

# MINUTES

## OREGON RACING COMMISSION

June 16, 2006

The Oregon Racing Commission met on Friday, June 16, 2006, at 2:00 p.m. in the Arts and Crafts Building at Josephine County Fairgrounds in Grants Pass, OR. Commissioners in attendance were Chair Jeff Gilmour, Vice Chair Todd Thorne and Kerry Johnson. Commissioner Lisa Metcalf, via telephone, was able to join a majority of the meeting.

Agenda items were discussed in the following order with resulting actions:

### 1. Approval of May 18, 2006 Minutes

ACTION: MOTION (Thorne) Approve minutes as submitted.

VOTE: 3 Aye, 0 Nay, 2 Excused,

### 2. Sub-Committee Update Reports

No committee updates to report at this time.

### 3. OQHRA Request for Approval to Distribute the Owners' Bonus and Breakage Awards Earned During 2005-2006 Portland Meadows Race Meet

Leah Nelson and Dave Nelson, OQHRA, were present to answer questions. Information and discussions included the following:

Recently, the OQHRA purchased a new computer and have noticed there are some software conversion glitches. They would like to wait to submit the correct numbers to the Commission in a couple of weeks.

⇒ The Commission authorized Jodi Hanson, Executive Director, to distribute the owners' bonus and breakage awards upon receiving the correct numbers.

### 4. Grants Pass Downs Update Report

Allan Westoff, Director of Racing, Grants Pass Downs, was present to answer questions. Information and discussions included the following:

Due to the weather, they lost three days at the beginning of the fair meet. The races scheduled tonight (June 16, 2006) were added to make up for one of those lost days.

Comparing the same race days as what they raced last year, attendance was up 120 people and it looked like they were ahead for the first two weeks of the meet. However last week, there was a significant decrease in attendance this year as compared to last year. They ran the same number of races both years, but last year they had mule races.

In response to Executive Director Hanson's question about whether they had a jockey shortage here in Grants Pass last week as they had in Union, Mr. Westoff explained that they had ample supply of jockeys with the exception of the eleventh race, down to a five horse field, and had to scratch one horse because the jockey named was too tired and the other jockeys not in that race had already left for the day.

Chair Jeff Gilmour announced that the Commission will not hold their meeting in Grants Pass next June due to the Commission's decision to visit the other summer race meets, clarifying that they would visit one meet per year.

Executive Director Hanson announced that there were three Hub license applications up for consideration by the Commission and welcomed those Hub representatives. She stated that funds generated by the Hub licenses go into the live race meets, like Grants Pass Downs, and appreciated the fact that they could be here to experience it.

#### **5. Eastern Oregon Livestock Show Update Report**

Bob Blair, Presiding Steward, was present to answer questions. Information and discussions included the following:

Two horses were scratched from races due to a jockey shortage. There were seven jockeys the first day, five the next and seven the last. One of the jockeys that raced on Friday was injured in a training exercise, so he was unable to return for the other two days.

On Sunday's seventh race, the brand new hauling tractors EOLS had purchased to remove the starting gate from the track failed to start. Thanks to the quick action of the pony riders, the starter assistants and the jockeys, the only casualty was a jockey's wrist injury. The Stewards declared the race a *No Contest* and all of the purse money was divided equally between all horses.

Next year will be the 100<sup>th</sup> running of the Eastern Oregon Livestock Show and they plan to have a big celebration.

Commissioner Lisa Metcalf joined the meeting via telephone.

#### **6. Youbet.com, Inc. 2006-2007 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License**

Following is a transcript of this agenda item:

Powell: Thank you, Mr. Chairman, members of the Commission and staff; I'm Lonny Powell, Vice President of Public Affairs for Youbet.com. We're also the owners, as you know, of subsidiaries IRG International Racing Group and United Tote. Joining me at the table, primarily for the next agenda item, agenda item number five, are, to my left, Victor Gallo, who is the Vice President of Development for Youbet and Vice President of IRG. On the far left, Lou Tavano, who is a consultant of ours for IRG; and, of course, to my right, who you met a few months ago, Mr. Gregg Schatzman, who is the Chairman of our Independent Wagering Compliance Committee. If it's all right with the Chair, when we get done with the one item, we can just stay right in place so these other three gentlemen - primarily lead on agenda item number five. We are very - as far as Youbet.com item - we are very pleased to be able to present to you the renewal for our license. There are no material changes in that license and plan of operations from last year, other than the two amendments that, you the ORC, approved during the course of last year which included the establishment of a live operator call center in the Portland area. Otherwise, represents no material changes. I'm here to answer any questions you have and appreciate the consideration.

Gilmour: Any questions at this time?

Hanson: All of the questions that we had - that I had and Gordon had, I believe, have been answered.

Gilmour: Okay. Who wants to talk next?

Unknown: For IRG or for Youbet still?

Gilmour: Youbet.com.

Powell: That's all -

Gilmour: -That's all -

Powell: Yeah.

Gilmour: -you have to say?

Powell: Well, gosh knows everybody knows I love to talk, so I could say a lot of things. I was trying-

Gilmour: -I'm surprised you're done this early, Lonny.

Powell: I thought you might be pleased with this approach.

Thorne: Mr. Chairman, I have a few questions, but-

Gilmour: -Great. It's your turn.

Thorne: There was obviously an article in regards to Youbet that came out in Blood Horse regarding a cease and desist order allegedly from the US Attorney General's office. It would be remiss of us not to, at least, have something, some discussion on the record pertaining to that, but want to give you guys an opportunity, you Lonny, an opportunity to officially respond on the record to that particular allegation.

Powell: I welcome that opportunity to respond for the record. What you're referring to is – I think it was two weeks ago, right after the Good Lat Bill was passed through Judiciary Committee with racing carved out. The good Congressman Conyers – and we can't absolutely substantiate this because the transcripts aren't out yet, but according to people that were there, and according with the Blood Horse reported – as he was attempting to get an amend- First of all he was opposing the overall carve out for racing, then he tried to apply an amendment that was going to greatly narrow down the pari-mutuel carve out, and then when he, as part of his impassioned speech there before he got voted down, singled our company out and said that we were operating under a cease and desist order from either the Department of Justice or the US Attorney General. They're one and the same, basically. As I tried to say, maybe not so politely, back to Congressman Conyers in that article when I used the word reckless. But as I say for the record here today, never has Youbet, a publicly held company, been communicated with by the US Attorney General's office or the Department of Justice on this matter nor obviously are we operating under any cease and desist order from them. Now the Congressman, I'd like to give him the benefit of the doubt and say maybe he got some bad facts or was misinformed. The bottom line is this means a lot to our company. As I said, we're publicly held, we're regulated, we take our compliance responsibilities very seriously and quite honestly we're extremely disappointed by those comments. Obviously, we have our own people in Washington, DC having an educational dialogue with the Congressman. To keep in perspective, though, where the Congressman comes from, out of Michigan, is he also opposed the 2000 amendment to the Horse Racing Act which really solidified the legality of account wagering. So, he's not a fan, for whatever reason, of account wagering. We certainly love to have the opportunity, for the record, to state that his comments, if those were truly made by him, were absolutely incorrect.

Thorne: Okay. I appreciate that. Also, for the record, it's important for us, the ORC, to establish that when we approve a license app., and there's been this question that has arisen, that we'll approve it when we know that the operational plan of the app. and the operator are operating in a legal status. In regards to this particular article that I'm talking about there's some more language from the Representative essentially suggesting that because a few states don't allow ADW activity in their states that those states, if there's customers in those states that wager via a Hub in the state of Oregon then that's deemed illegal. There was actually – I've talked to our current AAG and there was an opinion that was written by the former AAG before I was on the Commission. This was dated December 21<sup>st</sup>, 2000. Thomas Cowen was then the AAG, and essentially he wrote an opinion regarding the legal status of the Hub operations and what we deem legal in our rules. Essentially, what was said in this opinion is that if you have a Hub located in the State of Oregon, the State of Oregon has rules and has legalized ADW activity. As long as pari-mutuel wagering is legal in the state of residence of a customer, it is a legal activity from our standpoint to have that customer wager in an Oregon Hub. Essentially, we've established that this is a legal activity and I wanted it on the record since our AAG is not here, I wanted that on the record so that it's noted that we discussed this and have established that this is a legal activity and we don't have a problem with it.

Powell: I think it's an excellent point to bring up, as well, because we've talked in the past how Oregon has been one of the innovators in this overall area of ADW. You all, kind of, plowed the field for everybody else. And, that particular opinion, obviously I was not with Youbet back then, I was with Magna Entertainment as a matter of fact. That opinion really gave the account wagering industry, along with a similar opinion from the NTRA and a lot of other legal academics and scholars, really allowed the account wagering to move forward. And, as you

know, most of your leading ADW's that are Hubbing out of Oregon follow a fairly similar footprint and so much of it's because based on what we believe is the correct and the accurate interpretation as was articulated by your own [Assistant] Attorney General at that point in time. We do operate within the confines as do your other ADW's of the Interstate Horse Racing Act, of course. But anyway that was - I appreciate the [Assistant] Attorney General's opinion back in 2000.

- Thorne: And following up on that discussion now, I'm going to start asking this question of everybody that comes up with an app. for us. Essentially, back on these tabs, attachment C, you have what's called "Approved List of States".
- Powell: That's correct.
- Thorne: That approved list of states, I will assume, I just want on the record, corresponds to those states where pari-mutuel wagering is legal.
- Powell: That's correct.
- Thorne: You also have on this exhibit a "Not Available States". Those states, I assume, are states where pari-mutuel wagering is illegal.
- Powell: Most would be the case and others would be based on individual business reasons.
- Thorne: Okay, so for the record, you're willing to state for me that all clients of Youbet.com are located in approved states, the A list.
- Powell: That's correct.
- Thorne: Okay. I know that we probably get that information on an ongoing basis and we're privy to it at any time. I just want to reassure folks that Gordon will, hopefully, be on top of this and follow-up and make sure that is in fact the case and that we don't have anything fall through the cracks on this issue.
- Powell: We welcome that kind of accountability.
- Thorne: Thanks, Lonny.
- Gilmour: Commissioner Thorne are you finished at this moment?
- Thorne: I like talking, too.
- Gilmour: No, if you were thinking about your next question, I didn't want to move to Commissioner Johnson.
- Thorne: I'm pretty good, I think.
- Gilmour: Okay. Commissioner Johnson.
- Johnson: I have a few questions for you Lonny.
- Gilmour: Go.
- Johnson: Can you tell me, will you be posting a bond with your application? I didn't find a bond in your application.
- Powell: We have, in the last three or four years, we have a document known as the Players' Trust done with a major financial institution. We're the only ADW in the business that protects our customers' funds away - builds a firewall between operational funds and customers' funds. We advocate strongly the Players' Trust program. We also have, existing several years ago, a Letter of Credit, as well, with the ORC that would deal with matters beyond players. As I mentioned at the beginning, there's no material changes to this application which would mean our same instruments are in place, as have been in place in the past.
- Gilmour: The answer's no?
- Powell: A Letter of Credit and a Players' Trust.
- Gilmour: No, the question was bond. You do not have a bond.
- Powell: We do not have a bond.

Gilmour: Thank you. Go ahead.

Johnson: Whose the Letter of Credit in and the amount that you have that?

Powell: Staff has the original copies. I'd have to defer to staff. I can tell you that the amount is \$50,000, but in terms of who it's with, your staff has that on file.

Johnson: What would be the amount of the Players' Trust?

Powell: All players' funds throughout the country. Millions.

Gilmour: So, it's the players' money?

Unknown: Correct.

Gilmour: You're putting the players' money up for a bond - in lieu of a bond?

Powell: For player liabilities. That way, the players' money isn't segregated with - or part of operational funds. Oregon was the first state to help co-author and launch the Players' Trust program.

Thorne: Mr. Chairman, can I ask a question?

Gilmour: She'll yield to you.

Thorne: Will you yield to me?

Johnson: I will.

Thorne: Just so everybody has a real complete understanding of the Players' Trust. As I understand it, the Players' Trust is a custodial account that segregates operational funds from player funds. Therefore, it is my understanding that that structure is probably more of a protection to the player than a \$250,000 bond. Is that a correct statement?

Powell: Absolutely. Mr. Gallo who was our General Counsel at one time will probably be able to more accurately describe it.

Gilmour: You know we're at a disadvantage; we don't have our high priced lawyer with us today.

Gallo: I'm not necessarily the high priced lawyer.

Gilmour: Right.

Thorne: Can you identify yourself for the record.

Gallo: Victor Gallo, Vice President of Business Development, Vice President of IRG, as well. I was General Counsel at the time we sought the Players' Trust. Essentially, the Players' Trust is, as you have articulated, we've segregated the players' funds from operational funds. What does that mean? There's millions of dollars on deposit from the players. With a bond, the players, if something were to go bad, the players would be able to levy against that bond for the \$250,000. In this instance, the players could levy for all of their money. All deposits that are within the Players' Trust which today is millions of dollars. The \$250,000, frankly, from a player's perspective, is probably inadequate protection for them. So, there's an additional \$50,000 Letter of Credit because there's a gap. So, what does the ORC do if they want to levy against somebody? You don't want to take the players' money. That's what the \$50,000 Letter of Credit is for, written in favor of the Oregon Racing Commission.

Gilmour: You wouldn't have any strong objection - I apologize.

Johnson: No, [unintelligible]-

Gilmour: -You wouldn't have any strong objection to increase your letter of credit to equal what is required of a two hundred and fifty - how much is our bond?

Gallo: Two-fifty.

Gilmour: Two-fifty.

Gallo: Right. I personally, I'm not the CFO of Youbet-

Gilmour: -I know that-

Gallo: -I'm here for IRG-

Gilmour: -But, you're the attorney.

Gallo: No, from a theoretical point of view, the question would have to be, what would be the necessity of raising that level. If there's an adequate and reasonable necessity, of course, we wouldn't object to that.

Gilmour: Okay. I mean -

Thorne: - Can I make one more statement. I'm sorry.

Gilmour: No, go - I'm just, I'm try - I apologize. I've said this to everybody in the Hubs. I'm trying to put everybody on the equal footing with what we require. Okay, number one. Require. I realize you each have an individual business plan, which I'm not going to interfere with that as long as it fits the guidelines of the license. You're different. I, personally, am hung up over the fact that - A Letter of Credit is really nice, but how do I get to that Letter of Credit unless it's in the name of Oregon Racing Commission. Number one. A Letter of Credit, which I've got, I'm not bragging or complaining, I've got it at two banks and they're not that hard to get. Now, maybe that much money would be a little more difficult, but if you're handling a lot of money. I would think it would be only fair, if we're going to keep the comparison of what is a bond and equal status among hubs, is that if you would volunteer, we'd take some time if you need to call somebody, and say, hey look, we're going to increase the Letter of Credit. Doesn't cost you any money; it's cheaper than buying a bond, Lonny. That was a little extra. Ms. Johnson - or do you want to respond, Lonny?

Powell: We'd sure love to see other Hubs have a Players' Trust to segregate the players' money from the operational funds in order to be equal.

Gilmour: The Hub Sub-Committee's still meeting and maybe they'll come up with that recommendation. I mean, possibly. Okay, Ms. Johnson. I apologize.

Johnson: To answer his question, would you be willing to do a Letter of Credit in \$250,000 in the name of the Oregon Racing Commission that would be irrevocable?

Gilmour: While you're thinking - It's good to think sometimes, Lonny. Relax. Nobody's here out to get you personally.

Powell: I just work for my company and look-

Gilmour: - I know-

Powell: -for the best interest of our shareholders.

Gilmour: And that's what - you're welcome -

Powell: -and for-

Gilmour: -We have until five o'clock.

Powell: Yeah.

Gilmour: Let's do this right; do it properly. So everything's calmed down - Do you want to take five, ten, fifteen minutes and think it over that's what you can do.

Powell: We're going to need to call the corporate office and discuss it.

Gilmour: No problem. Where's the corporate office at?

Powell: In California.

Gilmour: Oh, same time zone.

Powell: Right.

Gilmour: Perfect. I'll tell you what we're going to do so we're not disadvantaging anybody. We're not going to disrupt the order. We're going to take off a few minutes and relax. So, we'll come to a recess right now. Is that fair?

(The Commission took a break.)

Gilmour: We're going to come back out of recess. We were in discussion. We took some breaks so Youbet could make some phone calls to clarify some interest the Commission had and they're back in front of us.

Thorne: Mr. Chairman. Would you mind if I just made a proposal, a note?

Gilmour: Just a second. Ms. Metcalf are you there?

Metcalf: Yes, I am.

Gilmour: Well, we're coming back to order. Youbet entourage is in front of us. Commissioner Thorne has a point of interest he would like to state for the record, I guess.

Thorne: Here's my point of interest. It's my opinion, and it's just my opinion, that the Players' Trust, which is in place that we've approved for Youbet in the past, when we approved it before, our conclusion was that Players' Trust was substantial with regards to protecting customers. Meaning, what you have with a custodial account is a legal account, a legal segregated account which in legal proceedings cannot be pursued by Youbet because they are truly customer funds. Where as, when we're talking about a bond, that is a situation where operating funds are commingled with customer funds. If for some reason something goes wrong with the company, the only means of retribution that the customer has is a bond. Which in this case, would be much less than what's in the Players' Trust. I think that the model that has been put in place by Youbet goes far beyond what a bond would provide customers. So my proposal is that we need to do it, just essentially, formally, acknowledge that the Players' Trust, a custodial account, will substitute, and in this case, is a much better retribution piece for customers and we ought to just stick that in the rules so that we acknowledge that.

Gilmour: I think this whole dis- in rebuttal, I think this, Commissioner Thorne, I think the great thing that we do have going, seriously, is we have a Hub Committee that's taking a look at the rules that were once established for this whole Hub deal to see whether or not there needs to be any changes over the last few years. Point one. Point two is, you know, maybe the terminology - and I notice you've got a little trade mark by the word trust fund, so you must have registered that as a special something somewhere - But, it might be the wrong terminology for the lay person's understanding that this money is the money that's in an account for betting purposes and getting your money after the bet out. Not everybody, obviously, not everybody pulls their money out after every race. And so, terminology, sincerely, might have a little bit to do with this. I think the more it's explained, the clearer it is. And this is the first time for me, personally, that it's been explained quite as clearly as it has been. But anyway, Lisa, you still there?

Metcalf: Yes, I am.

Gilmour: Great. We're going to have the opportunity now to hear from Lonny of Youbet. Your turn.

Powell: We do believe that our Players' Trust and our existing Letter of Credit suffice. And we'd like for the Commission to follow along those lines as you have the past three to four years. Obviously, just being hit with this today leaves us in a position where, if you find what you've approved for us consistently in the past, based on the theme of, you know, no material changes in applications and renewals pretty much don't have a lot of surprises to them, if we had no choice, we will do a Letter of a Credit or a bond, obviously got to work that out with the home folks, getting credit for what we have. We were very proud of our Players' Trust and thought Oregon could have been very proud of that, having been a co-author and I can't say if we go that route we're going to be happy about it, but that's not your job to make sure everybody's happy. So, there's my answer. If we have to, obviously, we're not going to jeopardize our license over a last minute request like this.

Gilmour: That's great. You do have the authority for a Letter of Credit then to equal the two-fifty?

Powell: That's correct.

Gilmour: Thank you. Ms. Johnson, we were at you at one time with questions. You have more questions?

Johnson: I do. Lonny, I would like to know where you are in the process of restructuring the United Tote note with MT Bank?

Gallo: I'll give that a shot.

Gilmour: Who are you again?

Gallo: Vic Gallo, Vice-President-

Gilmour: - Thank you.

Gallo: -of Business Development. Obviously, the note is being restructured. We're out to several banks to restructure it. We're complying with the requirements of restructuring that note and loan. I don't think I can say, publicly, anything beyond that because we haven't said, publicly, anything beyond that; without some SEC ramifications. But, I'm not sure, if you could be more specific as to your question and what your concern might be, I might be able to answer that more directly.

Johnson: My concern was that I understand that the - I believe it's the form 8K - that the SEC filed that says that on June 30<sup>th</sup>, they're not going to be renewing the fourteen million dollar load due to change of control from UT to Yobet.

Gallo: Right.

Johnson: So, I would like to know, if on June 30<sup>th</sup>, you will be paying that note off or if you already have funding for that?

Gallo: Standing here today, or sitting here today, I can't specifically answer that. What I can tell you is we have two options. One option is to accede to the banks terms and continue our relationship with them which would cost us a certain amount of money which we can afford. Or, we can refinance that note with somebody else which we are looking into. So, by the 30<sup>th</sup>, I assume one of those paths will be chosen. Sitting here today, I don't think such a path has been chosen otherwise we would have issued yet another 8K explaining that to Wall Street.

Johnson: Thank you.

Gilmour: Are you done?

Johnson: Yes.

Gilmour: Okeydokey. Lonny, do you have anything else to say?

Powell: No, sir, Mr. Chairman.

Gilmour: Great. Ms. Hanson?

Hanson: I don't have any further questions.

Gilmour: Okay. Then, what we're going to do is that we're going to call for a vote today, what you want, Lonny. The motion will be to approve your application for license for Yobet with the modification of a [\$]250,000 Line of Credit as – or equivalency of bond, if you'd rather go bond. Okay?

Powell: Yes.

Gilmour: Any objection to that motion? Is it - Ms. Metcalf are you still with us?

Metcalf: Yes, I am.

Gilmour: Did you hear the motion?

Metcalf: Yes, I did.

Gilmour: Okay. Ready to say - No, I didn't want to say that. Those of the opinion that the license should be renewed under the conditions of the motion will say aye.

Johnson: Aye.

Thorne: Aye.

Gilmour: Aye.

Metcalf: Aye.

Gilmour: Unanimously by the four members of the Commission, Lonny.

Powell: Thank you, Mr. Chairman.

End Transcript

**ACTION: MOTION (Gilmour) Approve application and operating plan as submitted with the modification of a \$250,000 Line of Credit or equivalent bond.**

**VOTE: 4 Aye, 0 Nay, 1 Excused**

**7. International Racing Group (IRG) 2006-2007 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License**

Following is a transcript of this agenda item:

Gallo: Mr. Chairman, thank you for having us here today, I know it's only been six months since I've last sat before you. I hope that you would agree that in those six months, International Racing Group has been regulatorily responsible and at the same time has proven ourselves from a financial perspective in terms of the handle and revenue that we bring through the hub. With that, there are no material changes that I'm aware of in this application. We do have a \$250,000 Letter of Credit and we ask for an approval of our license for the next year.

Gilmour: Ms.- Chairman - or excuse me, Commissioner Metcalf, did you understand and here that?

Metcalf: No, I did not. Can you summarize that for me please?

Gilmour: Yes. International Racing Group is back after six months requesting an annual license taking effect July one with no changes.

Gallo: Correct.

Gilmour: And a bond or Letter of Credit for \$250,000.

Gallo: Correct.

Metcalf: Without that or with that?

Gilmour: With.

Metcalf: Are you still there?

Gilmour: Yeah.

Metcalf: Are you still there?

Gilmour: Yes. Did you understand me? Hello?

(Commissioner Metcalf's cell phone connection was lost at that time.)

Gilmour: Modern Technology. Are there any questions by members of the Commission?

Thorne: Just a quick question, Vic.

Gallo: Yes.

Thorne: Same as last time, you got a list of states, here.

Gallo: Yes.

Thorne: All your customers are in the approved A states. Is that correct?

Gallo: That is correct.

Thorne: And you won't mind if [unintelligible] would like to follow-up on that at some point?

Gallo: No, not at all.

Thorne: Appreciate that. The only other question I had was –

(Commissioner Metcalf re-joined the meeting via telephone.)

Metcalf: -And was that without or with the bond or credit?

Hanson: Sorry.

Gilmour: With the letter or bond of credit. That is correct.

Metcalf: Thank you. All right.

Gilmour: Okeydokey.

Thorne: Okay.

Gilmour: Sorry.

Thorne: That's okay. One other question: There is a very complete Source Market model in the Youbet app. I didn't see one in the IRG app. I assume that it's probably the same. Is that correct?

Gallo: No. It's not the same. I've discussed this with staff. Would be happy to discuss it privately with regard to why it's not in there exactly.

Thorne: Okay. We should do that, yes.

Gallo: And, would be happy to discuss it also with the horsemen here in Oregon-

Thorne: -Okay.

Gallo: -on a private basis.

Thorne: Okay. Thank you.

Gallo: Sure.

Gilmour: Just a follow-up [tape change] your discussion with the horsemen.

Gallo: Anytime. Anytime.

Gilmour: Today?

Gallo: Certainly. Certainly.

Gilmour: No, I'm not putting you on the spot, am I?

Gallo: No, no, no. I'd be happy to talk to them about it today.

Gilmour: Okay. We might need another recess.

Gallo: I think that after that conversation, perhaps, a better understanding will -

Gilmour: -Okay.

Gallo: -prevail.

Gilmour: Before we go from that. Ms. Johnson, did you have any questions?

Johnson: I do, sir.

Gilmour: She does.

Johnson: Your Letter of Credit, will it be irrevocable and drawn in the name of the Oregon Racing Commission?

Gallo: I didn't catch all of that.

Johnson: Will your Letter of Credit be irrevocable, drawn in the name of the Oregon Racing Commission and will it be based in Oregon, with an Oregon bank?

Gallo: It's currently not with an Oregon bank. It currently automatically renews indefinitely, if I'm not mistaken, and it currently is drawn to and in the possession of the Oregon Racing Commission. The original sits with the Oregon Racing Commission.

Johnson: Is it drawn on a bank for the United States?

Hanson: I have it.

Gallo: Yes-

Hanson: -Yes.

Gallo: -it is. It is, yes.

Johnson: Okay. My other question: I'd like to know if you'll be establishing a physical presence in Oregon? And, if your employees will be licensed by the Commission?

Gallo: Two different questions. The first question I would answer in two different ways. To the extent we expand our operations outside of Curacao for a call center, certainly Oregon will be the first on our list of places to expand to. There's no question in my mind about that. The second issue related to that question is more of a legal issue related to that question. We are currently operating in interstate commerce and, without boring you with the legal details, that is why you also don't have a business license from us. We are not required to because we're not present in this state currently. The Interstate Horse Racing Act, as well as your current statutes, envisioned that this was an interstate based business. For me to start operating in Oregon, actually, does have legal ramifications beyond just the Oregon Racing Commission. It has legal ramifications as to how I conduct business i.e. getting licensed, filing for a business license and so forth in Oregon. Which I'm not opposed to doing, but it does change the nature of my business from interstate to potentially intrastate business. I'm not sure that's something I want to do today, but again, to the extent I do expand my call center and I bring it here, I would be accomplishing both with the same facility. Does that answer your question or is that confusing? I'm getting a confused look.

Johnson: It's a little confusing.

Gallo: Little confusing. I don't currently have any business here in Oregon. I'd be happy to have my tellers licensed in Oregon to the extent I expand my operations beyond the capacity of the facility I have in Curacao. This is the first place I'll be looking to expand to.

Johnson: Okay. You understand that I'm a little uncomfortable with the concept of taking wagers and trying to regulate them when they're out of the country.

Gallo: Two different questions, again. Let me go at those in two different ways. First of all, as mentioned earlier, the wager's actually occurring at the Hub here and you have full visibility on that wager occurring at the Hub here in Oregon. My Hub is here. We have United Tote employees here operating that Hub, which actually are Youbet employees, but not IRG employees.

Johnson: But your call center's out of this country, is that correct, sir?

Gallo: Correct. Legally, as we've discussed earlier, through Commissioner Thorne's comments, the bet is occurring here in Oregon.

Johnson: Okay. Thank you. I don't have any further questions.

Gilmour: Okay. We're going to take a five minute recess to allow you to introduce yourself -

Gallo: -Sure.

Gilmour: -to the horsemen. I don't care what you talk about, that's your business.

Gallo: Sure.

Gilmour: Commissioner Thorne is concerned about the direction the conversation's going. We're going to come back here and vote on your license.

Gallo: Okay.

Gilmour: We'll stay in the recess for at least five minutes.

Gallo: Great.

(The Commission took a five minute break.)

Gilmour: Okay, for the record, we took a five minute recess and before us is the International Racing Group's application for an annual license beginning July one. We have had the questions answered to the sufficiency of us. Would you like to comment on the five minute recess? Did you have conversations with the any members of the audience that you'd like to report upon?

Gallo: Yes, Mr. Chairman. I'd like to note, for the record, that to the extent any handle derived from Oregon residents from IRG occurs, any revenue derived from that and handle derived from those sources; there will be a negotiated Source Market fee with the horsemen of Oregon and IRG in place.

Gilmour: Thank you. Lisa, are you there?

Metcalf: Yes, I am.

Gilmour: Here's what we've got. We've got the vote coming up for the license for an annual fee of International Racing Group. They have a bond or Letter of Credit that has satisfied us as the members. We took a five minute recess so they could have some contact in the audience with members of the Horsemen's Group to talk about marketing source. It's been reported back that they are in negotiations to resolve the issue of those Source Market. They will report back, I'm sure, or the Horsemen's Group will, I'm sure, report back to us at the next few meetings of whether or not that negotiation is moving along fruitfully. Is that correct?

Gallo: Yes, sir. One more thing: We've also agreed that to the extent they need to verify what I've represented to them, that they could turn to the Oregon Racing Commission and Gordon to verify the information I provided to them.

Gilmour: That's why we get the big bucks. Okeydokey. Lisa, do you want to make a motion?

Metcalf: Go ahead.

Gilmour: You can make the motion, dear.

Metcalf: All right, then. I move that we accept the application for IRG with - I move that we accept the application.

Gilmour: With the conditions they have agreed to in the correspondence and verbally at this meeting they have had with us and the audience members. Okay. That's the motion. Those of the opinion that we should approve this license will say aye.

Thorne: Aye.

Johnson: Aye.

Metcalf: Aye.

Gilmour: Aye. Those opposed no. The ayes have it. Thank you.

Gallo: Thank you.

End Transcript.

**ACTION: MOTION (Metcalf)** Approve application and operating plan as submitted with the additional conditions and verbal negotiations as agreed.

**VOTE:** 4 Aye, 0 Nay, 1 Excused

### **8. Xpress Bet, Inc. 2006-2007 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License**

Following is a transcript of this agenda item:

Scoggins: Gregg Scoggins, on behalf of Xpress Bet, I'm the National Director of Regulator Affairs for Magna Entertainment Corp. I am here in respect to the renewal application for Xpress Bet's Oregon ADW license. I want to thank you, Mr. Chairman, members of the Commission, for the opportunity to be here and to be in Grants Pass. I'm glad we waited until the June meeting to apply for our - or to have our hearing on our license. I like this countryside fairly well, thank you. I think I'm learning how to say Oregon a little better.

Gilmour: You're better than you were last year. You have had the advantage of listening to the last two applications and you could proceed the questions, I'm guessing, with some verbal response to what the questions have been in the past.

Scoggins: Yes, sir, be happy to do that. We are, as it relates to, if I may, as it relates to our license application. There are some changes that relate to changes that we made towards the latter part of this year in respect to accepting international wagers. You will note that we are continuing to pursue that and pursue the international markets. We also are continuing to look at opportunities to expand the domestic wagering handle in the US markets. With respect to housekeeping matters, before I anticipate the questions that are to be asked, pursuant to the tax option 3B of the Commission's regulations, Xpress Bet elects to be subject to California pari-mutuel tax and respect to those wagers place by California residents.

Gilmour: We need that in writing, also.

Scoggins: Yes, sir.

Gilmour: Just for clarification.

Scoggins: Yes, sir, we will follow that up with a letter.

Gilmour: Okay.

Scoggins: In respect to the questions that have been asked previously, we do have a bond of \$250,000 in the name of the Oregon Racing Commission that is in place and has been updated or renewed. We do not currently have a call center in Oregon. However, we are pursuing whether that makes sense and expect that in a short period of time you will see a presence of Xpress Bet in Oregon with a call

center and a Hub. We look forward to when that can happen. I would defer to Commissioner Thorne to ask the question so that I can then say yes or no.

Thorne: You, Gregg, in this application, I don't see a list of states in which you operate. I assume that information would be available to us in terms of what states you operate in. We want to assure that those states have pari-mutuel wagering - legal pari-mutuel wagering rules and that information is provided to us and Gordon.

Scoggins: Yes. We will provide you-

Thorne: -It would be nice to have something on the record from you that states that you are operating only in states that have pari-mutuel wagering rules.

Scoggins: It is my belief that we are. Unfortunately, I am not involved in the day to day operations in Pennsylvania where our call center is for me to say with absolute certitude that we are, but it is my belief, based on my advice to them, that we are.

Thorne: Okay.

Scoggins: We will provide you with a letter that indicates the states that we are in and, basically, that verifies that we are in only those states where pari-mutuel wagering is lawful.

Thorne: Appreciate that.

Gilmour: Ms. Johnson?

Johnson: No, I don't have any questions, sir.

Gilmour: She's worn out. Lisa, are you on the phone?

Metcalf: Indeed I am.

Gilmour: We are - have you heard the past discussion?

Metcalf: No, will you just summarize in 60 seconds for me please?

Gilmour: I'm going to allow Ms. Hanson to do that because I have not yet asked her for her recommendation.

Metcalf: [Unintelligible.]

Hanson: Lisa, Commissioner Metcalf, basically, Xpress Bet has provided their application with a \$250,000 bond. They are going to provide a list of states that they operate in and also in writing they'll provide the tax option. As all of the three applications today, my recommendation would be to approve Xpress Bet.

Metcalf: Outstanding.

Gilmour: Is there a motion.

Thorne: So moved.

Metcalf: So moved.

Gilmour: Two motions. I only need one more vote. Bad joke. Those of the opinion that the application starting July one with the conditions set forth verbally will be complied with to the Director and Commissioner Thorne and others, concerning the states, will say aye.

Thorne: Aye.

Johnson: Aye.

Gilmour: Aye.

Metcalf: Aye.

Gilmour: Those opposed, no. The ayes have it. Xpress Bet has been licensed.

Scoggins: Thank you.

Gilmour: You're welcome.

**ACTION: MOTION (Thorne)** Approve application and operating plan as submitted with follow-up on additional information as agreed.

**VOTE:** 4 Aye, 0 Nay, 1 Excused

### **9. Portland Meadows 2006-2007 Race Meet Application**

Following is a transcript of this agenda item:

Yuzik: Dwayne Yuzik, Portland Meadows, General Manager. Chair Gilmour, Commissioners, Jodi, good afternoon. It's with great pleasure on behalf of Magna Entertainment I request app. approval of Portland Meadows Race Meet for 2006-2007 as presented to you. If you have any questions, feel free to ask.

Gilmour: We have a couple concerns. We're going to have to work through them. One has to do with the - Ms. Hanson, I'm sorry, I'll call on you with our concern. I'm tongue tied.

Hanson: Right. It's the medication issue and the entry days. We have the letter dated May 30<sup>th</sup> from Jerry Kohls proposing entry - administering drugs after entry. I'm going to consult with Raul Ramirez about 462.415(a) to see what we can do about that issue.

Yuzik: I appreciate that.

Gilmour: We might find that we need to go to rule making to clarify the statute which we can do through a rule making to accommodate the uniqueness of the situation. Commissioner Thorne?

Thorne: I'm fine.

Gilmour: Commissioner Johnson? Lisa, have you heard the conversation?

Metcalf: Yes, I have.

Gilmour: Okay. Any further - Dwayne? Okay.

Yuzik: Not really.

Gilmour: Okay. I'll take a motion to approve the application for the Portland Meadows 2006-2007 Race Meet.

Thorne: So moved.

Johnson: So moved.

Gilmour: There's a motion to approve. Those of the opinion we should approve with the caveats that we've verbally discussed to figure out how were going to solve one technicality, will say aye.

Johnson: Aye.

Thorne: Aye.

Metcalf: Aye.

Gilmour: Aye. Those opposed, no. The ayes have it.

End Transcript.

**ACTION: MOTION (Thorne)** Approve application as submitted with the noted concern regarding medication being administered after entries.

**VOTE:** 4 Aye, 0 Nay, 1Excused

**10. Portland OTOBA Request for Approval to Distribute the Oregon Bred Thoroughbred Owners' Bonus and Breeders Awards Earned During 2005-2006**

Ursula Gibbons, Executive Director, OTOBA, was present to answer questions. Information and discussions included the following:

Executive Director Hanson recommended approval, adding her appreciation for the detailed reports that Ms. Gibbons prepared.

**ACTION: MOTION (Metcalf)** Approve the request to distribute the owners' bonus and breeder awards.

**VOTE:** 4 Aye, 0 Nay, 1Excused

**11. Confirmation of Next Commission Meeting – July 20, 2006**

All Commissioners stated they would be able to be present at the July meeting with the exception of Commissioner Metcalf.

At this time, Commissioner Metcalf stated that she would be ending her telephone connection to this meeting.

**12. Public Comment**

- ⇒ Don Jackson expressed his appreciation for the Commission having the meetings in Grants Pass over the past 30 plus years and invited the Commission back again in the future.
- ⇒ Dave Nelson, representing Portland Meadows Race Track, stated for the record, that the revenue from source market fees was critically important to the future continued success of Portland Meadows Race Track and therefore, Portland Meadows needed to be included in any future discussions regarding source market fees.
- ⇒ Rod Lowe, President, Southern Oregon Horse Racing Association and Representative of Josephine County Fairgrounds, stated that due to the rainy weather and the loss of race days, he would not be able to host a BBQ at his place this year and apologized to the Commission.

There being no further business, the meeting was adjourned.