



**Delaware Thoroughbred Racing Commission  
Minutes of Regular Meeting Held On  
August 19, 2015**

The Delaware Thoroughbred Racing Commission held a regular meeting on Wednesday, August 19, 2015, at 10:15 a.m., in the Horseman's Office, 2<sup>nd</sup> Floor, at Delaware Park, 777 Delaware Park Blvd, Wilmington, DE 19804

**The following Commission members were present:**

W. Duncan Patterson, Jr., Chairman
Edward J. Stegemeier, Secretary/Commissioner
Richard A. Levine, Esq., Commissioner
Debra M. Killeen, Commissioner

The following Commission members were absent

Henry J. Decker, Commissioner
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The following individuals also were present:

John F. Wayne, DTRC, Executive Director
Robert Willard, Esq., Deputy Attorney General, Commission Counsel
Edwin Kee, Delaware Secretary of Agriculture
William Fasy, Delaware Park, President, Administration
Kevin DeLucia, Sr. Vice President & CFO, Racing-Administration, Delaware Park
John E. Mooney, Delaware Park, Executive Director of Racing
Nancy Myshko, Delaware Park, Sr. Vice President, HR/EVS/F&B/Mutuel/Sec.
Dave Foraker, Delaware Park, Loss Control Manager-Human Resources
Chris Sobocinski, Delaware Park, Racing Information Coordinator
Kathy Harer, Delaware Park, Executive Director-Security
Jeff Ganc, Delaware Park, Assistant Director-Security
Matt Paladinetti, Delaware Park, EMT-Fire Command
Michael Gorham, DTHA President
Bessie Gruwell, DTHA Executive Director
Michael Delaney, DTRC, Inspector
John T. Peters, D.V.M., DTRC, Chief Commission Veterinarian
G. Jack Houghton, DTRC, Chief Steward
Dennis Lima, DTRC, Steward
Fritz Burkhardt, DTRC, Steward
Robert E. Colton, Delaware Jockey's Association, Director
Heriberto Rivera, Jr., Jockey's Guild, Regional Manager
Thomas Cash, Special Agent, Federal Bureau of Investigation, Mid Atlantic Gaming Liaison Rep.
John Weilbacher, Jockey Agent
Andry Blanco, Jockey
Trevor M. McCarthy, Jockey
Victor Y. Colon, Valet
Ricardo Chiappe, Jockey
Keiber Coa, Jockey
Gabriel Castro, Valet

Titin Roman, Valet
Russell Reynolds, Valet
Scott B. Spieth, Jockey
Kali Francois, Jockey
Janelle Campbell, Jockey
Scott Peck, Trainer
Anthony Pecoraro, Trainer
Aldana Gonzalez, Trainer
Vince Halliday, Jockey
Pierre Tomas, Jockey
Adrian Balmer, Jockey
Yvonne Tonyea Worsley, Trainer/Owner
Juan Serey, Valet
Mario Gendrachi, Jockey Agent
Tianna Bethune, Delaware Department of Justice
Jamie Ness, Trainer
David Amiss, Jockey
Telly Dioses, Valet
Simon Hobson, Trainer
Donnie Jones, Trainer
Paul Berube, Owner
Mark Reid, Trainer
Phil Wasiluk, Jockey Agent
George Beaulieu, Forman
Frank Angst, Blood-Horse Magazine
Pam Rash, DTRC, Administrative Asst. (Recording Minutes)

**1. WELCOME & CALL TO ORDER**

At approximately 10:20 a.m., Chairman Duncan Patterson called the meeting to order.

**2. APPROVAL OF MINUTES**

Upon a motion duly made (Killeen) and seconded (Stegemeier), minutes of July 13, 2015 were approved.

**DELAWARE PARK PADDOCK SAFETY INCIDENT REVIEW**

This item was put first on the agenda so that those attending the meeting for this reason would be able to leave.

Chairman Patterson set ground rules for the discussion: Delaware Park representatives would speak first, Commission questions, public questions and comments. Only speak when recognized. No speaking out of order or will be asked to leave.

William Fasy, President, Delaware Park, addressed the issue and acknowledged there was a breakdown in communication and a time lag. He reiterated that safety is the first priority for Delaware Park, the Commission and the Horsemen. Mr. Fasy shared information that he received from Mr. Hollick through a source that reported to him about the incident that happened during the saddling for the race. When the horse got excited and started moving, Mr. Hollick was not able to get out of the way due to a groom being in the way. Horses are reactionary and can get excited at any point of time.

The problem arose when the EMTs arrived and needed to assess the victim and what happened. There were a lot of people around. People were calling for an ambulance which is not the protocol. The protocol is for the EMTs to make an assessment and call for an ambulance to let them know the vital signs, what occurred, what to expect and where they are at. That was a breakdown in the situation. Another breakdown was when they were told on the phone it was a racing incident. When they are told that they go to the main gate then went to the paddock via the route to get around the track valet gate. It took longer than usual. The response time is determined by Mill Creek and first responders.

There were three responses. At the same time this occurred there was an injury just prior to this incident by the Winner's Circle. A woman had tripped and the EMTs were finishing there and headed back to their office when they got the call. In addition to that there was a motor vehicle accident on the backside. There was a lot going on at the time. Meanwhile, the normal race routine was going on. Nobody said they should or should not go out on the track. The protocol is that both EMTs are to stay on the track for the jockeys. No matter what happens, the outside responders have to be called for an ambulance and paramedics. EMTs do not move, under any circumstances, the bodies of individuals until the paramedics arrive. That took time.

While this was going on the EMTs said Mr. Hollick was conscious and he was answering all the questions correctly. Mr. Fasy stated that Mr. Hollick was in pain and he cannot express how sorry he was that this occurred. He stated that the race should have been stopped, but it did not and there is a question as to who would make that call. Mr. Fasy stated that for the 20 years he has been at Delaware Park that has never happened. No matter how experienced someone was, or if someone was in that Paddock every day, he felt that they would possibly do the same thing. It was a judgment call that occurred because of the natural parading of the horse.

Mr. Fasy does not deny that the ambulance may have been 5 or 7 minutes later than it should have been. Once they get the call they respond from where they are when they get the call. He stated it is not an excuse and it is not something that can be solved overnight. Mr. Fasy stated that he does not have a problem with the Paddock Judge or the Stewards stopping a race.

Mr. Fasy felt that in hindsight and after talking to the professionals who do this every day, 30 minutes is not really long. It happened and that cannot be changed. The first responders from Delaware Park staff were there. There was some confusion and interruption while they tried to attend to Mr. Hollick. There was no clearing out of people. Mr. Fasy indicated he will do anything necessary to make this better in the future. He mentioned that comments made to the media were not good. He understands the emotion and understands why the jockeys and his employees were upset.

Mr. Fasy does feel the Safety Committee should meet immediately after the Commission meeting to address what happened and decide what needs to be done for the safety of the track. They are the ones to establish protocol. Mr. Fasy stated based on this event, his Valets will wear vests. He expressed concern as to why his valets are helping saddle horses inside the Paddock.

Mr. Fasy asked Kathy Harer, Director of Security to discuss the timeline. Ms. Harer stated she met with the security staff, the EMTs and talked to the operator that called in to the Security Dispatch. The call came into Security Dispatch at 2:35 p.m. The Dispatch officers reached out to the EMTs who had already been contacted by the Jane Teichner, Commission Veterinarian. They were already in route and arrived at the Paddock at 2:38 pm. One of the Shift Supervisors was called and arrived at the Paddock at 2:40 pm. Someone there made the 911 call and the EMTs asked to talk to 911 as they were assessing the patient and knew the questions that would need to be answered. The EMTs took the phone call at that point. At 2:42 pm they were notified that outside units were en route and that there were three responding units. A transport, New Castle County Paramedics, two Delaware State Police, as well as a Paramedic supervisor, responded. They arrived in C Lot at the far side of the Paddock entrance at 2:52 pm. They were escorted through the back valet gate so they could enter alongside the Paddock and drive to the scene. They arrived at 2:56 pm. The outside units were on site in 18 minutes. They left the property at 3:07 pm to transport Mr. Hollick to the Christiana Emergency Room.

Chairman Patterson asked for clarification as to who called the ambulance and asked what the normal protocol is. Ms. Harer indicated the EMTs usually call, but Mr. Hollick's wife called. Chairman Patterson asked why that occurred. Ms. Harer stated she could not answer that. She believed she was acting from emotional standpoint. Chairman Patterson questioned why the EMTs did not call first. Ms. Harer indicated

they were assessing the patient. There is certain information that they need to have when calling for an outside unit. When the EMTs heard Mrs. Hollick on the phone, they asked to speak with them.

Chairman Patterson indicated he received calls from trainers while he was in Chicago and they deviated from the information provided. The main concern was the tardiness of the ambulance arrival and confusion on where the ambulance was accessing the Paddock. It does not appear it was that big of a problem. Ms. Harer stated that the timeline information came from their surveillance coverage of the Paddock area and the internal surveillance group that monitors the parking lots.

Chairman Patterson asked if the original call came from Dr. Teichner. Ms. Harer stated it came to the EMTs (EMS staff) through the radio. Commissioner Killeen asked if this was Security Dispatch. Ms. Harer indicated that was a different call where someone called the in-house operator who then in turn called Dispatch.

Chairman Patterson indicated one solution would be to have the Paddock Judge stop the horses from entering the race track. Mr. Fasy stated that once the horses are on the track, the outriders have to escort the horses off the track. Commissioner Killeen suggested that a sign be placed in each Paddock stall that shows what to do in an emergency (both English and Spanish) so there is no doubt of what should be done. Mr. Fasy stated he had no problem expanding that idea and being sure everyone is trained, including valets and jockeys.

Heriberto Rivera, Jockey Guild Regional Manager, asked who has the authority to hold the race if an incident similar to this happens again. Mr. Fasy felt it would be the Paddock Judge, Outrider or the Stewards. Chairman Patterson stated the Stewards would not know what is going on unless someone kept them in the loop.

Commissioner Stegemeier asked Mr. Fasy if the Safety Committee makes a decision, would a recommendation need to be made to him or does the Committee have the final say. Mr. Fasy indicated that the Safety Committee would show him the recommendations and it would become a house rule.

Mr. Fasy indicated that they are always getting comments about their EMT staff and they have saved lives. Ms. Harer shared during the past week, the EMT staff responded to 2 CPR calls, heart attacks, and everyone is alive and healthy. There are at least a 1,000 or more calls a month.

Delaware Jockey's Association Director, Robert E. Colton commended Mr. Fasy for addressing the situation so quickly. He felt it is a situation that can be rectified.

Chairman Patterson asked for clarification as to who is on the Safety Committee. John Mooney stated himself, Bessie Gruwell, John Wayne, Robert Colton, Fritz Burkhardt and Kathy Harer and a Commission Veterinarian.

Mr. Mooney commented that horses were saddled and circling in the Paddock. They had been there. The Racing Office was in contact with the Stewards. They knew the ambulettes were on the race track and staffed. Mr. Mooney cleared the Paddock so the ambulance that was expected to be there had access to the Paddock and to the patient. The Stewards had advised people on the race track that we could pull or cancel the race if necessary to tend to the patient. There was a process and everyone was aware of what was taking place from an official standpoint. The Paddock Judge advised the Racing Office immediately of the incident. Chairman Patterson asked Mr. Mooney what he would have done differently based on the events. Mr. Mooney stated that if he had known the ambulance was not in route and not on the grounds he would have had the horses parade on the track until he knew what the situation was in the Paddock. This will be discussed at the safety meeting.

Mr. Colton asked if a Delaware Park ambulance can transport a valet if they are severely injured. Ms. Harer indicated the ambulettes that trail the race are not licensed to transport. There are two transport ambulances. A decision was made at an earlier safety meeting to have one of those ambulances on the track and it has transported jockeys in the past. With this set-up, 4 EMTs are on the backside/racing side and 2 EMTs were upfront. If the set-up had been 2 EMTs on the backside/racing side and 4 EMTs upfront, 2 would have responded and 2 would have brought the ambulance down and they would have been able to transport the victim. This is one of the procedures that needs to be discussed. Chairman Patterson confirmed with Ms. Harer that because all the EMTs were tied up they could not access the transport. He asked if both EMTs were required to remain with the patient or could one have gotten the transport. Matt Paladinetti, Fire

Command, answered that it depends on the severity of the patient. He was not with Mr. Hollick at that time and does not want to second guess the responding EMTs decision. Things could have gone wrong very quickly. Ms. Harer stated that one EMT was stabilizing him and the other was monitoring his vitals.

Mr. Colton stated that there could have been radio transmission for another EMT to bring the transport. Commissioner Killeen asked if they are all on the same radio frequency so they could have done that. Ms. Harer indicated they are on different channels. Mr. Colton explained to the public attendees that an ambulate is not licensed to transport a patient. They use that ambulate to get on the turf course to protect the turf and to ease wear and tear on the base of the course caused by full-size ambulances. There is a fully staffed and licensed ambulance. He felt that in an emergency situation, one of those ambulances can be released.

Titin Ramon, Valet, stated he worked with the gate crew and valets. He felt it is not a complicated problem, but a bad problem. He indicated this could easily happen to the gate crew on the infield. He felt the Paddock walls and in posts could be padded which would have kept Mr. Hollick from receiving a concussion and could protect a horse from injury. This is an easy and inexpensive solution. Mr. Ramon also felt the Paddock Judge should be given more authority to make a decision. Escorting the horses out of the Paddock was a good decision. The biggest problem was Mr. Hollick laid there for over 25 minutes before someone got to him and another 25 minutes before an ambulance got there. He suggested there be a gurney extraction program to get a victim moved to a location for a quicker connection with the ambulance.

Chairman Patterson pointed out that the timeline provided by Ms. Harer disputes the timeline stated by Mr. Ramon. The Commission can only accept the facts that were provided by Ms. Harer.

David Amiss, Jockey, indicated outside transport services have no idea where to go. He suggested a plan for outside ambulances to know where to go. He knows of tracks that have provided maps to the outside agencies that can study them and know where they are going.

Commissioner Killeen asked Ms. Harer who met the ambulance and where did they meet it. Ms. Harer stated that security officers were stationed at slot valet and the rear of the track valet. The outside transport agency responded to the main gate because they thought it was an injury on the track and that is the normal procedure. The officer then brought them to the correct gate. Commissioner Killeen indicated that is valuable time wasted. If the ambulance does not have direct access to the patient it is wasting valuable time and needs to be addressed.

Phil Wasiluk, Agent, questioned why there are not more emergency personnel available based on the size of the facility. He questioned whether there is never a time where more than one emergency happens at the same time. Mr. Fasy answered there are six EMTs on staff, four are on the racetrack and two are on the front side. Delaware Park has an excellent record. Staffing has been very similar for the last 20 years and he indicated he would do his best to improve safety based on what the Safety Committee comes up with. He is 100% committed to safety.

Chairman Patterson indicated the gate crew, which is a dangerous job, would be covered by the ambulate because it is right there. If someone was injured, the race would be at least delayed.

Robert Colton indicated they tried to get paramedics on site a few years prior. They had to go through a legislative committee hearing and met with Representatives (at that time Chris Coons and Bill Oberly). The entire medical procedure was reviewed by the state emergency medical services. Paramedics can only work for the Delaware State Police and both the committee of the state legislators and the representatives from Delaware Park were quite satisfied with the staffing at Delaware Park. The six EMTs are more than a lot of tracks have. Outside services are only minutes away and one of the best trauma facilities is located just moments away. This was reviewed by the state EMS and Mr. Colton stated he was personally satisfied with that review.

Mr. Fasey stated Delaware Park EMTs also work for outside agencies and they are constantly in training and they provide CPR training.

Chairman Patterson thanked Mr. Fasey, Mr. Mooney and Ms. Harer for coming to the meeting and explaining the situation. He stated it was an unfortunate situation and knows Mr. Hollick personally. He felt confident that steps can be taken in case something similar happens in the future.

At approximately 11:01 a.m., Chairman Patterson thanked everyone for attending and gave time for those who wished to leave and those who wished to stay for the regular meeting to do so. At 11:04 a.m. Chairman Patterson returned the meeting to order.

## **PUBLIC HEARING AND APPEAL**

### **A. Mr. Andry Blanco**

Chairman Patterson confirmed with Mr. Blanco the reason he was called for the hearing was because he had a subpoena from the Delaware Thoroughbred Racing Commission on behalf of Gary Katz, attorney for Mr. Pedroza who filed an appeal. Mr. Blanco confirmed he received the subpoena. Chairman Patterson asked Mr. Blanco why he did not appear. Mr. Blanco indicated he forgot about it. He does not read English well. He did not know the importance of the letter he received. He indicated he should have shown it to his agent for review but forgot.

Chairman Patterson stated Mr. Blanco did a disservice to his fellow rider, Mr. Pedroza, to his attorney and to the Commission by not appearing before the Commission. The Commission does not take this lightly. Chairman Patterson confirmed with Mr. Blanco that his agent, John Weilbacher, was not aware of the subpoena. Mr. Weilbacher introduced himself to the Commission and asked John Wayne if he could review the interview. Chairman Patterson asked Mr. Wayne to summarize the interaction. Mr. Wayne stated he had an interview with Mr. Blanco and Mr. Weilbacher following the Commission meeting. Mr. Blanco and Mr. Weilbacher gave an explanation as to why Mr. Blanco did not appear at the hearing for Mr. Pedroza. Mr. Weilbacher explained Mr. Blanco is sorry and did not understand the importance of the letter. Chairman Patterson asked Mr. Weilbacher if he received the letter. Mr. Weilbacher indicated he did after the hearing. He further explained this accident happened to Mr. Blanco. Mr. Weilbacher stated he sees Mr. Katz everyday on the backside and he never mentioned anything about it to Mr. Weilbacher about it. As Mr. Blanco was to be a witness for Mr. Pedroza, Mr. Weilbacher was surprised that Mr. Katz never mentioned it to him. Mr. Wayne confirmed that was what was stated in the interview with Mr. Blanco and Mr. Weilbacher. He again apologized and stated if he had known about it, they would have been at the hearing. The letter came in English not Spanish and Mr. Blanco does not read English.

Commissioner Killeen asked if the subpoena was physically handed to Mr. Blanco. Mr. Weilbacher confirmed it was handed to him in the jockey's room. Chairman Patterson asked who handed the subpoena to Mr. Blanco. Mr. Wayne indicated it was Fran Swift, DTRC Investigator, who hand delivered the subpoena to Mr. Blanco. Chairman Patterson asked Mr. Blanco if Mr. Swift explained what the letter was about. Mr. Blanco stated Mr. Swift told him he had to appear at the July 13 Commission meeting for Mr. Pedroza's hearing. Mr. Blanco stated he forgot about it. Commissioner Stegemeier indicated the Commission had a difficult time with the hearing and Mr. Blanco's testimony could have changed the Commission's decision.

Chairman Patterson indicated he understood that Mr. Blanco has a good record and is well-liked; however, not showing up at a Commission meeting when subpoenaed is a serious offense. Mr. Weilbacher asked if there is precedence for not appearing when subpoenaed. Chairman Patterson stated the Commission's attorney advised the Commission that they could penalize Mr. Blanco and that is why he was asked to come forward. Heriberto Rivera felt that it was an honest mistake. He did not feel that Mr. Blanco purposely ignored the subpoena. Robert Willard, Esq., Attorney General, acting Commission Counsel, read from the statute: "Any license issued by the Commission shall be subject to suspension or revocation by the Commission for any cause whatsoever which the Commission may deem sufficient."

Commissioner Stegemeier informed Mr. Blanco that if he had not shown up at this hearing there would have been serious consequences. Mr. Rivera and Commissioner Stegemeier advised Mr. Blanco that any time he receives mail and does not understand it or has any question about, he should hand it over to his agent. Bessie Gruwell suggested that anytime a subpoena is delivered to a jockey, a copy also be given to Robert Colton as a representative. Commissioner Levine asked Attorney General Willard to read the regulation again. Mr. Willard read: "3 Delaware Code Section 101.25: Any license issued by the Commission shall be subject to suspension or revocation by the Commission for any cause whatsoever which the Commission may deem sufficient." Mr. Willard confirmed they cannot issue a fine.

Commissioner Levine stated what he heard was that Mr. Blanco stated he forgot, not that he did not understand. It is not that he could not read the subpoena as it was read to him by Mr. Swift; he understood he was to appear on that date. Whether his testimony would have made a difference in the case does not matter. The Commission needs to take action.

Upon a motion duly made (Levine) and seconded (Killeen), the Commission unanimously suspended Mr. Andry Blanco for one Delaware Park Racing Day to be arranged with the Stewards.

B. Mr. Ricardo Chiappe – Appeal was withdrawn.

### 3. OLD BUSINESS

#### A. Cobalt Rule

DAG Kerber confirmed the Cobalt Rule was published in the Registrar of Regulations on August 1 and took effect on August 11.

#### B. Mid-Atlantic Testing Consistency Update

Chairman Patterson stated this topic was not being addressed at this meeting. John Wayne read a letter he received from Julie Hagihara, dated July 29, 2015:

“I am pleased to announce that Truesdail scored 100% for both blood and urine on the 2015 AORC Proficiency Testing Program.

The drugs for the urine program included:

- Sample 1 – Clenbuterol
- Sample 2 – Flufenamic Acid
- Sample 3 – Ractopamine & Methocarbamol
- Sample 4 – Trenbolone
- Sample 5 – Benzoylecgonine
- Sample 6 – Blank

The drugs for the blood program included:

- Sample A – Reserpine & Nandrolone
- Sample B – Atenolol & Firocoxib”

Mr. Wayne stated a copy of this letter was also received by Maryland, New Jersey and West Virginia.

### 5. NEW BUSINESS

#### A. July 15, 2015 Model Rules Meeting

Chairman Patterson shared at the meeting held in Deadwood, SD, GABA, 110 ng per ml of plasma was approved. He confirmed with Mr. Wayne that this has not been introduced as a new rule. Chairman Patterson indicated the Commission needs to move on this. This is an ARCI Model Rule. Commissioner Levine stated a motion could be made. Chairman Patterson felt it was not a huge problem because of third party lasix administration but the Commission needed to move on it.

Upon a motion duly made (Levine) and seconded (Killeen), the Commission unanimously voted to adopt the ARCI Rule for Gamma Aminobutyric Acid (GABA or Carolina Gold) 110 ng per ml of plasma.

#### B. ARCI Model Rule – Race Horse Registry

Chairman Patterson explained it is a rule that requires all race horses be registered as race horses with ARCI and that all ownership transfers be reported as of January 1, 2017. This augments existing breed registration and integrates existing ownership transfer registration currently in existence. The standardbred and quarter horses have this in place. Bids have been put out to standardbred, quarter

horse and Jockey Club to institute what has to be done to make this happen. It is something that has been lacking in the thoroughbred business and would track the ownership in a much more efficient way.

### C. Whipping Rule Discussion

The whipping rule provided was the rule that Minnesota has enacted. Dr. Teichner has asked the Commission to discuss the current whipping rule. Mr. Houghton stated the rule is how it is currently handled. He does not see any reason to change anything. The Stewards view and take action if necessary. There was an incident in the past where a jockey hit a horse in the eye. Dennis Lima indicated the only difference he noted was that they had to give the horse time to respond after three strikes which is not enforced here. If the Commission wants to enforce this, then that rule would have to be instituted. Mr. Houghton confirmed that would be the only change. Chairman Patterson asked what their position is on instituting this rule. Mr. Houghton felt that the current rule could be used, it is sufficient and inform the riders that a penalty would be issued if they do not follow. Heriberto Rivera felt the Stewards are knowledgeable and observant enough to know the difference between abuse and winning the race. It is a fine line, but the Stewards have been around long enough to know the difference. Commissioner Levine felt that administratively instituting a strike rule would be more difficult. It is something that has to be watched for. Currently they watch for abuse and not counting strikes. He would not favor a change unless someone advocates it.

Fritz Burkhardt suggested that the veterinarians check the horses post-race for marks. He also felt that the whips being used need to be monitored so the jockeys are not using unapproved versions. Robert Colton indicated he was hoping the ARCI would take a lead on it as there is not a standard across the board. He felt there needed to be an approved manufacturer as there are too many making whips. Mr. Colton showed the differences in the various available whips. He showed the differences between the European version and the U.S. version. The European version is a procush version with an injected mold from top to bottom and is flared. Most U.S. whips only have a shaft (fiberglass or graphite). A problem with not having approved manufacturers is when there is not a flare at the end, no matter what sponge is used, the end of the shaft perforates the sponge and the shaft is what ends up hitting the horse. In addition, the flaring keeps the popper from turning different directions so that you are not hitting with the non-stitched part which can cause damage to the horse. About 90% of U.S. whips are not procush. By approving a manufacturer that has some type of flaring would help.

Chairman Patterson asked what other jurisdictions are doing regarding the whips – is someone monitoring the whips. Mr. Rivera indicated there is nothing in place. Mr. Colton confirmed that is a problem. Manufacturers make whips that look like a humane whip, they take out the part of the sponge, wrap it back with tape which makes it very hard. It could break a hand. Mr. Colton has been a proponent of approved manufacturer only. Commissioner Killeen asked if that would be only one manufacturer. Mr. Colton stated no, the manufacturer would have to be approved by ARCI and that manufacturer has to prove that whip is humane at which point they would get a sticker that would be placed on the whip.

Commissioner Levine asked why the American practice is so different - is it cheaper and are there any jurisdictions that have done what Mr. Colton is suggesting. Mr. Colton stated in the U.S. no one has. The problem is there are so many different materials and manufacturing styles. Commissioner Levine asked if there is a more humane form, why is it not being used - is it a matter of cost, is it less effective.

Chairman Patterson addressed Dr. John Peters regarding Mr. Burkhardt's suggestion about checking the horses more closely post-race. Dr. Peters stated they do check them and have been asked to check them. He stated they have not noticed anything. Bessie Gruwell asked Dr. Peters if he has seen any horses with cuts on their flanks, etc. anymore. Dr. Peters stated he has not seen any. John Mooney indicated the veterinarian at the Winner's Circle observes every horse that comes back. Chairman Patterson stated he observed the same thing. John Mooney stated he felt excessive whipping in the rule covered it, that it was not necessary to count the number of times the jockey hits the horse.

## 6. REPORT FROM DTRC EXECUTIVE DIRECTOR

### Summary of Activities Report for July 31, 2015

Executive Director Wayne submitted his written report to the Commission for the period July 1 to July 31, 2015. Points of interest read into the record included:

	<u>July 2015</u>	<u>Year-To-Date</u>
Number of Persons Fingerprinted	10	110
Fingerprint Fees Collected	\$790	\$8,690
DTRC Licenses Issued	557	3,759
Fines & Appeal Fees Collected	\$3,700	\$9,150
License Fees Collected	\$23,790	\$137,215

**Other Statistics During July**

ARCI National Surveys answered	7
Contacts from Police Agencies	13
Contacts from Video Lottery Enforcement	11
Freedom of Information Act Request for Info	1
National Racing Compact Reviews	5
National Racing Compact Applications Rec'd	74
Contacts from Racing Industry Groups	31
Contacts from other Racing Commissions	26
Contacts from other Race Associations	37
Contacts from the General Public	16
Contacts from Horsemen	30
Media Contacts	37
Contacts from Racing Officials Accreditation Program (ROAP)	8

**7. REPORT FROM DTRC CHIEF COMMISSION VETERINARIAN**

**Health Report**

John T. Peters, D.V.M., Chief Commission Veterinarian made the following report for July 1 to 31:

Two horses were lost in July due to broken bones – 1 broken cannon bone, 1 broken shoulder. Two horses were lost due to extensive debilitating diarrhea. They were sent to New Bolton Center. One had hemorrhagic colitis, the other had gastroenteritis. Both were euthanized at Delaware Park. Another horse broke loose and went through the fence and badly cut its knee and had to be euthanized.

In August, one horse was lost in racing due to slab fracture of its carpal bone. One horse had been in a debilitating lame condition for a year, they could not find a home for him and the decision was made by its owner to put him to sleep.

Dr. Peters stated Mosquito Control Department, Delaware Department of Natural Resources contacted him last Friday and they discovered a sentinel chicken with West Nile Virus. He notified officials at Delaware Park. He spoke with Mr. Houghton and Mr. Mooney and consequently, Tom Moran at mosquito control (DNREC) sprayed for mosquitoes two days ago to control them. There has not been a huge mosquito problem, so it was more a preventative measure. The horsemen were notified to get their vaccinations up-to-date as West Nile Virus is something that can be vaccinated against.

**8. REPORT FROM DELAWARE THOROUGHBRED HORSEMEN'S ASSOCIATION**

**Delaware Certified Thoroughbred Program Report**

DTHA Executive Director, Bessie Gruwell filed the following report:

Ms. Gruwell shared there were 12 applications for yearlings and 1 weanling in July, for a total of 55 this year. A farm in Middletown has signed-up. It has about 20 acres and can begin taking horses. There have been 345 Delaware Certified horses start with 46 wins, 51 seconds, 58 thirds with a bonus payout of \$152,690 through July. There was an interest payment of \$250 and Owner/Certifier bonus of \$152,690 leaving a balance of \$603,460.

There have been a lot of good entries with some races having Delaware Certified Trifecta wins. "The Pizza Man," a Delaware Certified Horse, won the Arlington Million this past weekend. The program is going well. Owner's Day will be September 12 with four Delaware certified stakes to be run.

Chairman Patterson asked if Ms. Gruwell was comfortable with the balance with Owner's Day approaching. Ms. Gruwell stated she was comfortable and she agreed with Commissioner Stegemeier that there should be a surplus.

Ms. Gruwell stated she has had a lot of questions regarding the Todd Pletcher situation - wanting to know the rules, how does this happen, how could this happen. She was told there was no consultation with RMTC about what the methodology was on his case and Dr. Sams was not contacted about the methodology. Chairman Patterson answered that there are mitigating circumstances – 1. Test results were not received until late September/early October; 2. The Stewards never received the full package until this May. Edward Black, Deputy Attorney General, Stewards Counsel, made the decision that it put him in a very difficult situation as far as prosecuting. Research brought up the Daubert case which says that in order to prosecute, the methodology must be peer reviewed and published. There is different opinions – the RMTC felt this was not appropriate for this case and Alan Forman agreed; the Stewards were put in a situation that their attorney did not want to prosecute the case. The Commission's attorney, Andrew Kerber, Deputy Attorney General, indicated if the Steward's attorney did not want to prosecute there was not much the Commission could do. Chairman Patterson indicated that Alan Forman told him this should not jeopardize future cases but the Daubert case could be brought up. Ms. Gruwell asked if this sets precedence because of a loop-hole. Chairman Patterson stated it does not, because it never got to a hearing.

Ms. Gruwell questioned another case of a trainer with a positive caffeine level. Mr. Wayne stated it was also due to the long delay in getting results from the lab last year. Ms. Gruwell indicated that was the case for the last ten positives, they were settled by fines. Chairman Patterson reminded Ms. Gruwell that there were 41 suspicious tests that were not confirmed but they made the races official because Mr. Black did not feel comfortable prosecuting them because of the delays in receiving the results. Mr. Mooney stated he spoke in length with Dr. Rick Arthur while in Saratoga regarding this matter. Dr. Arthur assured Mr. Mooney that the scientific information is there, he was involved with the process, and these cases would have stood up. Dr. Arthur indicated he could have provided the scientific information regarding the case. Mr. Mooney feels it is there and has been done thoroughly. He agreed that the delays were too long and understands why Mr. Black did not want to proceed. Chairman Patterson asked Ms. Gruwell if this gave her enough information. Ms. Gruwell stated it did.

Ms. Gruwell brought up the federal legislation being talked about – Horse Racing Integrity Act of 2015, and another introduced by Tonko and Barr. The Arkansas Commission is opposing these medication bills on the Federal level - the race track, the Arkansas Thoroughbred Breeders and Horseman's Associations and Arkansas HPBA are supporting them. Ms. Gruwell asked if the Delaware Commission and Delaware Park would formally oppose those medication bills. Chairman Patterson stated that Mr. Mooney asked him what he wanted to do with it. Chairman Patterson responded that it is a unilateral decision to not move forward with it as people have not been made aware of it. Ms. Gruwell and Chairman Patterson agreed that the main reason for these bills is to get rid of Lasix. Ms. Gruwell stated the Horsemen would ask the Commission to oppose these bills. Chairman Patterson stated the Commission will have to discuss it and come to an agreement on it. Chairman Patterson shared that the Chairman of ARCI is Mark Lamberth who is a member of the Arkansas Commission. Mr. Lamberth has been in contact with the Jockey Club and has made his stance well known. This Commission has not had that luxury yet.

## **9. PUBLIC COMMENT**

Secretary Edwin Kee indicated the job vacancies in the Commission system are being applied for and will be evaluated. The application is in as of today.

Michael Gorham had an issue with the test case that was dismissed. He felt it was a high profile Delaware Handicap case and wondered if it would set a precedent for a \$5,000 claimer, every day trainer who can't afford a high-profile lawyer. He felt it was not fair, the system is flawed. The testing system was messed up last year. There were a lot of positives that came out possibly for lesser medication and were served penalties and fines. He felt the Commission set a precedent for the future that anyone who gets a positive should hire Karen Murphy to represent them. Chairman Patterson assured Mr. Gorham that this will not happen again.

Mr. Wayne stated the Commission did not intend for this to happen. Mr. Gorham did not recall ever not having a hearing for a positive. Chairman Patterson stated there was never a situation where it took three months to get the results and paperwork. Mr. Wayne indicated due process must be respected. Due process was not served when you figure in the delays. If someone had a \$5,000 claimer it would have been treated the same way if there were these kinds of laboratory delays and did not get the litigation package on time - it would have been the same outcome. Commissioner Stegemeier indicated it probably would have been a different outcome if Mr. Black had decided to proceed. His decision to not proceed left the Commission without a lot of choices. It was not a proud day for the Commission. Mr. Wayne asked what the precedent was for not following your attorney's advice. Deputy Attorney General Robert Willard answered that you have the right to not follow your attorney's advice; however, it generally is not a good decision to not follow their advice. It is very unusual. Commissioner Levine felt it was more difficult in the public sector as it becomes public record vs. in a personal situation where it is private. Mr. Willard referred to a case where as one of the attorneys, they advised the organization to do something but the organization chose to hire their own attorney. It got very messy. Chairman Patterson asked Mr. Willard if the stewards had gone against Mr. Black's advice and the Commission went against Mr. Kerber's advice, they would have had to hire private attorneys. Mr. Willard stated it was likely.

Robert Colton thanked the Commission, Chairman Patterson and Delaware Park for addressing the ambulance issue so quickly. Chairman Patterson acknowledged that Mr. Fasy did an excellent job of explaining the situation and had the staff available to provide data.

## **10. EXECUTIVE SESSION**

Upon a motion duly made (Stegemeier) and seconded (Killeen), the meeting was adjourned and moved to Executive Session to discuss personnel matters at approximately 12:05 p.m.

## **11. ADJOURNMENT**

The meeting returned to public session at approximately 12:30 p.m. and upon a motion duly made (Levine) and seconded (Killeen) the meeting was adjourned.





# Delaware Thoroughbred Certified Program

## Bessie's Report - YTD - 2015 Weanlings/Yearlings

 [Download data](#)

Date Entered ▲	Amount Paid	Yearlings	Weanlings	Name	Dam
<b>February 2015</b>					
February 2015 Yearlings		2			
February 2015 Weanlings					
<b>March 2015</b>					
March 2015 Yearlings		13			
March 2015 Weanlings					
<b>April 2015</b>					
April 2015 Yearlings		14			
April 2015 Weanlings					
<b>May 2015</b>					
May 2015 Yearlings		6			
May 2015 Weanlings					
<b>June 2015</b>					
June 2015 Yearlings		7			
June 2015 Weanlings					
<b>July 2015</b>					
July 2015 Yearlings		12			
July 2015 Weanlings			1		
<b>Yearlings</b>		<b>54</b>			
<b>Weanlings</b>			<b>1</b>		

Records 1-55 of 55

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**Delaware Certified Special Acct -Monthly Balance - 2015**

	Transactions	Balance
Ending Balance - 2014	\$ 99,275.84	\$ 99,275.84
2015 Jan Interest	\$ 17.39	\$ 99,293.23
Feb Interest	\$ 175.09	\$ 99,468.32
2015 Annual Bonus - 2/11/15	\$ 1,000,000.00	\$ 1,099,468.32
Admin 5%	\$ (50,000.00)	\$ 1,049,468.32
March Interest	\$ 258.42	\$ 1,049,726.74
April Interest	\$ 258.48	\$ 1,049,985.22
May Interest	\$ 267.16	\$ 1,050,252.38
Available Funds - 5/30/15	\$ 1,050,252.38	\$ 1,050,252.38
May Owner/Certifier Bonus Paid 6/9/15	\$ (80,840.00)	\$ 969,412.38
June interest	\$ 247.99	\$ 969,660.37
June Owner/Certifier Bonus	\$ (213,760.00)	\$ 755,900.37
Available Funds - 6/30/15	\$ 755,900.37	\$ 755,900.37
July Owner/Certifier Bonus Paid 8/18/15	\$ (152,690.00)	\$ 603,210.37
July interest	\$ 250.57	\$ 603,460.94

Starts	Win	Place	Show	
62	11	5	9	May
221	34	31	34	June
345	46	51	58	July