



**Delaware Thoroughbred Racing Commission
Minutes of Meeting Held On
August 17, 2016**

The Delaware Thoroughbred Racing Commission held a meeting on Wednesday, August 17, 2016, at 10:05 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
Andrew G. Kerber, Esq., Deputy Attorney General, Commission Counsel
Oliver Cleary, Esq., Deputy Attorney General, Steward Counsel
Mindy Coleman, Esq. Attorney, The Jockeys Guild
William I. Fasy, President, Delaware Park
Kevin DeLucia, Sr. Vice President & CFO, Racing-Administration, Delaware Park
Chris Sobocinski, Delaware Park, Racing Information Coordinator
Bessie Gruwell, DTHA Executive Director
Tracy Nunley, DTHA, Trainer
Beverly Fowler, Delaware Park, Test Barn Supervisor
Susan Botts, V.M.D, DTRC, Acting Chief Commission Veterinarian
G. Jack Houghton, DTRC, Chief Steward
Fritz L. Burkhardt, DTRC, Associate Steward
James Lages, DTRC, Associate Steward
Reese Howard, DTRC, Safety Steward
Francis J. Swift, Jr., DTRC, Inspector
John Hindman, Betfair/TVG
Frank Vespe, The Racing Biz Journalist
Michael Lerman, Trainer, appellant
Mario Gendrachi, Jockey Agent
Rob Wilcox, Court Reporter, Wilcox and Fetzer
Molly Church, DTRC, Administrative Asst. (transcribed minutes from audio file)

1. WELCOME & CALL TO ORDER

At approximately 10:05 a.m., Commissioner Stegemeier called the meeting to order.

2. APPROVAL OF MINUTES

Upon a motion duly made (Stegemeier) and seconded (Killeen) minutes of July 21, 2016 were unanimously approved.

3. PUBLIC HEARING ON APPEAL

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

Mr. Cleary waived an opening statement and called his first witness, Chief State Steward Mr. Jack Houghton, who was asked to explain his duties at Delaware Park. He was then asked about the connection between trainer Michael Lerman and the horse “BLACK MISSION FIG.” Mr. Houghton confirmed that Michael Lerman is the trainer of this horse. He went on to state that on Wednesday, May 18, 2016 Mr. Lerman entered this horse to run at Delaware Park. The horse got in the 8th race, on Monday, May 23, 2016. He then explained that Mr. Lerman also entered the horse on Thursday, May 19, 2016 at Penn National. “BLACK MISSION FIG” ran in the 5th race on Thursday at Penn National and finished 3rd. Mr. Lerman called the Stewards’ office on the following Monday and tried to scratch the horse. The Stewards told him that the horse needed to run in Delaware or else Mr. Lerman would be fined \$1,000, as it was a violation of DTRC Rule 11.14.1.5. Mr. Lerman had told the stewards “He was looking out for the horse.” Mr. Houghton said that the stewards believed this was not really in the best interest of the horse, for the trainer and owner.

After being sworn in, Mr. Lerman testified before the commission. Lerman testified that he told the entry clerk the day the horse was entered that the horse would not run if the track was off at Delaware Park because she had an injury and Mr. Lerman did not want her racing on a muddy surface. The track conditions on the day of Penn National’s race were sloppy, but safe. Delaware Park’s was still muddy because it rained through the weekend. Mr. Lerman said he didn’t let the track know about his wanting to scratch the horse sooner because Sunday was a dark day and the stewards could only be reached until Monday morning. Mr. Houghton was asked to confirm this, and he stated that this was incorrect, and that they are available all day on Saturday. Mr. Lerman maintained that his actions were due to the welfare of his horse.

Mr. Houghton then stated the purse for Penn National’s race was \$38,000 and Delaware Park’s was \$34,000. Executive Director Mr. John Wayne stated that the theoretically the potential loss in revenue to the racetrack and horsemen is approximately \$500.00 each respectively. This information was confirmed by Mr. William Fasy.

When asked by Commissioner Killeen what Mr. Lerman had learned from this situation, he said he learned to “not support Delaware Park” and explained how he had been loyal to Delaware Park in the past. He argued that weather is a mitigating circumstance to Rule 11.14.1.5, and Mr. Houghton argued that it was not.

Mr. Cleary made his closing remark, emphasizing the aforementioned rule and said that in similar circumstances a fine of \$1,000 was set by the commission. Commissioner Killeen said that Mr. Lerman should have followed the rules and been more careful. Commissioner Levine said that he believed there was not a clear violation because Mr. Lerman did not scratch the horse so that it could run in Penn National. He scratched it after the fact. Commissioner Levine said the rule should be written better and more clearly. Commissioner Decker agreed that the rules should be written more clearly, but did agree with Mr. Cleary’s recommendation to uphold the Stewards ruling.

These decisions led to a 3-1 motion in favor of supporting the stewards. Commissioner Levine was the one dissenting vote against the ruling. Mr. Fasy then stated that he hopes Mr. Lerman will reconsider racing at Delaware Park in the future. Mr. Lerman was then excused.

Verbatim testimony was recorded by the Court Reporter.

4. OLD BUSINESS

Before discussing the Old Business Topics, Chairman Patterson and Commissioner Decker asked for an update from Safety Steward Mr. Howard about concerns he has with the safety conditions at Delaware Park. Mr. Howard expressed concern for some safety hazards, such as the amount of geese, the conditions of the horse paths, the procedure to capture loose horses, and maintenance work being done during training hours.

A. Betfair

Chairman Patterson introduced Mr. John Hindman, a contributor from Betfair/TVG. Mr. Hindman presented some history and statistics surrounding TVG, which was acquired by Betfair in 2009. Mr. Hindman presented a slideshow on the topic of Betfair Exchange, an exchange wagering platform for player-to-player pari-mutuel betting. This system matches bettors with counter-bettors. Since the 2011 Extreme Wagering Act in New Jersey, and the 2013 introduction to Betfair Exchange in New Jersey, Betfair strives to have all tracks participate in this program. He explained the benefits of Betfair Exchange, saying that there are fixed prices and the bets are locked in 4-1. Bettors may also bet another horse during the race, or trade out of their previous position. Betfair Exchange may also reach a younger demographic, as 80% of its revenue comes from younger bettors and 45% of bettor activity comes from mobile devices, indicating a new tech-savvy audience. Mr. Hindman assured the Commission that Betfair Exchange changes none of the rules of racing and that there is a team of moderators who do fraud and money laundering analysis regularly.

Chairman Patterson asked for the track's position on the program, to which Mr. Fasy replied that the track needs to find new customers and the millennials are a big part of the future of American betting.

Mr. Hindman went on to explain that the program does need legislature approval because as of now, this type of gambling is not covered under Delaware law.

Chairman Patterson asked Mr. Kevin DeLucia about his stance on Betfair Exchange, to which Mr. DeLucia replied that in the future Delaware may take the step into using the exchange.

Mr. Hindman also noted that working with Betfair could get Delaware Park more coverage on TVG.

Chairman Patterson introduced Mindy Coleman, legal counsel for the Jockey's Guild. Ms. Coleman spoke of instances when Betfair came to speak in New Jersey in 2010 and in 2012 when the BHA (British Horse Racing Authority) came to the Guild Assembly. She explained that she sees concern with Betfair Exchange because bettors are placing bets for horses not to win, place, or show and that they are essentially betting for horses to lose. She explains that Betfair Exchange may harm the integrity and perception of racing because the odds are fixed. Ms. Coleman asked who would be liable for inconsistencies in betting, and what penalties will be implemented for them. She mentioned that not every track has TRPB and there may be no way to investigate those irregularities.

Mr. Hindman argued that bettors would not be betting to lose and that the regulations are no different from regular pari-mutuel racing. He noted that betting exchanges did not create cheating and that they do their best to maintain clean gaming. He lastly noted that there were no problems in New Jersey with the program.

Ms. Coleman still expressed concern that there would be detrimental harm done to individuals such as trainers, owners, and jockeys. She said such harm has already been done in the U.K.

Tracy Nunley brought up a question about economic benefit. Mr. Hindman explained the 12% share with Delaware Park from Betfair Exchange and also mentioned again that the growing company will bring increasing profits with new customers.

5. NEW BUSINESS

A. Proposed Rule Change (14.19.1 and 14.20) Multiple Disqualifications and Dead Heats)

Chairman Patterson called upon Mr. Houghton, who had two requests for new rule adoptions. The first request was for Rule 14.19.1, for multiple disqualifications. This rule references the order in which disqualifications should be called in the race from start to finish. The second request was for Rule 14.20, for dead heats. This rule states that if dead heat occurs, and a claim of foul takes place against the

winner, and dead heat second, then both horses move up to win and split the purse money. The two new rule changes are as follows:

RULE 14.19.1 Multiple Disqualifications

Should the stewards determine that there is more than one incident of interference in a race where the disqualification is warranted, the stewards shall deal with the incidents in the order of which the incident occurs during the race from start to finish; except in the case where the same horses are involved in multiple incidents. Once a horse has been disqualified, it should remain placed behind the horse with which it interfered.

RULE 14.20 Dead Heats

- (a) When two horses run a dead heat for first place, all purses or prizes to which first and second horses would have been entitled shall be divided equally between them; and this applies in dividing all purses or prizes whatever the number of horses running a dead heat and whatever places for which the dead heat is run.
- (b) In a dead heat for first place, each horse involved shall be deemed a winner and liable to penalty for the amount it shall receive.
- (c) When a dead heat is run for second place and objection is made to the winner of the race, and sustained, the horses which ran a dead heat shall be deemed to have run a dead heat for first place.
- (d) If the dividing owners cannot agree as to which of them is to have a cup or other prize which cannot be divided, the question shall be determined by lot by the stewards.

6. REPORT FROM DTRC EXECUTIVE DIRECTOR

Before discussing the report from Mr. Wayne, Chairman Patterson asked Mr. Kerber whether or not the commissioners would motion to approve or disapprove the Betfair Exchange proposal. It was indicated by Mr. Kerber that they did not have to reach a decision at this time.

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 July, 2016

	<u>July 2016</u>	<u>Year-To-Date</u>
Number of Persons Fingerprinted	13	76
Fingerprint Fees Collected	\$1,027	\$6,004
DTRC Licenses Issued	659	4,361
Fines & Appeal Fees Collected	\$4,165	\$7,915
License Fees Collected	\$26,985	\$114,430

Other Statistics During July

ARCI National Surveys answered	5
Contacts from Police Agencies	7
Contacts from Video Lottery Enforcement	2
Freedom of Information Act Request for Info	2
National Racing Compact Reviews	2
National Racing Compact Applications Rec'd	65
Contacts from Racing Industry Groups	17
Contacts from other Racing Commissions	21
Contacts from other Race Associations	14

Contacts from the General Public	6
Contacts from Horsemen	16
Media Contacts	5
Contacts from Racing Officials Accreditation Program (ROAP)	5

7. REPORT FROM DTRC CHIEF COMMISSION VETERINARIAN

Health Report

Susan Botts, D.V.M., Acting Chief Commission Veterinarian made the following report for July 1 to 31:

Dr. Botts reported that there were 2 fatalities not due to racing. "GLOBAL MOON," trained by Hernan Parra, was euthanized on July 7th due to complications from pneumonia and the other was on July 27th, named "RUTHLESS LOVE," trained by Ron Alfano, due to complications with a colic surgery. She also mentioned that West Nile Virus is an oncoming threat and suggested that the horsemen keep up to date with the horses' vaccinations.

8. DELAWARE THOROUGHBRED HORSEMEN'S ASSOCIATION

A. Delaware Certified Thoroughbred Program Report

DTHA Executive Director, Bessie Gruwell filed her report for July, 2016. There have been 287 Delaware Certified horses start 206 times with 30 wins, 39 seconds, 47 thirds with a bonus payout of \$126,130.00 through July. There were 8 applications (1 Weanling, 7 Yearlings) for a total of 55 applications received to date. There was an interest payment of \$252.75 giving a balance of \$743,344.94.

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

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 12:15 p.m.

Bessie's DCTP Report July 2016
Yearly Stats and Amounts

2016	DCTP Applications	Weanlings	Yearlings	Total
	Jan - Mar	1	20	21
	Apr - Jun	2	24	26
	July - Sept	1	7	8
	Oct - Dec			0
	Total Applications	4	51	55
2015	DCTP Applications	Weanlings	Yearlings	Totals
	Jan - Mar	0	15	15
	Apr - Jun	0	28	28
	Jul - Sept	14	40	54
	Oct - Dec	33	65	98
	Total Applications	47	148	195
2014	DCTP Applications	Weanlings	Yearlings	Totals
	Jan - Mar	0	27	27
	Apr - Jun	4	39	43
	Jul - Sept	19	49	68
	Oct - Dec	30	58	88
	Total Applications	53	173	226
2013	DCTP Applications	Weanlings	Yearlings	Totals
	Jan - Mar	2	15	17
	Apr - Jun	1	35	36
	July - Sept	8	32	40
	Oct - Dec	50	84	134
	Total Applications	61	166	227

Total Applications to date 3809

Total 2 Yr olds for 2016 - 201

Bessie's DCTP Report July 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	\$ 63,130.00	\$63,130.00	\$ 126,260.00
August			
Sept			
Oct			
		Total	\$ 313,767.50

Delaware Certified Special Acct -Monthly Balance - 2016

Transactions	Balance
December 2015 - Balance	\$105,474.67
January interest \$ 22.31	\$105,496.98
February - DCTP A \$ 1,000,000.00	\$1,105,496.98
February - DCTP A \$ (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
July Bonus \$ (126,130.00)	\$743,092.19
July Interest \$ 252.75	\$743,344.94

Total Applications to date 3809
Total 2 Yr olds for 2016 - 201

Bessie's DCTP Report July 2016
 Yearly Stats and Amounts

Year	# of Starters	# of Starts	1st	2nd	3rd	25% Cert	25% Owner	Totals
July								
2016	206	287	30	39	47	\$ 156,818.75	\$ 156,818.75	\$ 313,637.50
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
								\$ 10,466,132.44

Total Applications to date 3809
 Total 2 Yr olds for 2016 201