
MEMORANDUM

TO: INDIANA HORSE RACING COMMISSION/SB DEVELOPMENT PROGRAM
FROM: CHAIRMAN PHILIP BORST, DVM
SUBJECT: WAIVER OF 71 IAC 14-2-1 STALLION REGISTRATION
DATE: TUESDAY, AUGUST 20, 2019
CC: NOAH JACKSON
DEENA PITMAN

LEGAL AUTHORITY

Pursuant to 71 IAC 2-2-1(c), the Commission or the executive director may waive a rule upon a showing of good cause by an association or licensee, or if compliance with a rule is impractical or unduly burdensome, provided that the grant of the requested waiver would ensure that pari-mutuel wagering on horse races in Indiana would continue to be conducted with the highest standards and the greatest level of integrity.

BACKGROUND

The Indiana horse racing program includes a number of races in which horses that are Indiana Sired (“IS”) or Indiana Sired and Bred (“ISB”) are required and/or preferred for entry. Additionally, these horses may qualify for breeder awards for performance in these races.

Alvin Schwartz (“Mr. Schwartz”) is a long-time participant in the Indiana horse racing program. In early 2019, Mr. Schwartz successfully registered several stallions to breed with mares so their offspring would be eligible to participate as IS and ISB foals. Unfortunately, although the stallion named Stevensville stood in Indiana during the 2019 breeding season, he was never properly registered. Failure to register Stevensville is a violation of 71 IAC 14-2-1.

Stevensville was bred to thirty-seven (37) mares during the 2019 season. As a result of the rule violation, the foals sired by Stevensville will be ineligible for consideration as IS or ISB horses. This ineligibility will result in a significant financial impact on individuals that paid Mr. Schwartz for a service and believed in good faith that they would receive that service.

WAIVER

Commission Staff has monitored this situation closely and has spoken directly with a number of parties involved. After consideration of the rule violation, along with a number of circumstances further discussed in the attached Settlement Agreement, the Commission has determined that a rule waiver is appropriate.

This waiver specifically waives the provisions of 71 IAC 14-2-1, and will allow Stevensville to be considered a properly registered stallion for the purposes of allowing the foals sired by Stevensville to be eligible as IS or ISB foals and/or eligible for breeder awards.

Pursuant to 71 IAC 2-2-1(c), as stated above, the Commission may waive a rule that it considers unduly burdensome provided it ensures that horse racing and pari-mutuel wagering in Indiana continue to operate with the greatest level of integrity and the highest of standards.

In consideration of the above, the Commission hereby **waives** 71 IAC 14-2-1 and will allow Stevensville to be considered properly registered as a stallion and the sired foals to be eligible as IS and ISB foals. This waiver is **strictly limited** to foals sired by Stevensville during the 2019 breeding season. Any foal that would not have been eligible for IS or ISB status, for any reason other than Mr. Schwartz's rule violation, are still considered ineligible. This waiver does not in any way limit or prohibit the Commission from enforcing the provisions of 71 IAC 14-2-1 in any other situation and/or under any other circumstances as it may deem necessary.

The Commission does not take a waiver of any rule lightly. However, after much consideration, the Commission has determined that it cannot, in good conscience, effectively punish nearly thirty individuals that paid Mr. Schwartz, in good faith, and believed that they would receive a foal eligible for IS or ISB status. The Commission believes strict enforcement of the provisions of 71 IAC 14-2-1, **in this particular case**, is unduly burdensome and will inevitably cause undue economic harm to those that suffered due to Mr. Schwartz's oversight.

This waiver **does not** relieve Mr. Schwartz of any responsibility for his violation of 71 IAC 14-2-1. After consideration of the severity of the rule violation and the impact on the racing program going forward, the Commission has determined that a settlement agreement with Mr. Schwartz is appropriate. The executed settlement agreement is attached to this waiver document.

This waiver **is not** intended to be a blanket waiver of 71 IAC 14 or any specific provision therein. The waiver is approved based upon a specific set of facts understood by the Commission. If information comes to light at any time after this waiver is granted, that changes the context or circumstances of the above situation, the Commission reserves its right to revisit the waiver and to modify or terminate the settlement agreement and pursue disciplinary action and/or monetary penalty against Mr. Schwartz.

ORDERED THIS 20TH DAY OF AUGUST, 2019, BY THE INDIANA HORSE RACING COMMISSION.

INDIANA HORSE RACING COMMISSION:

Dr. Philip Borst, DVM, Chairman

Gregory Schenkel, Vice Chairman

George Pillow, Member

Bill McCarty, Member

Susie Lightle, Member