



**Delaware Thoroughbred Racing Commission
Minutes of Meeting Held On
July 21, 2016**

The Delaware Thoroughbred Racing Commission held a meeting on Wednesday, July 21, 2016, at 9:05 a.m., in the Horsemen's Office, 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
Henry J. Decker, Commissioner
Debra M. Killeen, Commissioner
Richard A. Levine, Esq., Commissioner

The following individuals also were present:

John F. Wayne, DTRC, Executive Director
Frank Broujos, Esquire, Deputy Attorney General, Commission Counsel
Oliver Cleary, Esq., Deputy Attorney General, Steward Counsel
Kevin DeLucia, Sr. Vice President & CFO, Racing-Administration, Delaware Park
John E. Mooney, Delaware Park, Executive Director of Racing
Chris Sobocinski, Delaware Park, Assistant Director- Strategic Planning
Bessie Gruwell, DTHA Executive Director
Tracy Nunley, DTHA, Trainer
Beverly Fowler, Delaware Park, Test Barn Supervisor
Susan Botts, D.V.M., DTRC, Acting Chief Commission Veterinarian
Jay Baldwin, D.V.M., First Equine Veterinarian Services, Third-Party Salix Administration Services
G. Jack Houghton, DTRC, Chief Steward
Fritz Burkhardt, DTRC, Steward
James Lages, DTRC, Steward
Reese (Rug) Howard, DTRC, Safety Steward
Francis J. Swift, Jr., DTRC, Inspector
Michael Lerman, Trainer
Harold Wyner, Trainer
Pam Rash, DTRC, Administrative Asst. (Recording Minutes)

1. WELCOME & CALL TO ORDER

At approximately 9:08 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 June 15, 2016 were unanimously approved.

3. PUBLIC HEARING ON APPEAL

A. Mr. Brian Pedroza – Appeal of Stewards Ruling 20-2016

Mr. Pedroza withdrew his appeal and will begin serving his suspension on Sunday, July 21, 2016.

B. Mr. Michael Lerman – Appeal of Stewards Ruling 22-2016

Chairman Patterson confirmed with Mr. Lerman that he was asking for a Continuance. Mr. Lerman indicated he was prepared to move ahead with the hearing if the Continuance was not granted. Mr. Lerman gave each commissioner a copy of his motion. Chairman Patterson asked Mr. Broujous for his input. Mr. Broujous indicated there was a motion for a Continuance which the Commission can grant and there is a motion to compel. There has been no formal discovery request presented to the Commission and no request for subpoena. There was an informal request to the Executive Director to provide past decisions of the Commission. Chairman Patterson asked what was being requested of the Commission. Mr. Broujous stated his understanding is the request is for information from Mr. John Wayne for the Commission's past decisions. Mr. Lerman agreed and indicated he has been waiting and has not gotten any response. Commissioner Killeen confirmed with Mr. Lerman that he was looking for Commission decisions on the topic of scratches only. Mr. Lerman indicated he was, since the implementation of this rule. Commissioner Stegemeier indicated this was the first time this has come before the Commission. Mr. Lerman said he was requesting at the Steward level. Mr. Wayne confirmed that there are Steward's Rulings. Mr. Wayne explained that he had forwarded the requests that Mr. Lerman made to the Deputy Attorney General's office and the FOI Officer and the answers he provided to Mr. Lerman were what he was told from the Attorney General's office and the FOI officer. Mr. Broujous confirmed that the Steward's Rulings are available on-line. As it stands there is no subpoena, only a request. He also confirmed that an Admission Pro Hoc Vice is required for an out-of-state attorney. Commissioner Decker confirmed with Mr. Wayne that he had no problem providing the requested information to Mr. Lerman. Mr. Wayne indicated he did not have a problem except that he was advised by Mr. Kerber and the FOI Officer. Mr. Broujous indicated generally the records are not provided if there is pending legal action; and if this information is to be provided, they should be reviewed to be sure there is no personal information within these documents. Chairman Patterson confirmed with Mr. Brojous that his recommendation was to not continue with the hearing. A motion was made (Decker) and seconded (Stegemeier) for a continuance of the hearing to Wednesday, August 17, 2016. Mr. Wayne indicated he had the Stewards Rulings information provided by the Stewards but there is no list of trainer scratches kept. The only list is the Veterinary Scratch list and it was agreed these reports were not relevant to the case. Commissioner Stegemeier confirmed with Mr. Wayne that he would provide Mr. Lerman the information by the end of July. Mr. Wayne and Mr. Lerman agreed. The motion to continue the hearing to the August 17, 2016 meeting was unanimously approved.

4. OLD BUSINESS

A. Betfair

This topic was withdrawn for this meeting and rescheduled to the August 17, 2016 meeting.

5. NEW BUSINESS

Before discussing the New Business Topics, Chairman Patterson asked Dr. Baldwin to discuss what took place regarding the Salix not being administered to Trainer Bill Mott's horse "SUFFUSED" that was scheduled to run in a Grade III Stake's race with a purse of \$200,000 and had to be scratched on Saturday, July 9th. He asked Dr. Baldwin to discuss what took place and what steps have been implemented to prevent this from happening in the future.

Dr. Baldwin indicated there was extra personnel because it was a Saturday and a Stake's Day. Scratches came in around 10:00-11:00 a.m. which is normal. Mr. Mott had 2 horses in 2 separate races (7th, 9th). Scratches were given out by the Salix staff, who always do a good job. The Salix veterinarian, Dr. Campbell had cards for two of Mr. Mott's horses and colored the wrong card with red ink and returned it to the Salix staff. Dr. Campbell had removed the card for the 7th race horse; however, the horse that was scratched was in the 9th race. It was noted that the horse was located about 40 feet from the Salix barn and was not treated with Salix. About 20 minutes past the cut off time to administer the Salix, the vet was asked if the horse was scratched and he indicated he had not administered Salix. It was determined that a mix-up occurred by

assuming the wrong horse was scratched. Rather than treat the horse outside of the rules, Dr. Campbell reported the mistake to the Stewards and the horse was scratched in accordance with the rules.

Chairman Patterson stated the Commission's main concern was how to ensure this doesn't happen again. Dr. Baldwin indicated that generally he substitutes the personnel and uses the system in place that is in place at other tracks. The system used by the Maryland Jockey club was instituted. The Race is closed by the cut off time for Salix. The race is closed by a staff member in the office in addition to the Salix staff. People are supposed to cross-check each other on the board and apparently that did not happen that day.

Dr. Baldwin indicated that the risk/reward ratio is high with the Thoroughbred Salix programs because the vets have to go to the horses. They are labor intensive and there is a lot of risk involved because the vets go to the horses and there are a lot of people involved. The third part Salix system has maximum transparency. As a result, a lot of horses have mistakes on race day and it is turned back on the vet. It was likely in this case, the horse would have been treated outside the system. With the transparency of the system, very few mistakes are made, but when they are made it is out there and there is no way to cover it up. He indicated he told the Stewards in the hearing that for a horse to get Salix there are three parties involved: Salix vets, Salix clerical staff and trainer's staff. For a mistake to happen, all three of those parties need to make a mistake. This horse was 40 feet from the Salix barn. When the Salix vets do a good job, others tend to assume it is done ok.

Commissioner Decker asked if there is any liability involved. Dr. Baldwin indicated he has been in touch with Mr. Mott, but he is not aware of anything yet and that insurance would take care of it. Mr. Mooney indicated fees would expect to be refunded. Dr. Baldwin stated Mr. Mott has his information and was going to pass that information to his barn staff.

Commissioner Decker asked what the outcome of the hearing was. Chief Steward, Jack Houghton, stated the treating veterinarian was fined \$1,000.

Mr. Kevin DeLucia questioned whether the trainer's staff (groom, etc.) did nothing as the horse was only 40 feet from the Salix barn and if there is a check-in process. Mr. Houghton shared what was stated in the hearing. The treating vet thought the horse was scratched. He did not know the trainer had two horses in races that day. When he took the scratch slip into the Salix barn and the person put it into the box with the other scratches without looking at it. The situation did not come to the Steward's attention until 25 minutes after treatment time. The groom did not speak any English. He called the assistant trainer, who then called the racing office to ask why the horse had not received his treatment. The stewards had to scratch the horse and felt it was the treating veterinarian's responsibility to ensure the horse is treated. Mr. Mooney stated there is a very thorough process in place: Everything is on counter, the trainer, assistant & groom get the program, information and jacket, and they are told what time the treatment is to take place. The vet picks the card up, returns the card signed and documents that the horse was treated. Mr. Houghton stated the treating vet heard Mr. Mott's horse was scratched and did not realize Mr. Mott had more than one horse racing. It was miscommunication. Mr. Houghton suggested that the Salix personnel initial and put a time on the card as a double check and to show they reviewed the card information. Normally they do cross-checks, but it was a very busy day. Dr. Botts stated when a horse comes in, the track staff go out and ask who the horse and trainer are and assign that horse a stall. They are then given the program, bib, etc. as Mr. Mooney said. Those are the initial steps. The horse arrives hours before the administration time. Mr. Houghton felt that the groom is somewhat responsible for this as he should have informed the assistant trainer or trainer that the horse had not been treated much earlier. Dr. Botts added that the trainer/assistant trainer should take some responsibility. If the groom had spoken English, they would have been able to read the sign that lists all the Salix times. *(numbers are numbers in English and Spanish)*

Chairman Patterson stated the discussion was helpful and told Dr. Baldwin the Commission appreciated all the work the third-party administration veterinarians do.

A. Synopsis of ARCI Summer Board Meeting

AQHA in conjunction with the Washington Racing Commission requested a Zero tolerance for Clenbuterol. The model rules decision was to send to DTSP for review. It was stated that if the State of Washington and the AQHA wanted to implement a Zero Tolerance Policy, they did not have to wait for DTSP or Model Rules if this is specific to their jurisdiction. There was discussion on the safety of turf rails. There were some ideas on a couple of vendors that had safety rails. The summer board meeting concluded on Friday afternoon and there was a talk about the next meeting to be held in South Carolina in March or

April next year.

Chairman Patterson added that a committee to finalize the rules on out-of-competition testing will be chaired by Rick Goodell. Chairman Patterson will be part of that Committee.

Chairman Paterson welcomed Safety Stewards, Mr. Reese "Rug" Howard to his first Commission Meeting.

5. REPORT FROM DTRC EXECUTIVE DIRECTOR

Executive Director Wayne submitted his written report to the Commission for the period June 1 to June 30, 2016. Mr. Wayne read into the record the following points of interest for the period:

Summary of Activities Report for June, 2016

	<u>June 2016</u>	<u>Year-To-Date</u>
Number of Persons Fingerprinted	33	63
Fingerprint Fees Collected	\$2,607	\$4,977
DTRC Licenses Issued	833	3,702
Fines & Appeal Fees Collected	\$3,500	\$3,750
License Fees Collected	\$33,475	\$87,445

Other Statistics During February

ARCI National Surveys answered	4
Contacts from Police Agencies	15
Contacts from Video Lottery Enforcement	4
Freedom of Information Act Request for Info	1
National Racing Compact Reviews	0
National Racing Compact Applications Rec'd	50
Contacts from Racing Industry Groups	17
Contacts from other Racing Commissions	22
Contacts from other Race Associations	14
Contacts from the General Public	13
Contacts from Horsemen	17
Media Contacts	8
Contacts from Racing Officials Accreditation Program (ROAP)	5

6. REPORT FROM DTRC CHIEF COMMISSION VETERINARIAN

Health Report

Susan Botts, D.V.M., Acting Chief Commission Veterinarian made the following report for June 1 to 30:

In June there were two breakdown injuries and two cardiac – one collapsed and died; one collapsed and had extensive injury to spinal cord, which became neurologic and had to be euthanized. Two broke down during training. One fractured its ankle but had surgery. One flipped on the hot walking machine and had to be euthanized. One was injured at Penn National and returned to Delaware Park. They tried to save it but the horse had to be humanely destroyed. Dr. Botts reported that the horsemen have been doing very well at racing healthy horses.

Thanks to Mr. Howard's inspections, there were a few issues of horses being under weight. They were put on the vet list and are improving.

Bessie Gruwell indicated she has not been received the Vet Report and the Post Mortem reports. John Wayne indicated he would add her to the list and send her the reports.

7. DELAWARE THOROUGHBRED HORSEMEN'S ASSOCIATION

Delaware Certified Thoroughbred Program Report

DTHA Executive Director, Bessie Gruwell filed their report for June, 2016. There have been 152 Delaware Certified horses start 214 times with 21 wins, 30 seconds, 41 thirds with a bonus payout of \$187,508 through June. There were 26 applications (2 Weanlings, 24 Yearlings) for a total of 47 applications received to date. There was an interest payment of \$259.43 giving a balance of \$869,222.19.

This year there are several new owners certifying horses. Some have been racing but hadn't participated in the program before this year.

Commissioner Killeen asked how many farms were in Sussex County. Ms. Gruwell guessed around 6. Most of them are in the lower New Castle and Kent Counties. She knew of several that are very active in the program.

The Board meeting was held Tuesday evening. Rug Howard attended and introduced himself and explained what he is doing.

Ms. Gruwell stated that she has been working with Rug Howard on Safety Helmets and Vests. It will be impossible to have every rider (exercise rider, etc. - anyone mounted on a horse) correctly equipped by the date of July 31. There is a process - ordering, 4-6 week deliveries, etc. There is a form where the rider can put a deposit down and there is proof the rider has ordered. She expects to have the process completed by the end of the meet. The Horsemen's Association voted to subsidize the Cost at \$125 per rider with receipt. The cost to each rider can be as much as \$450. They are asking that the old equipment be turned over to be inspected and donated to therapy riding centers, etc.

Commissioner Stegemeier asked Ms. Gruwell if the Rule Change made regarding Continuances (19.6) giving Mr. Wayne authority to determine if a Continuance should be granted was communicated to the horsemen. Mr. Houghton indicated anyone having a hearing is read this rule. Commissioner Stegemeier suggested that a hard copy of the rule be given at the hearing. Mr. Houghton stated the Stewards would do that.

8. PUBLIC COMMENT

Kevin DeLucia apologized for the late notice of the Betfair cancellation; however, there was some review still in process. He wondered if there was any update on that. Mr. Broujous did not have any additional detail on the subject but would be sure to communicate to Mr. Kerber. It is scheduled for the September meeting unless it is determined to not be within the law.

Reese (Rug) Howard indicated the job was progressing well. The meeting with the horsemen went well. He was able to explain the position of Safety Steward and the horsemen opened up and they were able to communicate.

9. EXECUTIVE SESSION

None

10. ADJOURNMENT

The meeting returned to public session and upon a motion duly made (Levine) and seconded (Stegemeier) the meeting was adjourned at approximately 10:15 a.m.

Bessie's DCTP Report June 2016
Yearly Stats and Amounts

2016	DCTP Applications	Weanlings	Yearlings
	Jan - Mar	1	20
	Apr - Jun	2	24
	July - Sept	0	0
	Oct - Dec		
	Total Applications	3	44
2015	DCTP Applications	Weanlings	Yearlings
	Jan - Mar	0	15
	Apr - Jun	0	28
	Jul - Sept	14	40
	Oct - Dec	33	65
	Total Applications	47	148
2014	DCTP Applications	Weanlings	Yearlings
	Jan - Mar	0	27
	Apr - Jun	4	39
	Jul - Sept	19	49
	Oct - Dec	30	58
	Total Applications	53	173
2013	DCTP Applications	Weanlings	Yearlings
	Jan - Mar	2	15
	Apr - Jun	1	35
	July - Sept	8	32
	Oct - Dec	50	84
	Total Applications	61	166

Total Applications to date 3801
Total 2 Yr olds for 2016 - 201

Bessie's DCTP Report June 2016
Yearly Stats and Amounts

2015	Certifier Amount	Owner Amount	Total for Month
May	\$ 40,420.00	\$ 40,420.00	\$ 80,840.00
June	\$ 106,880.00	\$ 106,880.00	\$ 213,760.00
July	\$ 76,345.00	\$ 76,345.00	\$ 152,690.00
August	\$ 92,220.00	\$ 92,220.00	\$ 184,440.00
Sept	\$ 131,407.50	\$ 78,157.50	\$ 209,565.00
Oct	\$ 49,727.50	\$ 49,727.50	\$ 99,455.00
Dec (DQ ruling)	\$ 2,500.00	\$ 2,500.00	\$ 5,000.00
	\$ 499,500.00	\$ 446,250.00	\$ 945,750.00
			\$
2016	Certifier Amount	Owner Amount	Total for Month
May	\$ 30,335.00	\$30,335.00	\$ 60,670.00
June	\$ 63,418.75	\$63,418.75	\$ 126,837.50
July			
August			
Sept			
Oct			
		Total	\$ 187,507.50

Delaware Certified Special Acct -Monthly Balance - 2016

	Transactions	Balance
December 2015 - Balance		\$ 105,474.67
January interest	\$ 22.31	\$ 105,496.98
February - DCTP Awards	\$ 1,000,000.00	\$ 1,105,496.98
February - DCTP Admin	\$ (50,000.00)	\$ 1,055,496.98
February interest	\$ 180.09	\$ 1,055,677.07
March Interest	\$ 267.88	\$ 1,055,944.95
April Interest	\$ 267.94	\$ 1,056,212.89
May interest	\$ 259.37	\$ 1,056,472.26
May Bonus	\$ (60,670.00)	\$ 995,800.26
June Bonus	\$ (126,837.50)	\$ 868,962.76
June Interest	\$ 259.43	\$ 869,222.19

Total Applications to date 3801
 Total 2 Yr olds for 2016 - 201

Bessie's DCTP Report June 2016

Yearly Stats and Amounts

Year	# of Starters	# of Starts	1st	2nd	3rd	25% Cert	25% Owner	Totals
June								
2016	152	214	21	30	41	\$ 93,753.75	\$ 93,753.75	\$ 187,507.50
2015	240	709	97	106	115	\$ 446,250.00	\$ 499,500.00	\$ 945,750.00
2014	271	779	105	105	112	\$ 478,120.75	\$ 531,371.57	\$ 1,009,492.32
2013	270	713	97	99	102	\$ 416,504.00	\$ 470,722.00	\$ 887,226.00
2012	318	943	138	140	146	\$ 437,340.00	\$ 409,503.00	\$ 846,843.00
2011	414	1331	166	189	181	\$ 715,099.86	\$ 773,251.86	\$ 1,488,351.72
2010	364	1150	142	180	146	\$ 705,631.25	\$ 778,203.75	\$ 1,483,835.00
2009	287	922	105	120	121	\$ 511,810.00	\$ 584,382.50	\$ 1,096,192.50
2008	210	690	94	82	109	\$ 367,963.60	\$ 433,265.20	\$ 801,228.80
2007	271	608	90	87	102	\$ 331,809.00	\$ 355,609.00	\$ 687,418.00
2006	139	476	68	61	72	\$ 201,286.80	\$ 214,936.80	\$ 416,223.60
2005	99	366	52	49	53	\$ 179,690.00	\$ 193,340.00	\$ 373,030.00
2004	56	134	20	19	19	\$ 44,947.00	\$ 44,947.00	\$ 89,894.00
2003	9	17	7	3	2	\$ 13,505.00	\$ 13,505.00	\$ 27,010.00
								\$ 10,340,002.44

Total Applications to date 3801

Total 2 Yr olds for 2016 201