAS, the parties hereto want to cause a closer and more understanding relationship among horsemen, the Members, the QHRAI, Indiana Downs and the public;

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, the parties agree as follows:

1. Term of Agreement. This agreement shall become effective for the period April 01,2013 through March 31, 2014 and unless sooner terminated as provided herein, shall remain effective until the contract is executed for 2014 racing meet (hereinafter the "Term").
2. Scope of Agreement. Except as otherwise specifically set forth herein, this Agreement shall only apply to race meetings and pari-mutuel wagering conducted at Indiana Downs racing facility at Shelbyville, Indiana (the "Racetrack") and to pari-mutuel wagering conducted at satellite wagering facilities licensed to Indiana Downs and located in the state of Indiana (the "Satellite Facilities").
3. Exclusive Representation. The QHRAI is the exclusive representative of its Members and of all Quarter Horse owners, trainers, breeders and sire owners stabled at Indiana Downs or who have horses approved for entry in Quarter Horse races at Indiana Downs, except those persons who state in writing that they do not desire to be represented by the QHRAI.
4. Payment for Administrative expenses. Indiana Downs shall deduct 3% (three percent) for the period January 1, 2013, through December 31, 2013, from the allocations to the Indiana Downs Quarter Horse Purse Account in Section 7, subsection A. through E., below, and pay such amounts to the Association to be used by the Association solely at its discretion for its administrative expenses and for services to its members. Such payments shall be made throughout the term of the Agreement in current monthly installments as such funds are received, regardless of overpayment/underpayment in the Quarter Horse Purse Account. No deduction shall be made for administrative expenses from Slot Funds allocated to the Quarter Horse Purse Account.

5. Race Cards; Simulcasting.

- A. Simulcast Signal. Indiana Downs in its sole discretion will decide the price or cost, type, time and schedule of all simulcast signals to, and from, the Racetrack and to each Satellite Facility, on all days including live race days. The cost of such simulcast signals shall be normal market rates.
- B. QHRAI Authorization. During the Term of this Agreement, the QHRAI authorizes Indiana Downs to negotiate and contract with simulcast receiving facilities, including off track wagering facilities located outside Indiana, which are subject to the Interstate Horse Racing Act of 1978, P.L. 95-515 (the "Act"), for the conduct of off-track wagering.

6. Allocations to Purses. During the term of this Agreement and except as otherwise provided herein, Indiana Downs shall credit the following amounts to an account denominated the Quarter Horse Horsemen's Purse Account for disbursement, in complete satisfaction of Indiana Downs' obligation for purses, under the following situations:

- A. Live Racing. When Quarter Horse racing is live at the Racetrack, eight percent (8%) of the live gross handle generated at the Racetrack shall be credited to Indiana Downs' Quarter Horse purse account as prescribed by state statute.
- B. Satellite Wagering - In-State. When Quarter Horse racing is live at the Racetrack, five percent (5%) of the live gross handle generated by said live racing at any Indiana Satellite Facility shall go to Indiana Downs' Quarter Horse purse account as prescribed by state statute.
- C. Satellite Wagering - Out-of-State. When Indiana Downs simulcasts a Quarter Horse race run live at the Racetrack to an out-of-state facility, 50% of the net receipts generated by simulcasting on that race, including any source market fees and distribution and communication fees received by Indiana Downs (net of expenses incurred by Indiana Downs) on the simulcast of that Quarter Horse race run live at the Racetrack, shall go to the Indiana Downs Quarter Horse purse account. For purposes of this Subsection C, "net receipts" shall mean all funds received by Indiana Downs under the applicable contracts less any applicable excise taxes.

7. Purses.

- A. Purse Schedules and Condition Books. Using its best judgment in estimating attendance, pari-mutuel handle, and breakage, Indiana Downs shall establish a tentative average daily overnight purse

schedule for each race meeting and will exercise due care to avoid underpayment or overpayment of purses at all race meetings.

Indiana Downs will also deliver to the QHRAI, within twenty-one (21) days before each race meeting, its first condition book and proposed purse schedules.

The condition book shall state that the racing secretary will card any Indiana Bred Allowance or Maiden race(s) carried over from the previous day and any race listed in the body of the book which receives eight (8) or more betting interests at entry time unless the total of all such carried over races and races for that day exceed the number of races being carded for that day.

- B. Overpayment - Underpayment of Purses. Indiana Downs will make a best faith effort to insure that all Quarter Horse Purse monies earned through the end of the Quarter Horse Meet are paid out by the end of the Quarter Horse Meet.
- C. Minimum Purses. No Quarter Horse race shall be run at Indiana Downs during the Term of this Agreement with a purse less than the minimum purse established by the Indiana Horse Racing Commission for any race meeting, but in no event less than \$4,000.
- D. Payment of Purses. Indiana Downs agrees to distribute purses in the following manner excluding stakes:

| <u>No. of Starters</u> | <u>10</u> |
|------------------------|-----------|
| First | 55% |
| Second | 20% |
| Third | 10% |
| Fourth | 5% |
| Fifth | 3% |
| Sixth | 2% |
| Seventh | 1.5% |
| Eighth | 1.5% |
| Ninth | 1% |
| Tenth | 1% |

If less than 10 starters, the applicable unpaid purse allotments will revert to the Q/H Purse account

- E. 2013 Purse Distribution. Notwithstanding anything to the contrary set forth in this Agreement, purses will be distributed for the 2013 race meeting based upon a reasonable estimate of purse money to be generated from all sources during the term of this contract. Actual purse money generated and not paid during the live meet, in addition to purse money generated after that date

through December 31, 2013, from whatever source, shall be allocated to the appropriate purse account for the 2014 racing year in accordance with the rules of the Indiana Horse Racing Commission.

8. Horsemen's Account. Indiana Downs will maintain a separate account denominated the "Quarter Horse Horsemen's Account" with sufficient funds in such account to pay all money owing to Quarter Horse Horsemen regarding purses, stakes, rewards, claims and deposits. All portions of purse money shall be made available to earners thereof within forty-eight (48) hours (dark days and Sundays excluded) after the result of the race in which such money was earned has been declared official, unless the stewards shall order money withheld until final adjudication of a dispute determining which persons are entitled to such money in dispute. No portion of such money, other than jockey fees, shall be deducted by Indiana Downs unless requested in writing by the person to whom such monies are payable or his duly authorized representative.

For each race cancelled because of inclement weather, mechanical failure, electrical failure, or for any other reason, the owner shall be reimbursed \$250.00 from the Quarter Horse horse account for each horse entered in the cancelled races. No reimbursement shall be made in the event that notice of cancellation is posted in the racing office eight (8) or more hours prior to post time. Indiana Downs will make an effort to run back any race that is cancelled.

9. Stalls and Track Facilities.

During the racing season, Indiana Downs will make the racing surface available for training (6) days per week beginning 35 days prior to beginning of current meet and continuing thereafter until the end of live racing. The starting gate to be available 2 weeks prior to beginning of current meet for schooling and works six (6) days per week when running and five (5) days per week during training prior to the meet.

10 Stall Applications. Before each race meeting, Indiana Downs shall establish a cutoff date for the submission of stall applications. Indiana Downs shall, in the exercise of its sole business judgment, approve or disapprove applications for stalls.

- (1) The general quality of the horses listed on the stall application;
- (2) The quality of the racetrack or tracks where the horses listed on the stall application have previously raced;
- (3) The number of starts a trainer listed on the application has made at past Indiana Downs race meetings;
- (4) The financial and professional integrity of the trainer listed on stall application;

- (5) The total number of stalls requested by a trainer in relation to the number of unallocated stalls; and
- (6) The best interest of Indiana Downs and Quarter Horse racing.

By accepting a stall, a horseman shall be required to use his or her best efforts to run his or her horses during the race meeting consistent with the horses' physical condition, fitness and race conditions.

10. Uplink. The QHRAI will reimburse Indiana Downs \$100 per race, for every live Quarter Horse race run from the Quarter Horse Purse Account to help defray the satellite uplink costs for export Simulcasting.

11. Representations and Warranties.

A. QHRAI. In addition to the representations and warranties contained elsewhere in this Agreement, the QHRAI warrants, represents to and covenants with Indiana Downs that during the Term:

- (1) This Agreement has been approved by its Board of Directors of the QHRAI;
- (2) This Agreement is valid and enforceable according to its terms;
- (3) The QHRAI is the "horsemen's association" representing Quarter Horse owners, trainers, breeders and sire owners for purposes of I.C. 4-31-8-6;
- (4) The QHRAI and its officials shall not participate in, delay, interrupt, dispute, or cause temporary or permanent cessation or suspension of racing at Indiana Downs during any race meeting and that they will not threaten, intimidate, interfere with or interrupt any agent, servant or employee of Indiana Downs or another person participating in racing at Indiana Downs;
- (5) Each QHRAI official shall use all of his or her powers of persuasion and all legal means at their disposal to ensure that all members and other backside personnel comply with the terms of this Agreement;
- (6) The QHRAI and its officials shall use their best efforts to respond to requests for consents and other approvals by Indiana Downs in a timely and business like manner, considering the need of Indiana Downs to move quickly and decisively;

- (7) The QHRAI shall use its best efforts to ensure that the backside area of the Racetrack is maintained in a safe, clean and orderly condition;
- (8) The QHRAI shall not discriminate against horsemen at Indiana Downs who are not members in connection with any provision of this Agreement.

B. Indiana Downs. In addition to the representations and warranties contained in this Agreement, Indiana Downs warrants, represents to and covenants with the QHRAI that during the Term:

- (1) This Agreement has been approved by its Board of Directors of Indiana Downs' general partner, or, as appropriate, by its General Manager;
- (2) This Agreement is valid and enforceable according to its terms;
- (3) Indiana Downs and its officers, directors and employees shall not threaten, intimidate or otherwise coerce any Horsemen, QHRAI member, employee or representative thereof;
- (4) Indiana Downs shall use its best efforts to keep the backside area of the Racetrack in a safe, clean, and orderly condition; and
- (5) Indiana Downs shall use its best efforts to assist the QHRAI in developing health and welfare programs for backstretch personnel.
- (6) Indiana Downs shall use its best efforts to reschedule any programmed race lost due to cancellation.

12. Governmental Approval. Nothing contained in the Agreement shall be construed as requiring either party to perform any term or terms when such performance is contrary to law or requires prior governmental approval; provided, however, both parties shall use their best efforts to obtain governmental approval if such is required including approval by the Indiana Horse Racing Commission.

13. Indemnification. The QHRAI shall indemnify and hold harmless Indiana Downs from and against any damage, deficiency, loss, action, judgment, cost and expense (including reasonable attorneys' fees) resulting from any claim, demand or cause of action made or brought by a member, or other person, because of any payment made to the QHRAI under the provisions of Paragraphs 4, 6, 7, 9A or 11.

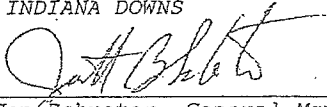
14. Further Assurances. The QHRAI and Indiana Downs shall execute such

amendment is in writing and has been signed by the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of April 01, 2013.

CENTAUR ACQUISITION, LLC
DBA INDIANA DOWNS

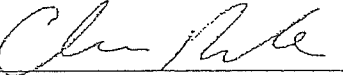
By:



Jon Schuster, General Mgr of Racing

QUARTER HORSE RACING
ASSOCIATION OF INDIANA

By:



Chris Duke, President

AGREEMENT

THIS AGREEMENT entered into April 01, 2013, by and between CENTAUR ACQUISITION, LLC dba INDIANA DOWNS, an Indiana limited liability company and the INDIANA HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION, INC., an Indiana not-for-profit corporation (the "HBPA" or Association).

WHEREAS, the HBPA is a trade organization composed of owners and trainers (hereinafter the HBPA "Members") of Thoroughbred race horses;

WHEREAS, the HBPA represents that it is the "horsemen's association" representing Thoroughbred owners and trainers for purpose of I.C. 4-31-8-6; and

WHEREAS, the HBPA provides benevolent programs and other services for its members and their employees who are engaged in racing at Indiana Downs' racing facility; and

WHEREAS, the parties hereto want to cause a closer and more understanding relationship among horsemen, the members, the HBPA, Indiana Downs and the public;

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, the parties agree as follows:

1. Term of Agreement. This agreement shall be effective from 4/1/2013 - 3/31/2014 and, unless sooner terminated as provided herein, shall remain effective until the contract is executed for 2014 racing meet (hereinafter the "Term").
2. Scope of Agreement. Except as otherwise specifically set forth herein, this Agreement shall only apply to race meetings and pari-mutuel wagering conducted at Indiana Downs racing facility at Shelbyville, Indiana (the "Racetrack") and to pari-mutuel wagering conducted at satellite wagering facilities licensed to Indiana Downs and located in the state of Indiana (the "Satellite Facilities").
3. Exclusive Representation. The HBPA is the exclusive representative of its members and of all Thoroughbred owners and trainers stabled at Indiana Downs or who have horses approved for entry in Thoroughbred races at Indiana Downs, except those persons who state in writing that they do not desire to be represented by the HBPA.
4. Payment for Administrative expenses. Indiana Downs shall deduct 3% (three percent) for the period January 1, 2013, through December 31, 2013, from the allocations to the Indiana Downs Thoroughbred Purse Account in Section 7, subsection A. through G., below, and pay such amounts to the Association to be used by the Association solely at its discretion for its administrative expenses and for services to its members. Such payments shall be made throughout the term of the Agreement in current monthly installments as such funds are received, regardless of overpayment/underpayment in the Thoroughbred Purse Account. No deduction shall be made for administrative expenses from Slot Funds allocated to the Thoroughbred Purse Account.

5. Race Cards; Simulcasting.

- A. Minimum Number. During the live race meet at the Racetrack, Indiana Downs agrees to hold a minimum of nine (9) live races per card, with additional race (s) provided there is an adequate supply of Thoroughbred horses. The HBPA shall use its best efforts to supply Indiana Downs with an adequate supply of horses to conduct each race meet covered by the Agreement. Indiana Downs shall be allowed to simulcast additional Thoroughbred races to supplement the live race card.
- B. Simulcast Signal. Indiana Downs in its sole discretion will decide the price or cost, type, time and schedule of all simulcast signals to, and from, the Racetrack and to each Satellite Facility, on all days including live race days. The cost of such simulcast signals shall be normal market rates.
- C. HBPA Authorization. During the Term of this Agreement, the HBPA authorizes Indiana Downs to negotiate and contract with simulcast receiving facilities, including off track wagering facilities located outside Indiana, which are subject to the Interstate Horse Racing Act of 1978, P.L. 95-515 (the "Act"), for the conduct of off-track wagering. Indiana Downs will inform, and seek the approval of, the HBPA prior to Indiana Downs sending its signal to any other receiving jurisdiction.

6. Allocations to Purses. During the term of this Agreement and except as otherwise provided herein, Indiana Downs shall credit the following amounts to an account denominated the Thoroughbred Horsemen's Purse Account for disbursement, in complete satisfaction of Indiana Downs' obligation for purses, under the following situations:

- A. Live Racing. When Thoroughbred racing is live at the Racetrack, eight percent (8%) of the live gross handle generated at the Racetrack shall be credited to Indiana Downs' Thoroughbred purse account as prescribed by state statute.
- B. Satellite Wagering - In-State. When Thoroughbred racing is live at the Racetrack, five percent (5%) of the live gross handle generated by said live racing at any Indiana Satellite Facility shall go to Indiana Downs' Thoroughbred purse account as prescribed by state statute.
- C. Satellite Wagering - Out-of-State. When Indiana Downs simulcasts a Thoroughbred race run live at the Racetrack to an out-of-state facility, 50% of the net receipts generated by simulcasting on that race, including any source market fees and distribution and communication fees received by Indiana Downs (net of expenses incurred by Indiana Downs) on the simulcast of that Thoroughbred race run live at the Racetrack, shall go to the Indiana Downs Thoroughbred purse account. For purposes of this Subsection C, "net receipts" shall mean all funds received by Indiana Downs under the applicable contracts less any applicable excise taxes.
- D. Simulcast Receiving. Purse Allocations. When a race is simulcast

to the Racetrack or a Satellite Facility, 5% of gross handle generated by simulcasting on that race shall be allocated between the Indiana Downs Thoroughbred Purse Account, the Indiana Downs Standardbred Purse Account, and the Quarter Horse Purse Account according to IHRC rule.

E. Source Market. If, and when, Indiana Downs receives any source market fees and distribution and communication fees under separate agreement from pari-mutuel wagering on horse races, other than from live racing at Indiana Downs or simulcasts from, or to, Indiana Downs, ("source market fees"), 50% of source market fees (net of expenses incurred by Indiana Downs) shall be allocated between the Indiana Downs Standardbred Purse Account, the Indiana Downs Thoroughbred Purse Account, and the Quarter Horse Purse Account according to IHRC rule.

F. Definitions. For purposes of this Section 6:

- (1) "Gross handle" means all sums wagered by patrons less refunds.
- (2) "Net revenues" means the gross handle on such race or races reduced only by money returned to patrons by refund or payoff, pari-mutuel taxes due and payable and host track fees.
- (3) "Live racing" and "live race meeting" mean the entire period that a live race meeting is in progress, from the first race day of the meeting through the last day of it, inclusive of all days between.

7. Purses.

A. Purse Schedules and Condition Books. Using its best judgment in estimating attendance, pari-mutuel handle, and breakage, Indiana Downs shall establish a tentative average daily overnight purse schedule for each race meeting and will exercise due care to avoid underpayment or overpayment of purses at all race meetings.

Indiana Downs will also deliver to the HBPA, within twenty-one (21) days before each race meeting, its first condition book and proposed purse schedules. Indiana Downs will send a copy of its stall application blank, stakes purse program and condition books for each race meeting to the President of the HBPA for HBPA review prior to printing.

The condition book shall state that the racing secretary will card any Indiana Bred Allowance or Maiden race(s) carried over from the previous day and any race listed in the body of the book which receives eight (8) or more betting interests at entry time unless the total of all such carried over races and races for that day exceed the number of races being carded for that day.

- B. Overpayment - Underpayment of Purses. Indiana Downs will make a best faith effort to insure that all Thoroughbred Purse monies earned through the end of the Thoroughbred Meet are paid out by the end of the Thoroughbred Meet. Further, Indiana Downs will meet with the Indiana HBPA on a bi-weekly basis to review the status of the Purse account at the request of the HBPA.
- C. Minimum Purses. No Thoroughbred race shall be run at Indiana Downs during the Term of this Agreement with a purse less than the minimum purse established by the Indiana Horse Racing Commission for any race meeting, but in no event less than \$6,000.
- D. Purse Notices. The pari-mutuel handle, the pari-mutuel handle commission, breakage and purse distribution figures, and the percentage figures that represent the relationship between purses and the total of pari-mutuel income and breakage shall be posted on the bulletin board in the Racing Secretary's office each day of a race meeting. Indiana pari-mutuel handle figures shall be provided within forty-eight (48) hours after they are available to the President of the HBPA at the address provided below.
- E. Stakes Race Purses. Indiana Downs may, at its sole option, apply purse money of either purses for Stakes Races ("Stakes Race Purses") or purses for overnight races. If the total amount paid by Indiana Downs to horsemen in Stakes Race Purses in any calendar year exceeds twenty percent (20%) of the total amount paid in purses, such excess shall not be used to satisfy any of Indiana Downs' purse obligations under this Agreement.
- F. Payment of Purses. Indiana Downs agrees to distribute purses in the following manner excluding stakes.

| <u>No. of Starters</u> | <u>5</u> | <u>6</u> | <u>7</u> | <u>8</u> | <u>9</u> | <u>10</u> | <u>11</u> | <u>12</u> |
|------------------------|----------|----------|----------|----------|----------|-----------|-----------|-----------|
| First | 60% | 60% | 60% | 60% | 60% | 60% | 60% | 60% |
| Second | 20% | 20% | 20% | 20% | 20% | 20% | 20% | 20% |
| Third | 10% | 10% | 10% | 10% | 10% | 10% | 10% | 10% |
| Fourth | 6% | 5% | 5% | 5% | 5% | 5% | 5% | 5% |
| Fifth | 4% | 3% | 3% | 2% | 1% | 1% | 1% | 1% |
| Sixth | | 2% | 1% | 1% | 1% | 1% | 1% | 1% |
| Seventh | | | 1% | 1% | 1% | 1% | 3/4% | 1/2% |
| Eighth | | | | 1% | 1% | 1% | 3/4% | 1/2% |
| Ninth | | | | | 1% | 1/2% | 1/2% | 1/2% |
| Tenth | | | | | | 1/2% | 1/2% | 1/2% |
| Eleventh | | | | | | | 1/2% | 1/2% |
| Twelfth | | | | | | | | 1/2% |

Any races under five horses the extra monies revert to the winner.

- G. 2014 Purse Distribution. Notwithstanding anything to the contrary set forth in this Agreement, purses will be distributed for the 2014 race meeting based upon a reasonable estimate of purse money

to be generated from all sources during the term of this contract. Actual purse money generated and not paid during the live meet, in addition to purse money generated after that date through December 31, 2013, from whatever source, shall be allocated to the appropriate purse account for the 2014 racing year in accordance with the rules of the Indiana Horse Racing Commission.

8. Other Revenues.

A. Media Rights. If Indiana Downs shall increase its annual revenues from the sale or licensing to a third party of its television, radio or other media transmission rights, including cable, network or subscription transmissions, but excluding interstate and intrastate simulcasting pursuant to which revenues are paid under this Agreement (hereinafter called "Media Rights"), Indiana Downs and the HBPA shall negotiate an appropriate adjustment to Thoroughbred purses in the year the increases revenue is paid to and earned by Indiana Downs. Prior to execution, Indiana Downs shall notify the members of the Racing Committee of the material terms and donations of all contracts it negotiates under the terms of which it sells or licenses its Media Rights and shall give consideration to the position expressed by the HBPA members. In no event shall this or any other provision of this Agreement be construed or interpreted as an admission or acknowledgment by Indiana Downs that any person, entity or group other than Indiana Downs has a proprietary right in or to the Media Rights relating to any event hosted and/or sponsored by Indiana Downs.

B. Sponsorship Revenues. Indiana Downs shall pay to Thoroughbred horsemen as purses an amount equal to thirty percent (30%) per year of all monies paid to and earned by Indiana Downs by third parties in consideration for which the payer receives the right, either alone or with other consideration, to have its name, logo or other identification of its choosing entitle one or more Thoroughbred horse races, conducted and run by Indiana Downs at the Racetrack. Sponsorship revenues subject to this provision shall be limited to monies paid in cash or equivalent and earned by Indiana Downs and shall not include the value of "in kind" contribution or payments of goods or services flowing from said third parties to Indiana Downs. In no event shall this or any other provision of this Agreement be construed or interpreted as entity or group other than Indiana Downs has a proprietary right in or to any sponsorship revenues, except as specifically set forth herein.

9. Horsemen's Account. Indiana Downs will maintain a separate account denominated the "Thoroughbred Horsemen's Account" with sufficient funds in such account to pay all money owing to Thoroughbred Horsemen regarding purses, stakes, rewards, claims and deposits. All portions of purse money shall be made available to earners thereof within forty-eight (48) hours (dark days and Sundays excluded) after the result of the race in which such money was earned has been declared official, unless the stewards shall order money withheld until final adjudication of a dispute determining which persons are entitled to such money in dispute. No portion of such money, other than jockey fees, shall be deducted by Indiana Downs unless requested in writing by the person to

whom such monies are payable or his duly authorized representative.

For each race cancelled because of inclement weather, mechanical failure, electrical failure, or for any other reason, the owner shall be reimbursed \$750.00 from the Thoroughbred horse account for each horse entered in the cancelled races. No reimbursement shall be made in the event that notice of cancellation is posted in the racing office, texted to those subscribing to the Indiana Downs texting service and posted on the Indiana Downs website eight (8) or more hours prior to post time. Indiana Downs will make an effort to run back any race that is cancelled.

10. Stalls and Track Facilities.

- A. Stalls and Track Facilities. Indiana Downs shall make available stall space to Thoroughbred horsemen during each race meeting without charge. The racing strip, barns, dormitories and other facilities at the Racetrack (the 'Backside Facilities') necessary for training purposes shall be made available by Indiana Downs without charge to horsemen who have stalls allocated for the immediately upcoming live race meeting 35 days prior to beginning of current meet (barring unforeseen circumstances), the track kitchen facilities 21 days prior to beginning of current meet, and the barn area and dormitories shall also open 35 days prior to beginning of current meet. Indiana Downs shall make water and electricity available to each barn during the above periods without charge and will, at its own expense, keep the racetrack properly harrowed and watered during the periods before and after the end of each race meeting.

In addition, during the racing season, Indiana Downs will make the racing surface available for training (6) days per week beginning 35 days prior to beginning of current meet and continuing thereafter until the end of live racing. The starting gate to be available 2 weeks prior to beginning of current meet for schooling and works five (5) days per week. Clockers will be available six (6) days per week during training and prior to the meet.

- B. Vendors. Indiana Downs will not impose upon horsemen any exclusive arrangement concerning farriers, feed men, tack supplies, or any other suppliers or providers of service customarily used by owners and trainers. Indiana Downs will use its best efforts to keep unlicensed persons in the above categories off its premises.
- C. Stall Applications. Before each race meeting, Indiana Downs shall establish a cutoff date for the submission of stall applications. Indiana Downs shall, in the exercise of its sole business judgment, approve or disapprove applications for stalls. The conditions for stabling shall be as set forth on Exhibit A hereto and such conditions shall not be materially modified without the consent of the HBPA. Indiana Downs will consider, among other things, the following criteria in allocating stalls to horsemen for use during race meetings:

- (1) The general quality of the horses listed on the stall application;
- (2) The quality of the racetrack or tracks where the horses listed on the stall application have previously raced;
- (3) The number of starts a trainer listed on the application has made at past Indiana Downs race meetings;
- (4) The financial and professional integrity of the trainer listed on stall application;
- (5) The total number of stalls requested by a trainer in relation to the number of unallocated stalls; and
- (6) The best interest of Indiana Downs and Thoroughbred racing.
- (7) Preference for stalls shall be given to horsemen who have investments in Indiana horses and farms.

By accepting a stall, a horseman shall be required to use his or her best efforts to run his or her horses during the race meeting consistent with the horses' physical condition, fitness and race conditions.

11. Racing Committee. During the Term of this Agreement, Indiana Downs and the HBPA shall organize and maintain a joint committee to be known as the "Racing Committee." The HBPA shall not appoint more than four (4) representatives to the Racing Committee. Indiana Downs shall not appoint more than four (4) representatives to the Racing Committee. The Racing Committee shall meet at least once not more than seventy (70) days, nor less than forty (40) days before each of Indiana Downs' Thoroughbred race meetings, and at least once within seven (7) days after each Thoroughbred race meeting. The Committee shall meet once a month, or as needed, to discuss such things as backside issues, promotion, publicity, track conditions, other matters that relate to attendance, pari-mutuel handle, the quality of racing, health benefit programs, death benefits, drug and alcohol abuse programs, and any other program that will aid and assist the racing industry in Indiana to care for its personnel at the highest possible level. The Committee shall keep minutes of its discussions, recommendations and decisions.
12. Uplink. The HBPA will reimburse Indiana Downs \$100 per race, for every live thoroughbred race run from the Thoroughbred Purse Account to help defray the satellite uplink costs for export Simulcasting.
13. Representations and Warranties.
 - A. HBPA. In addition to the representations and warranties contained elsewhere in this Agreement, the HBPA warrants, represents to and

covenants with Indiana Downs that during the Term:

- (1) This Agreement has been approved by its Board of Directors of the HBPA;
- (2) This Agreement is valid and enforceable according to its terms;
- (3) The HBPA is the "horsemen's association" representing Thoroughbred owners and trainers for purposes of I.C. 4-31-8-6;
- (4) The HBPA and its officials shall not participate in, delay, interrupt, dispute, or cause temporary or permanent cessation or suspension of racing at Indiana Downs during any race meeting and that they will not threaten, intimidate, interfere with or interrupt any agent, servant or employee of Indiana Downs or another person participating in racing at Indiana Downs;
- (5) Each HBPA official shall use all of his or her powers of persuasion and all legal means at their disposal to ensure that all Members and other backside personnel comply with the terms of this Agreement;
- (6) The HBPA and its officials shall use their best efforts to respond to requests for consents and other approvals by Indiana Downs in a timely and business like manner, considering the need of Indiana Downs to move quickly and decisively;
- (7) This Agreement will be made available for review by Members of the HBPA and all other licensed owners, trainers, employees and backside personnel at the HBPA office;
- (8) The HBPA shall use its best efforts to ensure that the backside area of the Racetrack is maintained in a safe, clean and orderly condition;
- (9) The HBPA shall not discriminate against horsemen at Indiana Downs who are not members in connection with any provision of this Agreement.
- (10) The HBPA shall use its best efforts to provide health and welfare benefits to backstretch personnel.

B. Indiana Downs. In addition to the representations and warranties contained in this Agreement, Indiana Downs warrants, represents to and covenants with the HBPA that during the Term:

- (1) This Agreement has been approved by its Board of Directors of Indiana Downs' general partner, or, as appropriate, by its General Manager;

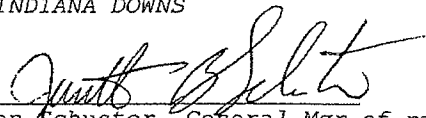
- (2) This Agreement is valid and enforceable according to its terms;
 - (3) Indiana Downs and its officers, directors and employees shall not threaten, intimidate or otherwise coerce any Horsemen, HBPA member, employee or representative thereof;
 - (4) Indiana Downs shall use its best efforts to keep the backside area of the Racetrack in a safe, clean, and orderly condition; and
 - (5) Indiana Downs shall use its best efforts to assist the HBPA in developing health and welfare programs for backstretch personnel.
 - (6) Indiana Downs shall use its best efforts to reschedule any programmed race lost due to cancellation.
14. Governmental Approval. Nothing contained in the Agreement shall be construed as requiring either party to perform any term or terms when such performance is contrary to law or requires prior governmental approval; provided, however, both parties shall use their best efforts to obtain governmental approval if such is required including approval by the Indiana Horse Racing Commission.
15. Threats of Boycotts by Individual Members. In the event any representative of the HBPA becomes aware of any Member or Members who is or are threatening to withhold any entry or entries for a race at the Racetrack, or any member or members of any horsemen's group or individual horsemen threatening to do likewise, then, in such events, the HBPA shall call a general meeting of horsemen. Notice of such meeting shall be provided to Indiana Downs under Paragraph 21 and Indiana Downs shall be given an opportunity to appear at such general meeting for the purpose of explaining its position regarding the controversy.
16. Right to Terminate.
- A. Boycotts. If, during the Term, Indiana Downs is prevented from conducting a scheduled race due to the concerted action of Members of the HBPA, and/or its officers or directors, which results in a boycott of a scheduled race, then, in such event, Indiana Downs shall have the right to terminate this Agreement by giving written notice to the HBPA. The HBPA shall have until 10:00 A.M. of the next day to prevent the boycott of future races and to provide evidence to Indiana Downs that the boycott has been prevented. If the HBPA fails to prevent the boycott by that time, then Indiana Downs may terminate this Agreement immediately without further action or notice to the HBPA. Such termination shall not constitute an election of remedies nor shall it constitute an election of remedies nor shall it constitute a waiver of Indiana Downs' other remedies in law or equity.

- B. Default. Without limiting Indiana Downs' right under Paragraph 16.A, either party may terminate this Agreement upon the other party's failure to substantially perform as required under the terms of this Agreement and such failure continues for fifteen (15) days following the date written notice of default is mailed or delivered pursuant to Paragraph 21. Such termination shall not constitute an election of remedies nor shall it constitute a waiver of a party's other remedies in law or equity.
17. Indemnification. The HBPA shall indemnify and hold harmless Indiana Downs from and against any damage, deficiency, loss, action, judgment, cost and expense (including reasonable attorneys' fees) resulting from any claim, demand or cause of action made or brought by a member, or other person, because of any payment made to the HBPA under the provisions of Paragraphs 4, 6, 7, or 9.
18. Further Assurances. The HBPA and Indiana Downs shall execute such assignments, instruments and documents and shall give such further assurances as may be necessary to accomplish the purpose and intent of this Agreement.
19. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute the same instrument.
20. Rights of Others. Nothing contained in this Agreement shall be construed as giving a member a preference with respect to the eligibility to race, to obtain stalls, to share in purses, to purchase admission tickets for racing events or to participate in any benefit provided by Indiana Downs to horsemen.
21. Notices. All notices, requests, demands or other communications as may be required by this Agreement shall be in writing and, if mailed, shall be by certified mail, return receipt requested, and shall be deemed given when received by purposes of this Agreement, the following are the addresses of the parties:
- | | |
|--|--|
| Indiana Downs: | Jon Schuster 4200 N. Michigan Shelbyville, IN 46176 |
| HBPA: Joe Davis President Indiana HBPA 1682 Asher Court Hebron, KY 41048 | Copy to: Mike Brown Executive Director Indiana HBPA 32 Holloway Dr. Brownsburg, IN 46250 |
22. Waivers. No waiver of any breach of this Agreement or any terms hereof shall be effective unless such waiver is in writing and signed by the party against whom such waiver is claimed. No waiver of any breach shall be deemed to be a waiver of any other or any subsequent breach.
23. Applicable Law. This Agreement is executed and delivered in the State of Indiana and shall be construed and enforced in accordance with the laws of that state.

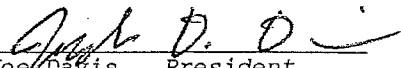
24. Severability. If any provision of this Agreement is declared invalid by any tribunal, or becomes invalid or inoperative by operation of law, the remaining provisions of this Agreement shall not be affected thereby and shall remain in full force and effect.
25. Assignment. This Agreement shall not be assigned by the HBPA without the written approval of Indiana Downs.
26. Entire Agreement; Modification. This is the entire agreement between the parties and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof. No modification, variation or amendment of this Agreement shall be effective unless such modification, variation or amendment is in writing and has been signed by the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of April 01, 2013.

CENTAUR ACQUISITION, LLC
DBA INDIANA DOWNS

By: 
Jon Schuster, General Mgr of racing

INDIANA HORSEMEN'S BENEVOLENT
AND PROTECTIVE ASSOCIATION, INC.

By: 
Joe Davis, President

Newell, Holly

From: Ellingwood, Lea
Sent: Tuesday, June 04, 2013 12:34 PM
To: Newell, Holly
Cc: Gorajec, Joe; Pitman, Deena
Subject: FW: Resolution
Attachments: Resolution.docx

From: Carole Bruner [<mailto:cbruner@centaugaming.net>] **On Behalf Of** John Keeler
Sent: Thursday, May 16, 2013 11:13 AM
To: Ellingwood, Lea
Cc: Gorajec, Joe; Brian Elmore; jschuster@indianadowns.com; rick.moore@hoosierpark.com
Subject: Resolution

Lea,

I write for the purpose of following up on our recent phone conversation concerning the implementation of the recently enacted IC 4-31-9-1.5 (b). I would respectfully request that this matter be placed on the agenda for the next meeting of the Commission and that the Commission consider its adoption. Centaur believes it is appropriate to delegate to the Executive Director the Commission's power to reduce the amounts a permit holder must retain on account of the practical issue of requests being made for races that will take place prior to the next regularly scheduled meeting of the Commission. Please note that paragraph 2 of the proposed resolution is not a statutory requirement. However, Centaur believes that if the amount it is statutorily obligated to retain is to be reduced, it should either agree, or, if it disagrees, should have the opportunity to be heard by the Commission. I don't anticipate disputes over this issue but believe it prudent to require the Commission to decide the issue in the unlikely event a dispute would arise. I welcome the opportunity to discuss this with you in further detail, if you so desire. Thanks.

**STATE OF INDIANA
INDIANA HORSE RACING COMMISSION**

Resolution

WHEREAS, Senate Enrolled Act 609 (SEA 609) was signed by Governor Pence in May 2013 and became Public Law 2013-210;

WHEREAS, SECTION 4 of SEA 609, which became effective on passage, added IC 4-31-9-1.5 (b) to the Indiana Code, which reads as follows:

“(b) If requested in writing by a horsemen's association, the commission may reduce the amount that a permit holder must retain under subsection (a)(1), (a)(2), or (a)(3), or any combination of those subdivisions. The commission must find that reducing the amount retained by the permit holder is in the best interests of horse racing in Indiana before granting the horsemen's association's request;”

WHEREAS, 71 IAC 2-2-1 (b) permits the Commission to delegate to the Executive Director all powers and duties necessary to fully implement the purposes of IC 4-31; and

WHEREAS, the Commission finds that delegating the power to the Executive Director to reduce the amounts a permit holder must retain, as authorized by the recently enacted IC 4-31-9-1.5 (b), is in furtherance of the purposes of IC 4-31 and necessary because of the need for prompt action in the interim between meetings of the Commission.

NOW THEREFORE, the Commission delegates to the Executive Director, after consultation with the Chairman of the Commission, its power to reduce the amounts that a permit holder must retain, all as authorized by IC 4-31-9-1.5 (b), if the following conditions are satisfied:

1. A horsemen's association requests in writing that the Commission reduce the amount a permit holder must retain in a certain race on a specific date at the permit holder's racetrack;
2. The permit holder agrees in writing to the request; and
3. The Executive Director determines that granting the request is in the best interests of horse racing in Indiana.