

MAINE HARNESS RACING COMMISSION
MINUTES OF MEETING
August 27, 2014
Windsor Fair Board Room
Administration Building (Building #25)
Windsor Fairgrounds, Route 32
Windsor, ME

Commission Members Present: Barbara Dresser, Chair, James Tracy, Gary Reed and Michael Timmons. Absent: Commissioner Dirk Duncan.

Staff Members Present: Ron Guay, AAG, Henry Jackson, and Carol Gauthier.

ADJUDICATORY HEARINGS:

1. Commissioner Dresser stated that she would have Mr. Jackson update them on the first two items on the agenda. Mr. Jackson stated that the split sample testing has not been received in the office at this time. In addition to that, Mr. Childs was not available until late this afternoon to attend the meeting. Therefore, he talked with Attorney Guay, the hearing officer, and he granted a continuance for David Miller complaint numbers 2014 MSHRC 006 and 007 to the September meeting. If you remember at our last meeting, we did vote to continue the matter until September anyway.

2. Commissioner Dresser stated that they would take up the matter of Maynard Morrison, Complaint Number 2014 MSHRC 005. Mr. Morrison is alleged to have violated MSHRC Rule Chapter 11 Section 1, and he is the trainer of record of "Upfront Grant's Girl". Attorney Guay called the hearing to order in the matter of Maynard Morrison. The blood sample obtained from "Upfront Grant's Girl" following the Fourth Race at Bangor Raceway on May 9, 2014 disclosed the presence of Furosemide (Lasix), a Class Four Drug. We are here to hear evidence regarding that. The hearing is in two parts. The first part is to determine whether there is a violation and the second part of the hearing is to hear arguments of what the punishment should be. He asked the Commissioners questions. Commissioners do not have any personal knowledge of the matter before them. Commissioners answered no to question two. Attorney Guay asked if there was any objection with anything that has happened up to this point. Mr. Morrison stated no. Attorney Guay stated that Mr. Jackson would be prosecuting for the Department. Mr. Jackson stated yes. Attorney Guay stated for the record that Mr. Morrison is present and is not represented by a lawyer. Mr. Morrison submitted into evidence Exhibit 1, a statement of his case. Mr. Guay asked Mr. Jackson if he objected to the submission of this document. Mr. Jackson stated no. Attorney Guay administered the oath to Mr. Jackson and Mr. Morrison. Mr. Jackson submitted into evidence Exhibit 1, Mr. Morrison's 2014 License application; Exhibit 2, Program at Bangor Raceway of May 9, 2014; Exhibit 3, Copy of tag for blood sample; Exhibit 4, Report from LGC; Exhibit 5, Notice of Positive Test and Suspension dated July 15, 2014; Exhibit 6, Letter from Mr. Morrison to Mr. Jackson with the wrong address; Exhibit 7, DNA sample from Maxxam laboratory and Exhibit 8, Notice of Hearing dated August 15, 2014. Attorney Guay asked Mr. Morrison if he objected to this exhibits. Mr. Morrison stated no. Attorney Guay stated that Mr. Jackson would go first. Mr. Jackson stated that exhibit 1 indicates that Mr. Morrison is a licensed owner/trainer with the Maine State Harness Racing Commission; exhibit 2 indicates that he is the trainer of record for the horse Upfront Grants Girl on May 9, 2014 at Bangor Raceway; exhibit 3 indicates that Mr. Morrison did sign the tag that associated the sample withdrawn from Upfront Grants Girl on May 9, 2014 at Bangor Raceway; exhibit 4 is the analysis report from LGC indicating that they found furosemide in the blood sample that was collected from Upfront

Grants Girl; exhibit 5 is a letter to Mr. Morrison indicating a notice of positive test and suspension of all his licenses pending a hearing before the Commission; exhibit 6 is a letter from Mr. Morrison to Mr. Jackson indicating that he wanted a stay of suspension pending an analysis of a DNA confirmation; exhibit 7 indicates that the analysis of the blood sample that was collected from Upfront Grants Girl on May 9, 2014 and submitted to LGC a split was forwarded to Maxxam Analytics and a hair sample was submitted to Maxxam Analytics. The result was that the blood and the hair was a match, and exhibit 8 was a notice of hearing for today. He stated that based on the fact that Mr. Morrison is the trainer of record of the horse, Upfront Grants Girl and that the analysis of the sample collected from Upfront Grants Girl showed the presence of furosemide. He believes that the Commission will find that Mr. Morrison is the guilty of Commission Rules Chapter 11, Section 1. Attorney Guay stated to Mr. Morrison that he can ask any questions to Mr. Jackson. Mr. Morrison stated that he was all set. Commissioner Dresser asked Mr. Jackson if he would be addressing the other allegations outlined in the notice of hearing. Mr. Jackson stated that he would like to dismiss number 4, 5 and 6 contained in the notice of hearing. Attorney Guay stated that there is a motion that the state makes a motion to dismiss counts 4, 5 and 6. Mr. Jackson stated yes. Attorney Guay stated that its August 15, 2014 notice of hearing. Is that correct? Mr. Jackson stated that is correct. Attorney Guay stated to Mr. Morrison that the state is going to withdraw charges that you conspired with people, you committed misconduct injurious to the character of racing and that you are unfit to race. The state is withdrawing those charges so the Commissioners will not consider it. States motion to dismiss counts 4, 5 and 6 is granted without objection by Mr. Morrison. He stated to Mr. Morrison that he could ask questions. Mr. Morrison stated that he tried to prove his innocence and it came back as a match and he is lost for words because he did not administer anything nor has he had any drugs to put in his horses. In 2013 he went six years without a win. On June 20, he put his horse on Lasix at that time because she wouldn't urinate. She would leave the barn and be trucked to any track and she wouldn't go, but when she came back to the barn she'd go. He thought it would be injuring to her to her stomach so he put her on Lasix for that reason. Prior to that he never had her on Lasix nor did he have anybody else do it. Attorney Guay asked Mr. Jackson if he had any questions for Mr. Morrison. Mr. Jackson stated no. Attorney Guay asked questions of Commission members. No questions from the Commissioners and no questions from any intervenors. He stated that they would have deliberations. Commissioner Tracy stated that he would make a motion to find a violation. Commissioner Reed seconded. Commissioner Reed stated that the fact that Mr. Morrison chose to spent \$350 tells him that he in good faith believed that the sample was inappropriately collected or from a different animal. If he had knowledge that he personally had administered the substance, he would not have spent an extra \$350 to try to prove otherwise. There's a violation and the penalty phase ought to consider some mitigation. Commissioner Dresser stated that they would take it in two parts. First, we will determine a violation or not and then we'll move on to the penalty phase. Commissioner Timmons stated that based on what Mr. Morrison says and the fact that in this business it's sad to say but somehow someone else could have done this because the proof is here that the item was in the horse. It seems kind of sad but we have the information and it's also honorable for you to sit there and say what you think. He'll take that into consideration when he makes his decision. Commissioner Dresser asked for a vote. Vote 4-0 to find a violation. Attorney Guay stated that at this point now there's been a finding of a violation that you did violate the rule. This is the point where the Commissioners will hear statements by the State and by you in terms of a couple concepts. One is mitigation. The Commissioners have a range of ability to give different punishments. Aggravating factors would be this is the fifth time he has done this and we should give him the maximum. The reason we separate the proceedings is the fact that someone has done something bad in the past doesn't mean that they did something bad today, so we get the violations out of the way based on the evidence. Mr. Jackson will go first and he will make a recommendation of what the punishment should be and he will give the reason why, and you will get to ask the

Commissioners for leniency. Mr. Jackson stated that this is Mr. Morrison's first violation of Chapter 11 Rules in all the years he's been licensed as an owner/trainer. He did go to the extent to prove his innocence by asking that a DNA be done so that there would be no misunderstanding of a mix-up of sample. He would ask the Commission to impose a \$100 fine with all of it being suspended and that he return the purse of \$750 for second place at Bangor Raceway on May 9, 2014. Attorney Guay stated to Mr. Morrison to make your pitch to the Commissioners in terms of what your punishment should be. Mr. Morrison stated that he would go back to last year when so many cases were thrown out, much more serious than what he's facing here today. He will pay the \$750 back but he doesn't think it's fair. He's been on these grounds for sixteen years training horses and he's never had anybody but it's obvious to him that somebody hit his horse. Somebody on these grounds did it. Now he's forced to buy a camera and hook it up so that he can have his camera on his horse 24/7. Attorney Guay stated that they've heard from the two parties and we will close the hearing. Commissioner Dresser stated that they are looking at the penalty guidelines within the controlled medication section Chapter 17, Section 6. Commissioner Tracy asked Mr. Jackson if Mr. Morrison had been on suspension. Mr. Jackson stated he was suspended and a stay was granted for a suspension prior to the suspension going into effect. Commissioner Tracy asked that when the results came back did he go on suspension. Mr. Jackson stated no. Commissioner Dresser asked for any suggestions. Commissioner Reed stated that he is inclined to be quite lenient with this matter. It's his first offense and Mr. Morrison has been racing a long time and he showed his belief that he had not committed a violation by taking an extra significant amount of money out of his pocket. As he understands Mr. Jackson's proposal is \$100 fine and the purse return and nothing about the suspension of the horse. Commissioner Dresser stated that if they make an adjudicatory finding that involves the fine or a warning of anything the rules require that we suspend the horse and for the return of the purse, and because of that she's going to suggest that they maybe think about what they did with some of the prior cases from last year where we had a deferred disposition. Commissioner Timmons stated that what if we do that does that mean that the horse would not be suspended. Commissioner Dresser stated correct, if provided they have a clean record in that amount of time. Commissioner Tracy asked if the purse be returned. Commissioner Dresser stated that it would not have to be provided there's no finding. Those are our two options, we either go the adjudicatory route we make a finding that we're going to assess a penalty and then the horse will be suspended. Before we go any further she wants to find out what's going on so that we're heading in the right direction. Attorney Guay stated that you made a finding of a violation and if you want to avoid certain consequences that say these things shall happen upon a finding of a violation. You would have to have a motion to reconsider the finding. Commissioner Dresser stated that in the past we had admissions as to all of the violations but we had findings but we had deferred disposition with dismissal. Attorney Guay stated that they never actually opened the hearings. We would continue the hearings to a date certain and the hearings were dismissed. Commissioner Dresser stated that apparently this is not an option for them. We have guidelines in the rules that say 0 to 30 days suspension, \$0 to \$50 fine and Mr. Jackson's suggestion was \$100 fine with all suspended and we could make that \$50 so it falls within the rules. Mr. Jackson stated that if you want to set aside the penalty phase, he thinks Attorney Guay is indicating that you need to set aside your finding so therefore reconsider and set the whole matter aside. Attorney Guay stated that he doesn't think you can do that. As we've been through rulemaking and looking at these rules specifically on the suspension of the horse for 30 days, he thinks you have a little leeway when you could make that effective. He doesn't think the rule requires as it's written right now that the horse be suspended immediately for 30 days. Commissioner Dresser stated to be consistent with what we've done for others. Attorney Guay stated that he's just looking at the rules and telling you where you may have certainly putting off the suspension of a horse until January is one option. Setting aside your options he doesn't think they can do that. Commissioner Dresser asked for a motion. Commissioner

Timmons made a motion to accept the findings of guilty that the horse is suspended for 30 days and that date goes back to the date. He wanted to have a date on the horse. Attorney Guay stated that if you go backwards then he would have violated which we couldn't even prosecute. He's suggesting that from a policy prospective you can set the date forward but you can't go backwards.

Commissioner Tracy stated that they can go with a fine and then suspend the fine and they have to require that the purse money be returned and the horse be suspended for 30 days from now. He doesn't think they have much choice. Commissioner Dresser agreed and to keep within the constraints of the rule are you suggesting a \$50 fine that be suspended. Commissioner Tracy stated yes that's fine. Commissioner Dresser stated that your motion would include a 0 day suspension for the licensee, \$50 fine which would be suspended, 30 day suspension for the horse and forfeiture of the purse. Commissioner Timmons seconded. Attorney Guay asked Mr. Morrison if he is the owner of the horse. He stated that Mr. Jackson has informed him that there have been instances in the past where the suspensions have been suspended. Commissioner Tracy stated that his other question was if under the rules the horse suspension could be suspended. Mr. Jackson stated that it has.

Commissioner Tracy stated that he thinks they have to levy it but they could suspend it, but his feeling is the purse to be fair to the other participants must be returned and reapportioned.

Commissioner Dresser asked Attorney Guay if it is appropriate. Attorney Guay stated that he thinks they need to consider the type of offence whether or not the presence of that substance could unfairly affect races for the next thirty days, so from what he knows of this stuff, probably not. Commissioner Dresser stated that the test was for May he put the horse on Lasix in June anyway and it's now enrolled in the control medication program. Attorney Guay stated that their primary purpose is to protect the integrity of the sport, the racing public and the suspension for thirty days would have a very specific purpose in that if it would prevent horses who are currently unfairly advantaged in participating so if that's not the case then you would have more leeway to mitigate. Commissioner Tracy stated that he thinks now that it's on the Lasix program so that it becomes a moot point. He thinks the suspension of the suspension of the horse would be appropriate, so he would amend his motion to include that the fact that the horse suspension of thirty days and also be suspended.

Commissioner Timmons seconded. Commissioner Dresser stated that before they vote they have vary confining rules that guide what we have to do, and they are in the process with the help of a committee that's been put together of providing them with a little more flexibility in the rules but for now we have to use what's in front of them. She thinks they have figured out a way that they can do this so that it won't be as restrictive as it would have been otherwise. We will see when we vote as to how that goes. She doesn't know if anybody else has anything to offer. At least she is taking into consideration the history and your honesty with us today. She called for a vote. Vote was 4-0.

Attorney Guay asked Mr. Morrison if he understood. Mr. Morrison stated that he just has to pay the purse money back and the horse is not under suspension. Commissioner Dresser stated that is correct.

3. Commissioner Dresser stated that the next item on the agenda is the matter of Pioneer Gaming d/b/a Sanford OTB. Attorney Guay called the hearing to order on the matter of Pioneer Gaming's license application for off track betting located in Sanford, Maine for the year 2014. This is a hearing held pursuant to 8 M.R.S 275-N, 275-D and Chapter 15 of the Maine Harness Racing Commission rules for the purpose of considering the application of Pioneering Gaming, LLC to have a license to conduct off track betting at a facility located in Sanford, Maine. The parties to this proceeding advocating for the Commission staff is Henry Jackson, Executive Director, of the Maine State Harness Racing Commission and the application Pioneering Gaming, LLC located in Waterville, Maine is Don Barberino sole member of Pioneering Gaming, LLC. There are intervenors here by right, but are there any intervenors here today that plan to actively participate in the hearing. There were none, but they can ask questions during the proceeding. The public is also invited to participate and there will be a time for comment after evidence comes in. He asked questions of the

Commissioners. They responded with they do not have a conflict. He asked the participants and intervenors that were here if they have any objections. He stated there was nobody that raised an objection. He asked Mr. Jackson if he had any exhibits. Mr. Jackson submitted exhibit 1, application submitted by Mr. Barberino for Sanford OTB; exhibit 2, application for a liquor license; exhibit 3, letter from Town of Sanford; exhibit 4, bond; exhibit 5, Notice of Hearing to the parties of the proceeding; and exhibit 6, Notice of Public Hearing that was advertised in the Portland Press Herald. Attorney Guay administered the oath. Let the record reflect that both Mr. Jackson and Mr. Barberino have affirmed the oath. He asked Mr. Jackson if he would like to defer an opening. Mr. Jackson stated that he would let the exhibits speak for themselves and he will give a closing after any other information is being forthcoming. He did say that the application is complete and the requirements of 275-N have been met and the provisions of 275-D have been met. He also stated that the bond has been made out to Pioneer Gaming, LLC listing both the Waterville and Sanford location being covered by the bond in the amount of \$50,000. Attorney Guay stated that each of the Commissioners is reviewing the exhibits 1 through 8. Mr. Jackson stated that a licensing investigation of Mr. Barberino of Pioneering Gaming, LLC by Spectrum Gaming Group. This is their conclusion based on their investigation there were no known facts that would disqualify the application based on any of the criteria listed in the gaming laws or regulations based on the State of Maine. Attorney Guay stated that they would turn it over to the Commissioners to ask questions of the executive director relating to the request for licensing. Commissioner Timmons stated that he has one question on page 8 on the application it says the security plan it says to be installed 6 security cameras. That means before you open they will be installed. Mr. Barberino stated that they are currently installed. Attorney Guay asked if there were any other Commissioners that had questions. He asked if there were any intervenors that had questions of Mr. Jackson. There were none. He asked Mr. Barberino if he had any questions. Mr. Barberino stated that he is pretty optimistic about the harness racing business in the State of Maine. He knows there are a lot of difficulties, but he does think there is a way forward and he enjoys being part of this industry since he opened up the Waterville location. He hopes to have some success down in Sanford. He's trying to change the business model a little bit and potentially move out of that space and making it more of a place that will appeal to not just our core fans but to sports fans in general. He thinks things will improve and we can all work together and hopefully grow the business. Attorney Guay asked Mr. Jackson if he had any questions of Mr. Barberino. Mr. Jackson stated no. Attorney Guay asked the Commissioners if they had any questions of Mr. Barberino. They had none. He asked if there were any questions of the intervenors. Ms. Perkins asked Mr. Barberino where he plans on moving to. Mr. Barberino stated that he would be somewhere in the Town of Sanford. Attorney Guay asked if anybody else had any statements. Katie Damren asked if Mr. Barberino had any part of this or did he buy out whatever was going on. Attorney Guay stated that the question of Ms. Damren is whether or not what type of interest Pioneer Gaming has in the OTB facility in Sanford. Mr. Barberino stated that he is a sole member of Pioneer Gaming ; and he doesn't have any partners concerning Waterville or the Sanford operation. Mr. Jackson asked Mr. Barberino if he does lease the property currently in Sanford for his operation. Mr. Barberino stated yes. Ms. Damren stated that she wanted to know if the two people that were involved in the original license are totally out of the circle of things. Attorney Guay stated that the question was whether or not the two individuals that were associated with the existing license to operate an OTB facility in Sanford are associated with Mr. Barberino in the new facility legal entity. Mr. Barberino stated no, he's the sole member. Attorney Guay stated that Mr. Barberino is submitting a license on his own accord. Mr. Jackson stated that once the Commission authorizes Mr. Barberino to operate and his license is issued, the license that is currently held by Sharon Terry and George Kerr will become null and void. Attorney Guay stated that would be part of the motion. Mr. Jackson stated yes. Commissioner Tracy stated that he thinks he knows what perhaps Ms. Damren is getting at. He is presuming now that you have an agreement with the former owners such that as

soon as you are licensed then basically a sale of their rights and so forth will transpire and then you would be operating as Pioneer Gaming. Mr. Barberino stated yes. Attorney Guay stated that the question certainly raises a point in terms of the proceeding that in the motion presuming you want to grant the OTB license it would also include a cessation of the previously granted license to OTB Facilitators. This is a license application by Pioneer Gaming so you would grant the license to Pioneer Gaming and you would rescind the license for OTB Facilitators. Has OTB Facilitators been given notice of this hearing? Mr. Jackson stated yes they have. Attorney Guay asked if OTB Facilitators had direct notice. Mr. Jackson stated that he had talked with one of the owners yesterday and he indicated to him if he had to be present and Mr. Jackson stated that only if he wanted to be. Attorney Guay asked if he was aware the license would cease to exist. Mr. Jackson stated yes. Attorney Guay asked if there were any other questions. Seeing none he asked for public comment. Ms. Perkins stated that she was pleased with what Mr. Barberino had to say about moving the facility and getting it into a better location because she thinks that's what has hurt that facility for a long time. Attorney Guay offered to the Commissioners before they close the hearing any other questions the Commissioner's may have. Are there any other statements or evidence that needs to be made? We are going to close the evidentiary portion of the hearing now. He asked Mr. Jackson if he would have a closing statement. Mr. Jackson stated yes he does. He said that the conclusion of law as we relate to the applicant and the subsequent documents that has been submitted. The applicant has substantially complied with 8 M.R.S. Sections 271, 275-D and Chapter 15 of the Commission rules. We set out criteria that govern the relicense of off track betting facilities. The applicant has complied with 8 M.R.S. Section 275-N pursuant to which the Commission may license an OTB facility if during an immediately preceding two calendar years there were at least 150 race dates in which live racing was actually conducted at commercial racetracks. The applicant has complied with 8 M.R.S. Section 272 pursuant to which the Commission may issue an off track betting license to any applicant after they provide a bond or irrevocable letter of credit in the amount fixed by the Commission. Pursuant to 8 M.R.S. Section 275-D 6A 1-9 the Commission may license the subject OTB facility since the applicant has satisfied the criteria contained therein and pursuant to 8 M.R.S. Section 275-D 6C the Commission may license the subject OTB facility since the applicant has satisfied the criteria contained therein and pursuant to 8 M.R.S. Section 275-D 12 the Commissioner may license the subject OTB facility since the applicant has satisfied the criteria contained therein. He would recommend that the proposed findings of fact be found by the Commission. The applicant has satisfied the criteria under 8 M.R.S. Section 275-N; 8 M.R.S. Section 272 by providing a bond or irrevocable letter of credit for calendar year 2014; 8 M.R.S. Section 271 in rules during the past year and are fully expected to comply with the same during the coming year; 8 M.R.S. Section 275-D 6A 1-9 and the applicant has satisfied the criteria under 8 M.R.S. Section 275-D 6C. Attorney Guay asked Mr. Barberino if he has anything in support from a legal argument. Mr. Barberino stated no he has nothing. Attorney Guay asked any intervenors have any closing statements like Mr. Jackson did. There were none. He asked Mr. Jackson does he understand that there may be some proposed finding of facts and conclusions of law that could be suitable to be attached to a motion by reference. Mr. Jackson stated yes and he read them into the record. Attorney Guay stated that obviously it was in your closing argument that you proposed those findings. Mr. Jackson stated yes. Attorney Guay turned the hearing over to the Chair Dresser. Commissioner Dresser stated that they will be looking for at this point the proposed finding of fact and conclusion of law that Mr. Jackson read into the record. When that motion is made, the motion as she understands, it will need to approve the application based upon the findings of fact and then incorporating the proposed conclusions of law. The motion also needs to include, simultaneously, a rescinding of the license of OTB Facilitators. Commissioner Tracy made a motion that they approve the licensing of Pioneer Gaming, LLC Sanford OTB to be located at 9 Renaissance Way in Sanford having complied with all the findings that are necessary under our laws and the proposed conclusions of law have been satisfied and upon issuance

of the license to Pioneer Gaming, LLC there shall be a simultaneous rescinding of the license of OTB Facilitators at that location. Commissioner Dresser stated that the written findings of fact and conclusion of law will be incorporated by reference. Commissioner Tracy stated yes. Commissioner Timmons seconded. Commissioner Dresser asked for any discussion. Commissioner Tracy stated that he would like to say that Mr. Barberino has been operating the Waterville facility and he has an excellent reputation for doing so and he thinks this would be a step forward for everyone. Commissioner Dresser asked for the vote. Vote 4-0.

UNFINISHED BUSINESS:

1. Commissioner Dresser asked Scarborough Downs to update them on the out of state handle. Mr. Sweeney stated that the Commission asked Scarborough to come prepared to discuss the analysis of where their out of state handle has gone since they've gone to the new system. They have prepared a report. (He distributed the report.) He stated that Bill Manning compiled data from the annual reports that are produced by Mr. Jackson and compiled it in various ways. What they did was take a look at the handle for a three year baseline before the advent of the Bangor Racino, and then they looked at the seven year period where there was a racino in Bangor. Then looked at the three year period once the Oxford Casino and the Bangor Racino became a reality and then they did an analysis of how the handle has been affected in each one of those three periods by pari-mutuel venue across the state. In order to do a comparison, they have given an average wager per race day for each one of the venues. For instance in the three year baseline period before the Bangor Casino, the average daily handle live on track at Scarborough was \$23, 811, Bangor \$28, 789 and so forth across the way for each one of the fairs. You can see going forward once the racino was in operation the live on track handles fell significantly at all of the venues more so interestingly enough at Bangor Raceway. Going down to the last period once the Oxford Casino and the Bangor Casino were operational, you can see that the Scarborough handle has dropped 44.7% from the pre racino days. The handle at Bangor has dropped over 73% despite the fact that they have doubled the number of days that they have raced. He thinks this analysis fits in to comments that were made earlier this year when they were trying to put together a committee to look at proposed legislative changes that we might need to look at going forward to safeguard the integrity and the future stability of the industry. If you look at table 2, this is a comparison of wagers that have been made at each one of the OTB parlors on the Scarborough product and the Bangor product for the period of January 1, 2013 through July 20, 2013 and from January 1, 2014 through July 20, 2014. Those dates were chosen because that was the most current data they had for this year when this report was compiled. You can see looking at the Scarborough numbers that they were down 34.4% in handle from the OTB parlors in state. Bangor was down 27.8% during that same period. Those are comparable numbers and he does believe the biggest problem in the discrepancy between those two numbers is the fact that historically Scarborough has handled much better at Sanford than Bangor has. Sanford was closed down during the early portion of their meet and that did affect the amount of in state handle coming on the Scarborough Downs product. The one thing that he will note that the one positive in here is that the Sanford handle on Bangor has increased by 10% since Mr. Barberino has taken over. Commissioner Dresser stated that she doesn't understand that. She asked Mr. Barberino when he took over the OTB. Mr. Barberino stated that he took over on May 1, 2014. Commissioner Dresser stated that this is January through July. Mr. Sweeney stated that the Bangor meet started just about the same time as Mr. Barberino took over. Scarborough's meet was absent the Sanford handle from March 21, 2014 until May 1, 2014. The out of state handle is broken down in table 3

in the third column. He did not have the numbers for out of state incoming handle for Bangor Raceway. Their out of state incoming handle last year during this period was \$954,000 plus. This year during that period of comparison is \$456,000 plus so it's a decrease of 52.2%. They basically held to half of their out of state handle knowing that when they went to this process it would have been financially acceptable for them to lose all of that out of state handle because of the money they would have been saving going to the delivery system. Hanging on to half of it, is encouraging development for them and hopefully they will be able to continue to recapture some of that out of state handle. He thinks it's important to look at the pari-mutuel handle in the state of Maine as a whole. We continue to see declines. The live handle declined by 4.6% during this period of time at Scarborough. He's troubled by the fact that the wager from the OTB's on the live product has been decreasing for both Bangor and for Scarborough. When the OTB's were put into existence, they knew that they were going to be giving up live on track handle in order to expand to this sort of format, but they were hopeful that they would make up a lot of that by having the local people playing the local product. That seems to be deteriorating so that may be something they need to concentrate more on heading into the future. Table 4 just gives dollar figures for each of the pari-mutuel handles for each one of the years for comparison. Commissioner Dresser asked Mr. Jackson if it would be possible for him to fill in another month of the unknown figures from Bangor in table 3 for comparison. Mr. Jackson stated that he would get those figures from Bangor. Commissioner Dresser stated that it concerns her that knowing they could not afford to lose 50%. The industry cannot afford to lose up to 50%. She understands that their bottom line may balance out but she still feels that it has been a negative overall. Now that's just her observation she has no numbers to back that up, but she doesn't think it's been good for business. Mr. Sweeney stated that he's testified in front of the Commission before and it was a painful discussion for them once they lost the battle for L.D. 1111. As a company, they discussed what they can do in order to make sure they can open the doors on March 31st and keep the doors open and continue to race at Scarborough Downs throughout the 2014 season. They made some painful decisions by cutting the marketing budget, cut fulltime salaries, made some people part-time and they developed this system here. He stated that it cost \$120,000 to send their signal out. They realized \$50,000 in revenue from the out of state market by doing that, so if they lost the entire out of state market they were going to have a net savings on their bottom line of \$70,000. That was a significant number when it comes to looking at keeping the company viable. Losing half of their out of state simulcast handle has meant that they have continued to bring in approximately \$25,000 in revenue from the out of state handle. The effect on the bottom line is even more significant than what they anticipated with a savings of \$95,000 if this trend continues. As they continue to work to recapture the out of state market, those numbers should get even better. Commissioner Dresser asked how has the process going as far as getting the in state OTB's set up. Mr. Sweeney stated that is going very well. Mr. Cobbett has received the mechanism has arrived and will be delivering those to the OTB parlors. They check in with them every day before racing. Once the process is done they will have a system in place that the entire industry in the state can benefit from. Right now Scarborough is saving money on their bottom line by going to this system. The OTB's parlors are saving money on their bottom line because they don't have to pay for decoder rentals to receive their product. Once this system is up and running it's going to be available for any of the agricultural fairs with simulcast to grab onto. Commissioner Dresser stated that let's make our goal a system that is flawless.

Mr. Higgins asked if there's anything in the contract that states how soon the test results have to be returned to us. Mr. Jackson state that there is a provision in there that there are so many days after receipt of the test samples that the screening will be completed. No requirement on confirmation and we are running way behind. Mr. Higgins stated that seems to be totally unacceptable. He doesn't know how we get around it. Commissioner Dresser stated that they release the funds bases on that initial screening. If there were a suspicious sample that came back in that screening that is done fairly quickly there may be a longer hold up for the checks, but they are able to release them on that initial screening. What's taking longer is the confirmation, we have a small percentage of suspicious samples with each batch that come through, and the vast majorities go away when the confirmation is done. She asked Mr. Jackson if they know why. Is it volume that they aren't able to keep up? Mr. Jackson stated that they've changed lab management under the new LGC. They are understaffed with the load of samples that they are receiving. He also stated that the new management of the lab is going to address that issue. One thing we need to understand is that the majority of racing does occurs between May and October basically and we are in that system of the additional racing. It does depend on what drug it is they are trying to confirm. Commissioner Dresser stated that she thought it might be worth a follow-up when you have an opportunity just to talk to him to see if he can give us and then report back to them what his expectations are or what his hopes are as to getting that window narrowed down a little bit. Mr. Jackson stated ok. Mr. Higgins stated that he would think that would be your number one priority. He doesn't see anyone at fault but it just seems to sit here month after month and the test was taken in May and he's already spent the money. Commissioner Dresser stated that to give him an idea of that time frame his results were reported back to them on July 2nd that was the confirmation. The initial screening came back within a couple of weeks but it took until July 2nd, so that's a lengthy time. Mr. Jackson stated that in addition to that when they do the confirmation as he understands from Dr. Sams. They run two confirmations. If it's confirmed the first time they run another one to make sure there is no error. Mr. Higgins asked if that takes extra time. Mr. Jackson stated yes it does because when you're running the first confirmation you're running the test and if it comes out negative you don't run another one, but if it comes out positive then you run the second one. It is a sister sample and it's not from the same tube. It's a different tube. When he talked to him last winter he was very upset with the fact that it took such a long time for the turnaround, but he was very limited with staff. Commissioner Dresser stated that this would be a good time to follow-up with him to see where things stand and what they are doing to try to minimize the reports. Mr. Higgins asked if the process itself once you get noticed from them that in fact it is a positive, do you have to wait a week or two. Mr. Jackson stated that he tries to get the letters out within forty-eight hours after he gets the notice. He has to draft the notice of positive test and suspension and send it to Commissioner Dresser for signature and she sends it back to him, then he sends it out by certified letter and regular mail. He had the same issue with Florida and the laboratory here in Maine. Mr. Higgins stated that there's got to be somewhere this works. It's working at the Meadows. Commissioner Dresser stated that they are releasing the checks based on the screening. Mr. Jackson stated that if there is a suspicious sample coming back on the screening he's sure they are holding the checks. Ms. Perkins asked if we are doing any black box or elevated. Mr. Jackson stated yes, anywhere from four to ten samples are being sent a week. Ms. Perkins asked if we are doing the testing. Mr. Jackson stated that we are not doing them. They are being done by LGC and we should have the results within a week. Ms. Perkins asked about the power drinks with a lot of caffeine. Can you test those? Is that urine or blood samples being

tested? Mr. Jackson stated that they are only testing blood samples. Commissioner Dresser asked Ms. Perkins what her concern was about this. Ms. Perkins stated that her concern is on top of the baking soda they are using these power drinks that are very high in caffeine. Commissioner Dresser stated that caffeine would be something that would be picked up in our screening test, so every winner and every special would be tested. Mr. Jackson stated that last year they had several caffeine suspicious samples and they tried to find out where it was coming from. Again, they found out it was some of the feed additives that were being used. They were using coco shells as fillers and coco shells are very high in caffeine. They sent the feed samples to Kentucky for testing and sure enough there were high levels of caffeine. Ms. Perkins asked if they can check these barns out at Bangor or Scarborough around two or three o'clock in the afternoon. Mr. Jackson stated that at Bangor up until this year there were several visits made any hour of the day and some of the fairs the same thing occurred. At Scarborough there were visits by security and staff and two years ago there were several bottles confiscated. A lot of the bottles they found were unmarked. Commissioner Dresser asked if there were any other questions or comments. Mr. Sweeney stated that a few months ago when we were talking about how to deal with the dwindling horse supply we had proposed at putting together an Adhoc Committee to look at any statutory changes that needed to be done. Has that been done? Commissioner Dresser stated that we have tabled that until after the fairs because we have too much going on right now. Maybe in another month or two. Is there anything else to come before the Commission?

NEW BUSINESS:

1. None.

REPORTS:

1. Commissioner Dresser asked Mr. Jackson for his executive director's report. Mr. Jackson stated that the rules have been adopted and printed by the Secretary of State's office. We will be completing Chapter 11 for publication. Commissioner Dresser stated that she was under the impression that they weren't going to have a date certain from the Secretary of State's office which is why we added 10 days onto that. If we have a date certain there would be no reason to add on. Mr. Jackson stated that Ms. Gauthier has those that were sent back from the Secretary of State's office. He will review them when he gets back to the office. Attorney Guay stated that they wanted a 10 day warning for people. Commissioner Dresser stated that they would have that if they're taking effect on the 19th. Ms. Perkins asked her to repeat what she just said about when they are official. Mr. Jackson stated that the official date would be September 19th and that's the date we will use. We will make sure that that word gets out to the horsemen. Commissioner Dresser asked about the public hearing on the others that we have been reviewing. Mr. Jackson stated that we haven't got that far yet because we are still trying to get Chapter 11 situated he wanted to wait until they were adopted officially so we would have that official document to use. Some of those that we just adopted are going to be changed.

OTHER BUSINESS:

1. Commissioner Dresser asked if they are still going with September 16th for their next meeting date. Mr. Jackson stated that was up to the Commission. He has a feeling that it may be a lengthy agenda. He stated that they will have a request to reopen the race date hearings from Bangor Raceway to be awarded three additional days; Thursdays in the month of October as make-up days for the one day they lost in April, May and the 4th of July.

Commissioner Dresser wanted to follow up on a discussion they had a couple of months ago, have you incorporated the use of the temperature strips for all of the human testing at all venues. Mr. Jackson stated yes at all venues.

Commissioner Timmons asked Mr. Jackson to tell them the approximate dates and length of contract time for the testing lab in Kentucky. When does the contract do you renew that yearly. Mr. Jackson stated that they send out RFP's and the winning bid was back then HCL but now it's LGC and it was awarded in March 2013 for a three year period. Commissioner Timmons stated that he has had people ask him a question about the testing of any specific item and the topic of cobalt sulfites came up. He asked Mr. Jackson if he has discussed with Dr. Sams as far as the testing for that item. Mr. Jackson stated yes he has and we participated in an experiment to determine what the normal levels were and then what procedures would be used for testing and then what the upper levels would be. That was being done by two other laboratories but not by LGC but they did submit samples that we submitted to LGC so that we could be a part of that. LGC did do ten samples that he asked them to do themselves to find out what the concentration for cobalt was, and he does have the results of those samples. Commissioner Timmons asked if that is something we will continue to do. Mr. Jackson stated that he did talk to Dr. Sams about continuing to participate and he said they wouldn't have to participate any longer at this stage because they are now going to be reviewing all that data that's been collected by those two laboratories. They will be coming out with a recommendation and he feels that maybe as early as the middle of September which is a quick turnaround time for that kind of research. Commissioner Dresser asked if our out-of-competition testing will continue. Mr. Jackson stated yes it will.

PUBLIC COMMENT:

Commissioner Dresser asked for public comment. Ms. Perkins asked if we added cobalt to our list. Mr. Jackson stated that we haven't yet only because we don't have the standards. You could put cobalt in there but it won't do us any good without having the standards. Ms. Perkins stated that if we've got it in there then we just have to add the standards. Commissioner Dresser stated that is not a limiting list. Mr. Jackson stated that you would have to add it to the list and the standards at the same time. That's what Dr. Sams is recommending to wait for them to come out with the standards then go and add it to it. Ms. Perkins stated that right now our horsemen can buy cobalt from the veterinarians and it's not illegal. Mr. Jackson stated no because we don't know what the standards are yet.

The meeting adjourned at 11:25 a.m.

Respectfully submitted by:

Henry W. Jackson
Executive Director