

# MEETING MINUTES

## OREGON RACING COMMISSION SPECIAL TELECONFERENCE April 25, 2008

The Oregon Racing Commission met on Friday, April 25, 2008 at 2:00 p.m. in Suite 310 of the Portland State Office Building located at 800 NE Oregon Street, Portland, Oregon. Commissioners in attendance via telephone were Chair Kerry Johnson, Vice Chair Stan Robson, Chris Dudley, and Charles Williamson. Commissioner Michael Huber was excused.

### **Agenda: Action on Proposed Final Order for MEC Oregon Racing, Inc., dba Portland Meadows**

Steve Walters, Counsel, MEC Oregon Racing, Inc. was present telephonically to answer questions regarding the exceptions MEC filed in response to the amended proposed order adopted by the commission on April 17, 2008. Information and discussions included the following:

While Mr. Walters did not review each exception in detail, he reiterated MEC Oregon Racing, Inc.'s position in support of the Administrative Law Judge Teppola's findings. He stated, "We would ask you once again to look carefully at the conclusions you're being asked to adopt; the findings of fact you're being asked to adopt. We think that the proper conclusion is that Judge Teppola got it right on the facts of the law and that is the order you should enter. Failing that, we very strongly urge the commission to adopt language of the sort that we have proposed in page three of our exceptions so that there is no danger that the reviewing court would say that the Racing Commission are the experts here and we should defer to their findings and conclusions on these issues."

⇒ Commissioner Williamson stated his concerns about the exceptions that were filed regarding the process that the commission followed. He explained that the commission "was bending over backwards" to keep the process moving in order to get a ruling on the legality of Instant Racing.

Mr. Walters responded, "Our principal arguments to the Court of the Appeals, right out of the box, is going to be Judge Teppola got it right. If there's a final order reversing her, that's wrong as a matter of fact and a matter of law. That will be our principal argument. But, as I think you know better than anyone, we need to preserve all of our potential objections to the process that was followed. Certainly, the evidentiary rulings that reject many of her factual findings – we certainly have to contest those. You can imagine the position that I would be in if the Court of Appeals were to say that if Judge

Teppola's order was rewritten, we would have to defer to the Racing Commission and Magna didn't complain about the process they followed. We have to preserve all of these. I can assure you that we will be pushing very hard for a decision on the merits that Thoroughbred Mania is a legal form of wager."

⇒ Peter Shepherd, Counsel, Oregon Department of Justice, provided, for the record, that the commissioners had received and reviewed their copies of the exceptions.

Chair Johnson announced that they would adjourn the public meeting and go into executive session. Steve Walters stated his objection to the commissioners meeting in executive session with counsel involved in the litigation without allowing MEC counsel the opportunity to participate and rebut any arguments being made.

*At this time, the commission entered into executive session and upon their return continued the meeting as follows:*

Commissioner Williamson stated, "It is my understanding from my discussions with the commission that we do not intend that the interpretations of law be given any deference by a higher court and that our order be reviewed de novo."

ACTION: MOTION (Williamson) Adopt the final order in the revised form submitted denying MEC Oregon Racing, Inc.'s request to amend its current license to include Electronic 1-2-3 with Pick N wagering, also known as Instant Racing or Thoroughbred Mania.

VOTE: 4 Aye, 0 Nay, 1 Excused

There being no further business, the meeting was adjourned.