

## AGENDA

### KANSAS RACING AND GAMING COMMISSION 10:00 a.m., Friday, May 15, 2009

AUDITORIUM B  
Dwight D. Eisenhower State Office Building  
700 SW Harrison, Suite 460  
Topeka, Kansas

#### A. CALL TO ORDER

#### B. APPROVAL OF THE AGENDA

#### C. APPROVAL OF MINUTES

1. [Minutes of April 16, 2009](#)

#### D. CONSENT AGENDA

*Items listed on the consent agenda are a variety of different contract and items which are routine in nature. If requested by a Commissioner, an item on the consent agenda may be removed from the Consent Agenda and placed under Commission Items for further discussion and consideration.*

1. Eureka Downs – review and approve contracts
  - a. [Larry Hayes](#), Eureka, Kansas, mowing
  - b. [Rita Osborn](#), Eureka, Kansas, employment agreement
2. TRAK East – review and approve contracts
  - a. [Kevin Allis](#), Wichita, Kansas, contract labor
  - b. [Shelley A. Bunch](#), Paola, Kansas, veterinary supplies for adoption kennel
  - c. [Candlewood Suites](#), Kansas City, Kansas, hotel accommodations for employees
  - d. [Chris Mitchell](#), Kansas City, Missouri, hauling greyhounds
  - e. [Network Solutions](#), Herndon, Virginia, two-year renewal for domain names
  - f. [Dale Rogers](#), Mangum, Oklahoma, hauling greyhounds
  - g. [Doug Schoepf](#), Aurora, Nebraska, writing 2008 Condition Book for horse meet (Thoroughbred)
  - h. [Scientific Games Racing, LLC](#), Chicago, Illinois, interface fees
  - i. [Josh Van Oort](#), Urbandale, Iowa, writing 2008 Condition Book for horse meet (Quarter Horse)

#### E. PRESENTATIONS TO THE COMMISSION

1. Robin Drummond, GTECH
  - a. [Robin Drummond bio](#)

#### F. KANSAS LOTTERY COMMISSION REPORT

G. LOTTERY GAMING FACILITY REPORTS/ITEMS

1. Butler National Service Corp./Boot Hill Casino and Resort

H. COMMISSION ITEMS

1. Kansas Racing, LLC Internal Controls

*Commission Action:*                      *Commission review and discussion*  
Staff Presentation:                      Charles LaBoy, Director of Audit and Electronic Security  
Staff Recommendation:                      Approval as outlined in Staff Memo

- a. [Staff Memo](#)
- b. [Kansas Racing, LLC Response to Auditor's Management Letter](#)

2. The Racing Association of Kansas East (TRAK East) Internal Controls

*Commission Action:*                      *Commission review and discussion*  
Staff Presentation:                      Charles LaBoy, Director of Audit and Electronic Security  
Staff Recommendation:                      Approval as outlined in Staff Memo

- a. [Staff Memo](#)
- b. [TRAK East Response to Auditor's Management Letter](#)

3. Anthony Downs Organizational License

*Commission Action:*                      *Commission review and discussion*  
Staff Presentation:                      Charles LaBoy, Director of Audit and Electronic Security  
Staff Recommendation:                      Approval as outlined in Staff Memo

- a. [Staff Memo](#)
- b. [Draft of Order Granting 2009 Conditional Organization License](#)

4. Final Approval of K.A.R. 112-12-15

*Commission Action:*                      *Commission review and discussion*  
Staff Presentation:                      Patrick Martin, Assistant Attorney General  
Staff Recommendation:                      Approval by roll call

- a. [Staff Memo](#)
- b. [K.A.R. 112-12-15 Double Stamped](#)

5. Approval of Policy 3-05 Travel

*Commission Action:*                      *Commission review and discussion*  
Staff Presentation:                      Don Cawby, Director of Administration  
Staff Recommendation:                      Approval as outlined in Staff Memo

- a. [Staff Memo](#)
- b. [Policy 3-05 Travel](#)

I. PUBLIC COMMENTS

J. STAFF REPORTS

1. Executive Director
2. Assistant Attorney General
3. Director of Administration
  - a. [Commission Meeting Calendar](#)

K. EXECUTIVE SESSION

1. Attorney-client communication
2. Background reports

L. OTHER BUSINESS/FURTHER COMMISSION ACTION

1. Discussion, consideration and possible action on background report items
  - a. Racing or Wagering Equipment or Services Providers
    - i. Amtote International, Inc., and its employees:
      - a) Paul Szefinski
      - b) Randle Kerr, Jr.
      - c) Shawn Lacy
      - d) Darrell Binns
      - e) Charles Bieber
      - f) John Faloni
      - g) David Cytacki
      - h) James Ripley
      - i) Ryan Sersen
      - j) Adam Sanders
    - ii. Harvey Phelps, d/b/a Gene Wilson and Associates (commercial photography for photo finish).
    - iii. True Center Gate Leasing, Inc., and its employee:
      - a) David Russ
  - b. KRGC contractors and employees who do not have current backgrounds
    - i. Camille Frakes
    - ii. Kindra Pirtle
    - iii. Patrick Regier, DVM
    - iv. Patricia Simmons
    - v. Kellie Willhite
  - c. Greenwood County Fair Association personnel
    - i. Jack Lindamood
    - ii. Alton Hoover
    - iii. Tara Osborn

- d. Construction Company on the Boot Hill Casino & Resort Project
  - i. McPherson Contractors, Inc.
    - a) Michael McPherson
    - b) Bruce McPherson
    - c) Matthew McPherson
    - d) James Heit
    - e) Wesley Morris
- 2. Discussion, consideration and possible action on Licenses and Positions
  - a. Racing or Wagering Equipment or Services Providers
    - i. Amtote International, Inc.
    - ii. Gene Wilson and Associates (commercial photography for photo finish)
    - iii. True Center Gate Leasing, Inc.
  - b. KRGC animal health officers and technician contractors
    - i. Camille Frakes, Veterinary Technician
    - ii. Bill McKinley, DVM, Animal Health Officer
    - iii. Kindra Pirtle, Veterinary Technician
    - iv. Patrick Regier, DVM, Animal Health Officer
    - v. Patricia Simmons, Veterinary Technician
    - vi. Kellie Willhite, Veterinary Technician
  - c. KRGC racing steward personnel
    - i. Robin Sellman, Steward
    - ii. Bobby Stovall, Steward
    - iii. Dave Turnbull, Steward
    - iv. Lisa Cole, Alternate Steward
  - d. Greenwood County Fair Association personnel
    - i. Jack Lindamood, approval as Greenwood County Fair Association Director
    - ii. Alton Hoover, Occupation License for Director of Operations, Eureka
    - iii. Tara Osborn, Race Official (Horsemen's Bookkeeper, Eureka)
    - iv. Garry Edmondson, Race Official (Backup Clerk of Scales, Eureka)

#### M. ADJOURNMENT

## KANSAS RACING AND GAMING COMMISSION

### MINUTES – APRIL 16, 2009

CALL TO ORDER:  
(A.)

Chair Sader called the April 16, 2009, meeting to order at 10:05 am at 700 SW Harrison, Auditorium A, Suite 450, Topeka, Kansas. Commissioners Sader, Braun, Falstad, and Schwan were present at the meeting. Commissioner McKechnie participated by telephone. Others present included Executive Director Stephen Martino; Assistant Attorney General Patrick Martin; Director of Audit/Electronic Security Charles LaBoy; Director of Security Don Brownlee; Director of Communications/Responsible Gaming Mike Deines; Director of Administration Don Cawby; Commission Recording Secretary Linda Pendarvis and other staff.

MOTION, APPROVE  
AMENDED AGENDA:  
(B.)

Commissioner Braun (Schwan) moved to approve the amended agenda as presented. Motion passed unanimously.

MOTION, APPROVE  
MARCH 13, 2009, MEETING  
MINUTES:  
(C.)

Commissioner Falstad (Schwan) moved to approve the minutes of the March 13, 2009, commission meeting as amended. Motion passed unanimously.

MOTION, APPROVE  
CONSENT AGENDA:  
(D.)

Commissioner McKechnie (Falstad) moved to approve the consent agenda as follows:

1. Eureka Downs – review and approve contracts
  - a. 4 State Maintenance Supply, *Coffeyville, Kansas*, janitorial supplies
  - b. Cook's Refrigeration, *Eureka, Kansas*, servicing and maintenance of A/C units
  - c. Diamond S Welding & Machine Shop, *Eureka, Kansas*, welding & repair
  - d. Eastside Service, *Eureka, Kansas*, fuel and service
  - e. Gene Wilson & Associates, *Pond Creek, Oklahoma*, video & photofinish services
  - f. Greenwood County Emergency Medical Services, *Eureka, Kansas*, ambulance service
  - g. Jim's Repair Service, *Eureka, Kansas*, equipment repairs
  - h. NAPA Auto Parts, *Eureka, Kansas*, auto parts
  - i. Prairie Pots, *El Dorado, Kansas*, portable toilets
  - j. Stanley's Hardware, *Eureka, Kansas*, maintenance supplies
  - k. True Center Gates, *Phoenix, Arizona*, starting gate

Motion passed unanimously.

Kansas Racing and Gaming Commission

April 16, 2009

Page 2

PRESENTATIONS TO THE  
COMMISSION:  
(E.1.)

Mr. Martino introduced Kevin Mullally, general counsel & director of government affairs, Gaming Laboratories International, who gave a brief history of GLI's relationship with the KRGC and information on GLI's prospective certification work for the KRGC..

PRESENTATIONS TO THE  
COMMISSION:  
(E.2.)

Mr. Mullally introduced James Maida, president of Gaming Laboratories International, who further discussed the history of GLI as well as the evolution of technology in the gaming industry and the current need for strong regulatory oversight.

PRESENTATIONS TO THE  
COMMISSION:  
(E.3.)

Mike Deines introduced Jeffrey Marotta, Ph.D., clinical associate professor at Oregon Health & Science University, who spoke regarding problem and responsible gambling.

KANSAS LOTTERY  
COMMISSION REPORT:  
(F.)

The commission heard Keith Kocher, director of gaming facilities for the Kansas Lottery, report on the current status of casino applications.

RECESS:

Chair Sader suggested that the commission take a 10-minute recess to begin at 11:45 am.

RECONVENE:

The commission reconvened at 12:05 pm with members present as previously reported.

LOTTERY GAMING  
FACILITY  
REPORTS/ITEMS:  
(G.1.)

The commission heard Clark Stewart, president of Butler National Service Corporation, report about construction progress at the Boot Hill Casino and Resort.

WAIVER OF FINGER-PRINT  
REQUIREMENTS FOR 2009  
AT EUREKA DOWNS AND  
ANTHONY DOWNS:  
(H.1.)

The commission heard Mr. Brownlee discuss the waiver of fingerprint requirements for 2009 at the Eureka Downs and Anthony Downs race meets.

MOTION, APPROVE  
WAIVER OF FINGER-PRINT  
REQUIREMENTS FOR 2009  
AT EUREKA DOWNS AND  
ANTHONY DOWNS:  
(H.1.)

Commissioner Braun (McKechnie) moved that the commission waive the fingerprint requirement for employees licensed to work at Eureka Downs and Anthony Downs for the 2009 race meets, provided they are not required to undergo a background investigation. Motion passed unanimously.

DISCUSSION, KHA  
REQUEST FOR  
REIMBURSEMENT OF  
EXPENSES:  
(H.2.)

The commission heard Neysa Thomas, Chief Fiscal Officer, discuss the Kansas Horsemen's Association (KHA) request for reimbursement from the Kansas Bred Program in the amount of \$2,849.03 for expenses incurred during December 2008.

MOTION, APPROVE KHA  
REQUEST FOR  
REIMBURSEMENT OF  
EXPENSES:  
(H.2.)

Commissioner Falstad (Schwan) moved to approve the expenses and a partial reimbursement of \$1,000. The KHA may request the balance of December 2008 operating expenses when funds become available with the remaining payment(s) to be approved by the executive director.

Motion passed unanimously.

DISCUSSION, TRAK EAST'S REQUEST TO AWARD HORSE PURSE MONEY TO EUREKA DOWNS AND ANTHONY DOWNS:  
(H.3.)

The commission heard Mr. LaBoy discuss TRAK East's request to award horse purse money to Eureka Downs and Anthony Downs.

MOTION, APPROVE TRAK EAST'S REQUEST TO AWARD HORSE PURSE MONEY TO EUREKA DOWNS AND ANTHONY DOWNS:  
(H.3.)

Commissioner Braun (McKechnie) moved to adopt a recommendation that TRAK East divide the \$11,124.79 in horse purse funds generated from live handle during The Woodlands 2007 race meet evenly between Eureka Downs and Anthony Downs for the 2009 race meets. Motion passed unanimously.

DISCUSSION, WOODLANDS' REQUEST TO LET SURETY BOND LAPSE:  
(H.4.)

The commission heard Mr. LaBoy discuss a request by The Woodlands to allow its surety bond to lapse.

MOTION, APPROVE WOODLANDS' REQUEST TO LET SURETY BOND LAPSE:  
(H.4.)

Commissioner Falstad (Schwan) moved to approve The Woodlands' request to allow its surety bond to lapse. Motion passed unanimously.

DISCUSSION, ANNUAL AUDITED FINANCIAL STATEMENTS OF KANSAS RACING, LLC FOR YEAR ENDED DECEMBER 31, 2008:  
(H.5.)

The commission heard Brandi Baer, Internal Controls Auditor, discuss the annual audited financial statements of Kansas Racing, LLC for the year ended December 31, 2008.

MOTION, APPROVE ANNUAL AUDITED FINANCIAL STATEMENTS OF KANSAS RACING, LLC FOR YEAR ENDED DECEMBER 31, 2008:  
(H.5.)

Commissioner Schwan (Falstad) moved to approve the audited financial statements of Kansas Racing, LLC for the year ended December 31, 2008. Motion passed unanimously.

DISCUSSION, ANNUAL AUDITED FINANCIAL STATEMENTS OF THE RACING ASSOCIATION OF KANSAS EAST FOR YEAR ENDED DECEMBER 31, 2008:  
(H.6.)

The commission heard Ms. Baer discuss the annual audited financial statements of The Racing Association of Kansas East for the year ended December 31, 2008.

MOTION, APPROVE ANNUAL AUDITED FINANCIAL STATEMENTS OF THE RACING ASSOCIATION OF KANSAS EAST FOR YEAR ENDED DECEMBER 31, 2008:  
(H.6.)

Commissioner Falstad (Schwan) moved to approve the audited financial statements of The Racing Association of Kansas East for the year ended December 31, 2008. Motion passed unanimously.

DISCUSSION, AUDITED CONSOLIDATED FINANCIAL STATEMENTS OF WICHITA GREYHOUND PARK, INC. AND SUBSIDIARY FOR YEAR ENDED DECEMBER 31, 2008:  
(H.7.)

The commission heard Ms. Baer discuss the annual consolidated financial statements of Wichita Greyhound Park, Inc. and Subsidiary for the year ended December 31, 2008.

MOTION, APPROVE AUDITED CONSOLIDATED FINANCIAL STATEMENTS OF WICHITA GREYHOUND PARK, INC. AND SUB-SIDIARY FOR YEAR ENDED DECEMBER 31, 2008:  
(H.7.)

Commissioner Falstad (Braun) moved to approve the audited consolidated financial statements of Wichita Greyhound Park, Inc. and Subsidiary for year ended December 31, 2008. Motion passed unanimously.

DISCUSSION, ANNUAL AUDITED FINANCIAL STATEMENTS OF WICHITA GREYHOUND CHARITIES, INC. FOR YEAR ENDED DECEMBER 31, 2008:  
(H.8.)

The commission heard Ms. Baer discuss the annual audited financial statements of Wichita Greyhound Charities, Inc. for year ended December 31, 2008.

MOTION, APPROVE ANNUAL AUDITED FINANCIAL STATEMENTS OF WICHITA GREYHOUND CHARITIES, INC. FOR YEAR ENDED DECEMBER 31, 2008:  
(H.8.)

Commissioner Schwan (Falstad) moved to approve the annual audited financial statements of Wichita Greyhound Charities, Inc. for year ended December 31, 2008. Motion passed unanimously.

RECESS:

Chair Sader suggested taking a 20-minute recess for lunch from 12:50 to 1:10 pm.

RECONVENE:

The commission reconvened at 1:10 pm with members present as previously reported.

DISCUSSION, ORGANIZATIONAL LICENSE FOR EUREKA DOWNS:

The commission heard Mr. LaBoy discuss an order for issuance of an organizational license to the Kansas Quarter Horse Racing Association/Greenwood County Fair Association d/b/a Eureka Downs to



conduct horse racing. The commission took comments from the audience, including:

- David Assmann, president, Kansas Thoroughbred Association
- Fred Putoff, treasurer, Kansas Quarter Horse Racing Association
- Jerry Johnson, speaking on behalf of the minor breeds.
- Rita Osborn, racing secretary at Eureka Downs
- Dan Bird, Anthony Fair Association

MOTION, APPROVE ORGANIZATIONAL LICENSE FOR EUREKA DOWNS:

(H.9.)

Commissioner Falstad (Braun) moved to approve the order issuing an organizational license to the Kansas Quarter Horse Racing Association/Greenwood County Fair d/b/a Eureka Downs to conduct horse racing per the specifications as outlined. Motion passed unanimously.

DISCUSSION, ANTHONY DOWNS 2009 FAIR RACE MEET APPLICATION:

(H.10.)

The commission heard Mr. LaBoy discuss the Anthony Fair Association d/b/a Anthony Downs application for an organizational license to conduct horse and greyhound racing on July 10, 11, 12, 17, 18, and 19, 2009.

MOTION, CONDITIONAL APPROVAL OF ANTHONY DOWNS 2009 FAIR RACE MEET APPLICATION:

(H.10.)

Commissioner Schwan (Braun) moved to direct staff to draft an organizational license order for the Anthony Fair Association d/b/a Anthony Downs to be presented to the commission for review and final action at its May 15 meeting. Motion passed unanimously.

DISCUSSION, WOODLANDS RECOGNIZED HORSEMEN'S GROUP REQUEST TO AWARD HORSE PURSE MONEY TO EUREKA DOWNS AND ANTHONY DOWNS:

(H.11.)

The commission heard Mr. LaBoy discuss The Woodlands Recognized Horsemen's Group request to award horse purse money to Eureka Downs and Anthony Downs.

MOTION, APPROVE WOODLANDS RECOGNIZED HORSEMEN'S GROUP REQUEST TO AWARD HORSE PURSE MONEY TO EUREKA DOWNS AND ANTHONY DOWNS:

(H.11.)

Commissioner Falstad (Braun) moved to approve splitting the \$44,469 in horse purse funds generated from the profits on the 2007 outbound live horse signal with 10/16, or \$27,793.13, to Eureka Downs and 6/16, or \$16,675.87, to Anthony Downs. Motion passed unanimously.

DISCUSSION, APPROVE EUREKA DOWNS CONDITION BOOK:

(H.12.)

The commission heard Mr. LaBoy discuss presentation of the 2009 Eureka Downs Condition Book.

MOTION, APPROVE EUREKA DOWNS CONDITION BOOK:

(H.12.)

Commissioner Schwan (Falstad) moved to approve the 2009 Eureka Downs Condition Book as submitted. Motion passed unanimously.

CALL FOR PUBLIC  
COMMENTS:

(I.)

Chair Sader called for public comments. There were none.

STAFF REPORT,  
EXECUTIVE DIRECTOR:

(J.1.)

The commission heard a staff report from Mr. Martino.

STAFF REPORT,  
ASSISTANT ATTORNEY  
GENERAL:

(J.2.)

Mr. Martin had no report.

STAFF REPORT, DIRECTOR  
OF ADMINISTRATION:

(J.3.)

Mr. Cawby discussed commission meeting dates through the end of the 2009 calendar year. Commissioner Braun (Schwan) moved to approve the following meeting dates:

- Saturday, June 13, 2009 (in Eureka)
- Friday, July 17, 2009 (in Anthony)
- Friday, August 14, 2009
- Friday, September 11, 2009
- Thursday, October 8, 2009 (possibly in Dodge City)
- Friday, November 13, 2009 (possibly in Dodge City)
- Friday, December 11, 2009

Motion passed unanimously.

As a rule of thumb, commission meetings will take place on the first Friday after the 10th of each month.

MOTION, EXECUTIVE  
SESSION:

(K.1.)

Commissioner Falstad (Schwan) moved that the commission go into a 35-minute executive session from 2:40 pm to 3:15 pm for the purpose of attorney-client communication. Those included in the executive session were the commission, Mr. Martino, Mr. Martin, and Mr. Cawby. No action is to be taken in executive session, and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as a part of the permanent record of the Kansas Racing and Gaming Commission. At the conclusion of the executive session, the meeting is to be continued in open session. Motion passed unanimously.

RECONVENE:

The commission meeting reconvened at 3:15 pm with all members present as previously noted.

MOTION, EXECUTIVE  
SESSION:

(K.2.)

Commissioner Braun (Falstad) moved that the commission go into a 10-minute executive session from 3:15 pm to 3:25 pm for the purpose of reviewing two background investigation reports. Those included in the executive session were the commission, Mr. Martino, Mr. Martin, and Mr. Brownlee. No action is to be taken in executive session, and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as a part of the permanent

record of the Kansas Racing and Gaming Commission. At the conclusion of the executive session, the meeting is to be continued in open session. Motion passed unanimously.

RECONVENE:

The commission meeting reconvened at 3:25 pm with all members present as previously noted.

MOTION, APPROVE  
BACKGROUND REPORT:  
(L.1.)

Commissioner Falstad (Braun) moved to approve the background investigation reports of Rita Osborn and Angie Lowe. Motion passed unanimously.

MOTION, APPROVE  
POSITIONS:  
(L.2.)

Commissioner Braun (Schwan) moved to approve the following positions:

1. Rita Osborn – General Manager, Racing Secretary, and Backup for all Positions; Eureka Downs
2. Angie Lowe – Mutuel Manager; Eureka Downs
3. Tim Mitchell – Starter, Paddock Judge, Identifier; Eureka Downs

Motion passed unanimously.

ADJOURN:

Commissioner Braun (Falstad) moved to adjourn at 3:28 pm. Motion passed unanimously.

SUBMITTED BY:

\_\_\_\_\_  
William Falstad  
Secretary

APPROVED BY:

\_\_\_\_\_  
Carol H. Sader  
Chair

# Contract Review Cover Sheet

Contract Title:

Maintenance

Licensee:

Name/Address of

Harry Hayes

Other Party(ies):

Subject Matter:

mowing of facility

Contract Date/

May 09 - July 4<sup>th</sup> 09

Duration:

Renewal:	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Changes:	<input type="checkbox"/> Yes (see attached changes)	<input type="checkbox"/> No Changes

Modification of Existing Agreement:	<input type="checkbox"/> Yes (see attached)
-------------------------------------	---

Executed By:

Peta Osborn  
Eureka Downs

Payment Terms:

\$60 per mowing - payable upon receipt of bill

Date Submitted:

5-5-09

Submitted By:

Peta Osborn

8/343

# Contract Review Cover Sheet

**Contract Title:** General Manager Employment Agreement

**Licensee:** Greenwood County Fair Association and KQHRA, Inc.

**Name/Address of Other Party(ies):** Rita Osborn  
314 N. Mulberry  
Eureka, KS 67045

**Subject Matter:** Employment Agreement

**Contract Date/Duration:** April 27, 2009  
3/1/09 through 7/7/09

**Renewal:**  Yes  No

**Changes:**  Yes (see attached changes)  No Change

**Modification of Existing Agreement:**  Yes (see attached)

**Executed By:** Fred U. Puthoff, Treasurer  
KQHRA, Inc.

**Payment Terms:** See agreement.

**Date Submitted:** 5/1/09

**Submitted By:** Fred U. Puthoff

8/342

## GENERAL MANAGER EMPLOYMENT AGREEMENT

This agreement is entered into by and between the management committee appointed by and in accordance with the co-organization licensee agreement between the Greenwood County Fair Association, Inc., Eureka, KS, and the Kansas Quarter Horse Racing Association, part of the first part, hereinafter simply referred to as Employer, and Rita Osborn, party of the second part, hereinafter simply referred to as Employee.

WITNESSETH: That

WHEREAS: Pursuant to the terms of said licensee agreement, Employer is authorized to employ a general manager to be in charge of the operations of Eureka Downs; and

WHEREAS: The parties hereto agree that Rita Osborn shall be employed as said general manager, subject to the terms and conditions hereof.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL CONVENANTS HEREIN CONTAINED, THE PARTIES HERETO AGREE AS FOLLOWS:

1. Rita Osborn is hereby employed as general manager to be responsible for day to day management of Eureka Downs, including management of racing and wagering operations at Eureka Downs and the performance of such other acts and duties as directed by Employer, subject to the rules and regulations of the Kansas Racing Commission.

2. Employee shall be compensated for said services in the amount of \$12,000 to be paid biweekly beginning March 16, 2009. Employee is required to live within a 30 mile radius of Eureka, Kansas. In addition, thereto, Employee shall be reimbursed for her reasonable and necessary expenses incurred as a direct result of her employment. Employee shall be entitled to request advances or draws upon her pay from time to time but not in an amount in excess of the net pay for each month.

3. By way of enumeration, and not by way of elimination, Employee shall be responsible but not limited to assisting or performing the following duties:

- a. Hiring, firing and supervising of all other employees necessary for operation of Eureka Downs. Provided, however, her duties in the regard shall be subject to the laws of the State of Kansas and all rules and regulations of the Kansas Racing Commission.
- b. Implementing all policies and procedures adopted by Employer and the Kansas Racing Commission,
- c. Proposing to Employer race schedules, racing dates, proposed stable contracts, number of and qualifications for race participants, and general management of the pari-mutuel watering system.

1. Any changes from standard procedure shall be approved by management committee before being implemented.

- d. Assistance with the operational budget, maintenance of books, and preparation of reports required by the Kansas Racing Commission and Employer.
- e. Overseeing of facility maintenance.
- f. Advertising and promotion of races and other authorized activities at Eureka Downs.

g. Any other duties pertaining to the operation of Eureka Downs facility.

4. The initial term of this agreement shall be for a period beginning March 1, 2009 and shall terminate upon the completion and winding up of normal business affairs following the last day of racing July 4th but not before July 7<sup>th</sup>, 2009 or as necessary to complete business satisfactorily. Employee shall have the right to terminate this agreement upon giving sixty (60) days advance written notice to Employer. Employer shall have the right to terminate this agreement upon a showing that Employee has failed and refused to perform the duties imposed upon him hereunder or has violated the laws of the State of Kansas or the rules and regulations of the Kansas Racing Commission, which said violation disqualifies Employee from being eligible to continue as Employee of a facility licensed by the Kansas Racing Commission to conduct pari-mutuel horse races. In addition, Employer shall have the right to terminate this agreement thirty (30) days after receipt of notice of cancellation of its' license to conduct pari-mutuel horse racing from the Kansas Racing Commission.


5. Notwithstanding any other provision of this agreement to the contrary, this agreement shall not become effective until approved by the Kansas Racing Commission.

IN WITNESS WHEREOF The parties hereto have executed this agreement this 27<sup>th</sup> day of April 2009.

By:   
Fred Puthoff

ON BEHALF OF THE MANAGEMENT COMMITTEE  
APPOINTED BY AND IN ACCORDANCE WITH THE  
CO-ORGANIZATION LICENSEE AGREEMENT  
BETWEEN THE GREENWOOD COUNTY FAIR  
ASSOCIATION, EUREKA, KANSAS AND THE  
KANSAS QUARTER ORSE RACING ASSOCAITON.

"EMPLOYER"

BY:   
Rita Osborn  
"Employee"

# Contract Review Cover Sheet

Contract Title: Contract Labor

Licensee: TRAK East

Name/Address of Other Party(s): Kevin Allis  
6120 East 8<sup>th</sup> Street North  
Wichita, KS 67208

Subject Matter: Contract Labor *Helped in food + Beverage*

Contract Date: August 4, 2008 (Verbal Agreement)

Duration: N/A

Renewal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Changes	<input type="checkbox"/> Yes (See Attached)	<input checked="" type="checkbox"/> No Changes

Modification of Existing Agreement	<input type="checkbox"/> Yes (See Below)
------------------------------------	--

Executed By: Jayme LaRocca

Payment Terms/Changes: \$1,122.34

Date Submitted: March 24, 2009

Submitted By: Jayme LaRocca *Third quarter Vendor request.*

*70/2529*  
D.2.a



# Contract Review Cover Sheet

Contract Title: Veterinary Supplies

Licensee: TRAK East

Name/Address of Shelley A. Bunch

Other Party(s): 25840 Somerset Road

Paola, KS 66071

Subject Matter: Veterinary supplies for adoption kennel

Contract Date: N/A

Duration: N/A

Renewal:  Yes  No

Changes:  Yes (See Attached)  No Changes

Modification of Existing Agreement:  Yes (See Below)

Executed By: Janie McBride

Payment Terms/Changes: \$1,454.00 (As Invoiced)

Date Submitted: March 24, 2009

Submitted By: Jayme LaRocca *third quarter vendor request*

70  
2532  
D.2.b

# Contract Review Cover Sheet

Contract Title: Hotel

Licensee: TRAK East

Name/Address of Other Party(s): Candlewood Suites  
10920 Parallel Parkway  
Kansas City, KS 66109

Subject Matter: Hotel accommodations for company employees

Contract Date: September 16, 2008

Duration: N/A

Renewal:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Changes:	<input type="checkbox"/> Yes (See Attached)	<input checked="" type="checkbox"/> No Changes

Modification of Existing Agreement	<input type="checkbox"/> Yes (See Below)
------------------------------------	--

Executed By: Jayme LaRocca

Payment Terms/Changes: \$737.98 (As Invoiced)

Date Submitted: March 24, 2009

Submitted By: Jayme LaRocca *3<sup>rd</sup> quarter Vendor Request.*

*70/2524*

# Contract Review Cover Sheet

Contract Title: Hauling Greyhounds

Licensee: TRAK East

Name/Address of Chris Mitchell

Other Party(s): 6300 NW Cookingham Drive

Kansas City, MO 64164

Subject Matter: Hauling on 9/20/08 for 6 greyhounds

Contract Date: September 19, 2008

Duration: N/A

Renewal:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Changes:	<input type="checkbox"/> Yes (See Attached)	<input checked="" type="checkbox"/> No Changes

Modification of Existing Agreement	<input type="checkbox"/> Yes (See Below)
------------------------------------	--

Executed By: Jayme LaRocca

Payment Terms/Changes: \$600.00

Date Submitted: March 24, 2009

Submitted By: Jayme LaRocca *3<sup>rd</sup> quarter Vendor request.*

*70*  
*2525*  
D.2.d

# Contract Review Cover Sheet

Contract Title: Domain Names

Licensee: TRAK East

Name/Address of Other Party(s): Network Solutions

13861 Sunrise Valley Dr.-Suite 300

Herndon, VA 20171

Subject Matter: Two-year renewal for domain names ("The Woodlands" and "Pups Without Partners")

Contract Date: August 14, 2008

Duration: 2010

Renewal:  Yes  No

Changes:  Yes (See Attached)  No Changes

Modification of Existing Agreement:  Yes (See Below)

Executed By: Bryan Sheets

Payment Terms/Changes: \$750.00

Date Submitted: March 24, 2009

Submitted By: Jayme LaRocca *Third Quarter renewal request.*

*70*  
*2530*  
*D.2.e*

# Contract Review Cover Sheet

Contract Title: Hauling Greyhounds

Licensee: TRAK East

Name/Address of Dale Rogers

Other Party(s): 1003 N. Pennsylvania

Mangum, OK 73554

Subject Matter: Hauling on 9/20/08 for 51 greyhounds

Contract Date: September 19, 2008

Duration: N/A

Renewal:  Yes  No

Changes:  Yes (See Attached)  No Changes

Modification of Existing Agreement:  Yes (See Below)

Executed By: Jayne LaRocca

Payment Terms/Changes: \$5,100.00

Date Submitted: March 24, 2009

Submitted By: Jayne LaRocca *3<sup>rd</sup> quarter Vendor request.*

*70*  
*2526*  
D.2.f

# Contract Review Cover Sheet

Contract Title: Condition Book

Licensee: TRAK East

Name/Address of Other Party(s):  
Doug Schoepf  
225 Donegal Road  
Aurora, NE 68818

Subject Matter: Writing 2008 Condition Book for horse meet (Thoroughbred)

Contract Date: August 1, 2008 (Verbal Agreement)

Duration: N/A

Renewal:  Yes  No

Changes:  Yes (See Attached)  No Changes

Modification of Existing Agreement:  Yes (See Below)

Executed By: Jayme LaRocca

Payment Terms/Changes: \$2,500.00

Date Submitted: March 24, 2009

Submitted By: Jayme LaRocca *third quarter vendor request*

*70*  
*2527*  
D.2.g

# Contract Review Cover Sheet

Contract Title: Interface Fees

Licensee: TRAK East

Name/Address of Scientific Games Racing, LLC

Other Party(s): 23766 Network Place

Chicago, IL 60673

Subject Matter: Interface Fees

Contract Date: N/A

Duration: N/A

Renewal	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
Changes	<input type="checkbox"/>	Yes (See Attached)	<input checked="" type="checkbox"/>	No Changes

Modification of Existing Agreement	<input type="checkbox"/>	Yes (See Below)
------------------------------------	--------------------------	-----------------

Executed By: Kevin King

Payment Terms/Changes: \$1,248.03 (As Invoiced)

Date Submitted: March 24, 2009

Submitted By: Jayme LaRocca *Third quarter Vendor request.*

70/  
2531  
D.2.h

# Contract Review Cover Sheet

Contract Title: Condition Book

Licensee: TRAK East

Name/Address of Other Party(s): Josh Van Oort

6205 Iltis Drive

Urbandale, IA 50322

Subject Matter: Writing 2008 Condition Book for horse meet (Quarter Horse)

Contract Date: August 1, 2008 (Verbal Agreement)

Duration: N/A

Renewal:  Yes  No

Changes:  Yes (See Attached)  No Changes

Modification of Existing Agreement:  Yes (See Below)

Executed By: Jayme LaRocca

Payment Terms/Changes: \$1,000.00

Date Submitted: March 24, 2009

Submitted By: Jayme LaRocca *Special quarter vendor request.*

*70/2528*  
D.2.i



## **Robin Drummond**

Robin Drummond is the Vice President of Sales for Gaming Solutions and is responsible for maintaining the strategic sales plan, budget and expenditures of both the Government Sponsored and International Business Development groups within GTECH's Gaming Solutions organization. Robin joined Spielo in 2003 as Senior Director – Government Sponsored group, and was responsible for managing and overseeing the growth and development of this division.

Prior to joining Spielo, Robin worked in a variety of senior sales, marketing and business development roles with Alcatel, a communications solutions company. He has extensive North American and International sales and management experience, including a multi-year stint in France as a Marketing Director for one of Alcatel's largest manufacturing divisions.

Robin has a degree in Electrical Engineering from the University of New Brunswick.

*Kansas Racing and Gaming Commission*

**STAFF AGENDA MEMORANDUM**

**DATE OF MEETING:** May 15, 2009

**AGENDA ITEM:** **Kansas Racing, LLC Internal Controls**

**PRESENTER:** Charles LaBoy CPA, Director of Audit and Electronic Security

**ISSUE SUMMARY:** Kansas Racing, LLC has submitted its management's response to the auditor's letter concerning internal control weaknesses noted during the annual audit of the financial statements of Kansas Racing, LLC for the year ended December 31, 2008.

**COMMISSION ACTION REQUIRED/REQUESTED:** Commission review and approval of Kansas Racing, LLC management's response to the internal control weaknesses noted by its auditors during the annual audit of its financial statements for the year ended December 31, 2008.

**STAFF RECOMMENDATIONS:** Staff has reviewed Kansas Racing, LLC's comments and due to the current lack of parimutuel activity at The Woodlands recommends approval of the measures management has stated in their response. If racing were to resume staff would expect a full submission of the facilities revised internal controls for review and approval.

May 5, 2009

Kansas Racing & Gaming Commission  
Attn: Charles LaBoy  
700 SW Harrison, Suite 420  
Topeka, Kansas 66603-3754

Re: Response to Auditor's Management Letter

In their letter dated March 27, 2009, Clifton Gunderson, L.L.P., independent auditors for Kansas Racing, L.L.C. documented as part of their audit procedures, certain comments and recommendations for improvement in the Company's system of Internal Control.

This letter is provided to outline the auditor's comments and Management's decisions relating to their recommendations for improvement.

Accounting Department

*Cash Transactions & Accounts Payable*

As discussed at the April 2009 KRGC meeting, due to the closure of The Woodlands facility in August 2008, we have become a much smaller organization. It is not economically feasible to maintain adequate separation of duties with the resources we have available to us at the present time. However, we are considering the use of non-financial personnel to perform some accounting duties, such as opening the mail and distributing signed checks to improve upon the controls we already have in place. Members of the owner's management staff are also more involved in the accounting and review process which mitigates risks associated with the lack of duty segregation.

*Fixed Assets*

Fixed assets are being entered and reviewed on a monthly basis by the Assistant Controller with the Director of Finance performing a second review to ensure proper classification.

Information Technology

All security levels within the general ledger software have been reviewed and corrected to reflect the current needs of our organization.

These procedures will be reviewed, refined and improved, when possible, as we continue to adjust to the present conditions.

Yours truly,

Jayne LaRocca  
General Manager

Wendy Malotte  
Assistant Controller

*Kansas Racing and Gaming Commission*

**STAFF AGENDA MEMORANDUM**

**DATE OF MEETING:** May 15, 2009

**AGENDA ITEM:** **TRAK-East Internal Controls**

**PRESENTER:** Charles LaBoy CPA, Director of Audit and Electronic Security

**ISSUE SUMMARY:** The Racing Association of Kansas East (TRAK East) has submitted its management's response to the auditor's letter concerning internal control weaknesses noted during the annual audit of the financial statements of TRAK East for the year ended December 31, 2008.

**COMMISSION ACTION REQUIRED/REQUESTED:** Commission review and approval of TRAK East management's response to the internal control weaknesses noted by its auditors during the annual audit of its financial statements for the year ended December 31, 2008.

**STAFF RECOMMENDATIONS:** Staff has reviewed TRAK East's comments and due to the current lack of parimutuel activity at The Woodlands recommends approval of the measures management has stated in their response. If racing were to resume staff would expect a full submission of the facilities revised internal controls for review and approval.

May 5, 2009

Kansas Racing & Gaming Commission  
Attn: Charles LaBoy  
700 SW Harrison, Suite 420  
Topeka, Kansas 66603-3754

Re: Response to Auditor's Management Letter

In their letter dated March 27, 2009, McGladrey & Pullen, L.L.P., independent auditors for The Racing Association of Kansas East documented as part of their audit procedures, certain comments and recommendations for improvement in the Company's system of Internal Control.

This letter is provided to outline the auditor's comments and Management's decisions relating to their recommendations for improvement.

The Accounting Department has experienced several significant events during the year including turnover within the department, an accounting system conversion and the closing of the facility resulting in permanent loss of accounting personnel. These events contributed to the delay of several months' bank reconciliations. The department has corrected this situation and continues to maintain timely reconciliations of all bank accounts.

Management has also reviewed the auditor's suggestions regarding weaknesses in our accounts payable controls. Due to the current size of our accounting staff, it is not possible to maintain full segregation of duties. Under our current circumstances we feel we have appropriate supervision and have segregated duties as best as possible with the resources we have available. In addition, we are considering the use of non-financial personnel to perform some accounting duties, such as opening the mail and distributing signed checks to improve upon the controls we already have in place.

These procedures will be reviewed, refined and improved, when possible, as we continue to adjust to the present conditions.

Yours truly,

Jayne LaRocca  
General Manager

Wendy Malotte  
Assistant Controller

*Kansas Racing and Gaming Commission*

**STAFF AGENDA MEMORANDUM**

**DATE OF MEETING:** May 15, 2009

**AGENDA ITEM:** **Anthony Downs Organizational License**

**PRESENTER:** Charles LaBoy, Director of Audit and Electronic Security  
AFA Representative

**ISSUE SUMMARY:** The Anthony Fair Association has submitted an application for a organizational license to conduct six days of live horse and greyhound racing in Anthony, KS in 2009 on the following dates: July 10, 11, 12, 17, 18 and 19. Commission staff has drafted an order for the issuance of an organizational license to the applicant to conduct the requested race days. (See K.S.A 74-8813, 74-8814, K.A.R 112-17-1 *et seq.*)

**COMMISSION ACTION REQUIRED/REQUESTED:** Commission review, discussion and possible action on the approval of the order for issuance of an organizational license to the Anthony Fair Association to conduct a 2009 county fair race meet.

**STAFF RECOMMENDATIONS:** Staff has examined the application submitted by the Anthony Fair Association for an organizational license to conduct horse and greyhound races on July 10, 11, 12, 17, 18 and 19 and have determined that the application complies with applicable statutes, rules and regulations. Staff recommends that the Commission approve the provided order as being in the best interest of horse racing within this state, and recommends that the conditional license be issued upon submission of the surety bond in the amount of \$117,317.

**STATE OF KANSAS**  
Kansas Racing and Gaming Commission  
700 SW Harrison, Suite 500  
Topeka, KS 66603-3754  
(785) 296-5800

In the Matter of: )  
 )  
The Application of )  
 ) **Case No. 93 KRC 65**  
**THE ANTHONY FAIR ASSOCIATION** )  
 ) \_\_\_\_\_  
 )  
for a Horse and Greyhound Fair Meet )  
Organization License. )  
\_\_\_\_\_ )

**ORDER GRANTING**  
**2009 CONDITIONAL ORGANIZATION LICENSE**

Pursuant to K.S.A. 74-8813 and 8814, the Kansas Racing and Gaming Commission (the commission or KRGC), on this \_\_\_th day of \_\_\_\_\_, 2009, considered the application of the Anthony Fair Association (hereinafter referred to as "AFA") for an organization license to conduct live horse and greyhound racing at Anthony Downs during the calendar year 2009.

Applicant appears by Dan Bird, AFA Board Member. Commissioners present are Carol H. Sader, Chair; Glenn Braun; Kristine McKechnie; William Falstad; and Barry Schwan. Also present is Stephen L. Martino, Executive Director, and counsel for the commission, Patrick D. Martin, Assistant Attorney General, as well as other commission staff and members of the general public.



After reviewing the application and exhibits, amendments, reports of staff, comments of counsel, and public comments in support of and in opposition to the application, and being otherwise fully and duly advised in the premises, the KRGC, in considering the statutory and regulatory criteria set forth in the Kansas Parimutuel Racing Act, K.S.A. 74-8801, *et seq.*, specifically including K.S.A. 74-8813 and K.S.A. 74-8814, and rules and regulations adopted by the commission, including K.A.R. 112-17-1 through 112-17-15 inclusive, finds as follows:

### **FINDINGS OF FACT**

1. Applicant, AFA, is a non-profit corporation whose principal officers are Daniel Bird, President; Allen Thomas, Vice-president; Vicki Knapic, Secretary; and Melvin Kitts, Treasurer [2009 Racing License Application (“App.”), Section I., subsection d., at pp. 1-2].
2. On March 11, 2009, the applicant filed with the KRGC a timely horse and greyhound fair organization license application for 2009.
3. Applicant has paid an application fee in the amount of \$50 to the KRGC pursuant to K.A.R. 112-17-1(e)(1) .
4. Applicant requests an organization license to conduct a live horse and greyhound fair race meet during 2009 [App., Section VI., subsection i., at pp. 21-22].
5. Applicant’s verified application titled *2009 Racing License Application*, amendments, attachments, and correspondence relating thereto, are incorporated herein by reference in their entirety as though fully set forth herein [App., Affidavits of AFA].
6. Applicant applies pursuant to K.S.A. 74-8814 for a license to conduct a live horse and greyhound fair race meet for the following six days in 2009: July 10, 11, 12, 17, 18, and 19 [App., Section VI., subsection i., at p. 21].
7. Applicant requests post times for all live race days at 5:30 p.m. on Fridays and 2:00 p.m. on Saturdays and Sundays [App., Section VI., subsection i., at p. 21].

8. Applicant intends to schedule a maximum of 10 live horse and 10 live greyhound races per day contingent upon the availability of animals and jockeys [*App.*, Section VI., subsection i., at p. 21].

9. For 2009, applicant proposes to allocate \$602,100 to purses. [*App.*, Section VI., subsection j., at p. 22].

10. Applicant's greyhound purse formula for pay out is 50 percent, 25 percent, 15 percent, and 10 percent for first through fourth places respectively, with added money going to win/place/show at 65/25/10 [*Anthony Downs Greyhound Racing Conditions for 2009, Purses*].

11. Applicant's horse purse formula for pay out is 55 percent, 20 percent, 15 percent, and 10 percent for first through fourth places respectively [*Anthony Downs 2009 Condition Book*].

12. Applicant has represented that the pay out for Anthony Downs nomination and stakes races will pay five places at 55 percent, 20 percent, 12 percent, 8 percent, and 5 percent respectively, unless specifically stated otherwise in the approved condition book.

13. Applicant will provide an irrevocable letter of credit from the local bank in the amount of \$117,317, in compliance with K.S.A. 74-8813 [*App.*, Section VI., subsection k., at p. 22].

14. Applicant's parimutuel wagering plan for the 2009 live horse and greyhound race meet will include win/place/show, daily double (one early, one late), quinella, exacta, trifecta, and superfecta wagers with takeouts of 18 percent for win/place/show and 25 percent for all other pools [*App.*, Section VI., subsection l., at p. 22-23].

15. With respect to concessions, it is the intention of the applicant to operate the concession stand with all food and supplies to be purchased from local retailers and route salespersons at wholesale prices [*App.*, Section VI., subsection m., at p. 23].

16. Applicant owns the Anthony fairgrounds [*App.*, Section V., subsection g., at p. 14; Attachment A-5].

17. Applicant and its officers and directors are in compliance with K.S.A. 74-8810 [App., Section I., subsection j., at p. 3].

18. Applicant has the financial capability, manpower, and technical expertise by themselves or through contractual relations to conduct a live horse and greyhound fair race meet with the parimutuel system of wagering [App.].

19. Subject to the requirements of this order requiring submission of additional documentation, applicant has provided to the commission various copies of its articles of incorporation, bylaws, and other agreements or documents which create or govern the applicant's organization [App., Attachment A-1].

20. Applicant will conduct races in only one county, Harper County, Kansas, and in that county the majority of qualified electors have approved the constitutional amendment permitting the conduct of horse and greyhound races with parimutuel wagering thereon [App., Section II., subsection a., at p. 4; Section IV., subsections a, b, and c, at p. 12].

21. No director, officer, employee, or agent of the applicant has been convicted of any of the crimes or offenses identified in K.S.A. 74-8813(c)(6) [App., Affidavit and Waiver of Applicant].

22. No director or officer of the applicant is addicted to, and a user of, alcohol or a controlled substance [App., Affidavit and Waiver of Applicant].

23. Applicant has requested, pursuant to K.A.R. 112-17-14, that certain rules and regulations exceptions be granted for the 2009 racing season, including:

(a) Waiver of the K.A.R. 112-4-1(l) requirement that an occupation licensee be at least 16 years of age, for the limited purpose of allowing greyhound leadouts, concession employees, administrative support runners, and video operators (with prior steward approval only) to be licensed at 14 or 15 years of age [App., Section VII., subsection b., at pp. 25-28];

(b) waiver of the requirement of K.A.R. 112-4-4(b), which states that no commission licensed veterinarian, racing official, or photo finish operator shall be licensed

as an owner. The waiver would be as it relates to veterinarians, conditioned upon such licensee not racing any animals at this fair meet. Further, the veterinarian would return his license badge at the conclusion of the race meet and provide a written statement that he will no longer practice as a commission licensed track veterinarian during the remainder of the calendar year [*App.*, Section VII., subsection b., at pp. 25-28];

(c) waiver of the K.A.R. 112-4-4a(c)(2) prohibition against the same person holding a commission license as a greyhound racing official and holding a commission license as a greyhound owner, conditioned upon the licensee being licensed as a county fair racing official and returning the racing official license at the end of the Anthony race meet and upon the licensee not racing any greyhounds owned by licensee at the Anthony race meet [*App.*, Section VII., subsection b., at pp. 25-28];

(d) waiver of the K.A.R. 112-7-6(a)(3) requirement that no person shall enter or start a horse in a race unless the horse is in the care of a licensed trainer and owned by an owner licensed by scratch time, except that for the first 10 days of a race meeting or for stakes races, an owner must be licensed by one hour before first post on the day of the race. All other provisions of K.A.R. 112-7-6 remain in full force and effect [*App.*, Section VII, subsection b, at p. 26].

(e) waiver of the K.A.R. 112-7-14(a)(2) requirement that provides that penalties and sex allowances shall be obligatory, but only to the extent that trainers may waive sex allowances [*App.*, Section VII., subsection b., at pp. 25-28];

(f) waiver from the requirement of K.A.R. 112-7-18(e), which provides that no jockey shall weigh out without the permission of the owner or trainer if the jockey weighs more than two pounds over the weight assigned to the horse. Under no circumstances shall the margin over the weight limit exceed seven pounds. In such a case, no jockey mount fee

shall be due to the overweight jockey. Stewards shall have the discretion to set a weight cap [App., Section VII., subsection b., at pp. 25-28];

(g) approval of an exception to K.A.R. 112-7-23(d), to allow a horse that has raced within 60 days to start a race without a workout, and to allow a horse that has not raced within the last 12 months to start a race, if it completes one satisfactory workout, subject to the discretion of the stewards and/or animal health officers [App., Section VII., subsection b., at pp. 25-28];

(h) waiver of the K.A.R. 112-8-4(d)(6) requirement that each greyhound that is scratched because of overweight or underweight shall school back before starting in an official race so that such greyhound will be allowed to draw back into the races without schooling [App., Section VII., subsection b., at pp. 25-28];

(i) waiver of the K.A.R. 112-8-5(g) requirement for photographing the finish of, and for videotaping, the greyhound schooling races, conditioned upon review and approval by the racing judges [App., Section VII., subsection b., at pp. 25-28];

(j) waiver of the K.A.R. 112-8-8(c) requirement that the racing judges scratch a greyhound if there is a variation of more than one and one-half pounds above or below the established weight of the greyhound at weighing-in time so that, with the approval of the animal health officer and the racing judges, such greyhound will be allowed an additional one-half pound variation upon review and approval by the racing judges [App., Section VII., subsection b., at pp. 25-28];

(k) waiver of the K.A.R. 112-8-8(f) requirement that the racing judges scratch a greyhound if there is a variation of more than two pounds between the greyhound's weighing-in weight for the present race and the weighing-in weight for its last race so that, with the approval of the animal health officer and the racing judges, such greyhound will be

allowed to race with a variation of more than two pounds with the approval of the animal health officer and racing judges [*App.*, Section VII., subsection b., at pp. 25-28];

(l) waiver of the K.A.R. 112-8-8(g)(1) requirement that a greyhound that changes weight by more than one pound be schooled at least once at the new weight before being eligible to start a race, because greyhounds are only schooled once at Anthony Downs [*App.*, Section VII., subsection b., at pp. 25-28];

(m) waiver of the requirement of K.A.R. 112-11-14, which states that an ambulance be available during any horse training period [*App.*, Section VII., subsection b., at pp. 25-28];

(n) waiver of the requirement of K.A.R. 112-11-14(d), which requires that a staffed horse ambulance be at the track each day that horses are on the racetrack. Applicant agrees to provide a staffed horse ambulance during all official works and during all live race days. Applicant shall submit a plan for dealing with horse breakdowns occurring at any other time horses are on the grounds or a dead horse is found in a stall. Also, the KRGC's animal health officer must be notified within 12 hours of any horse that dies on the grounds, regardless of cause of death [*App.*, Section VII., subsection b., at pp. 25-28];

(o) waiver of the K.A.R. 112-11-14(f) and (g) requirements that a first aid station, equipped equivalently to a type II ambulance, be staffed and operational during each scheduled race, conditioned upon a staffed type II ambulance being present at the track during each scheduled race [*App.*, Section VII., subsection b., at pp. 25-28];

(p) waiver of the K.A.R. 112-11-19(b) requirement that obstacles located 10 to 12 feet from the back of the bottom of the horse track rail post be padded and then approved for safety by the animal health officer [*App.*, Section VII., subsection b., at pp. 25-28];

(q) waiver of the requirements of K.A.R. 112-11-20(c) through (i) concerning lockout kennels, covered walkways, kennel buildings, and sprint paths, based upon the

nature of the facilities and the brevity of the race meet [*App.*, Section VII., subsection b., at pp. 25-28];

(r) waiver of the K.A.R. 112-17-2(a)(1)(D) requirement that applicant supply copies of its organizational documents with each application. Once applicant has supplied the commission with certified copies of its articles of incorporation and its other documents, it is an unnecessary expense for applicant to resupply such documentation each year, unless such documentation has been amended or changed. Applicant has supplied such documentation to the commission with its 1993, 1994, 1995, and 1996 applications, and there have been no amendments or changes thereto since 1993 [*App.*, Section VII, subsection b, at p. 28];

(s) waiver of the basic security guard training course requirements of K.A.R. 112-11-4, and a waiver of the security guard continuing education requirements of K.A.R. 112-11-5, so that the applicant can hire personnel without law enforcement or security training as a gate attendants at the horsemen's gate and as a night watchman; and

(t) waiver of the occupational licensing requirements of K.A.R. 112-4-1(a)(28) and K.A.R. 112-4-1(a)(31), and waiver of the greyhound entry requirements of 112-8-3(g)(3) so allow greyhounds the opportunity to be schooled by unlicensed owners or owner/trainers on Monday, July 6, 2009, prior to the KRGC licensing office's scheduled opening on July 8, 2009.

### **CONCLUSIONS OF LAW**

1. Pursuant to K.S.A. 74-8813, the granting or denying of an organization license is not subject to the Kansas Administrative Procedure Act.
2. Pursuant to K.S.A. 74-8813, the granting or denying of an organization license is a matter to be determined in the sole discretion of the commission, whose decision shall be final.
3. AFA is the organization referred to in K.S.A. 74-8814(a)(2).

4. AFA is a fair association as that term is defined in K.S.A. 74-8802(j).
5. Applicant, AFA, currently has full legal authority to operate a race meeting at Anthony Downs racetrack facility subject to approval and regulation by the commission.
6. The applicant meets the legal requirements to be permitted to conduct a horse and greyhound fair race meet with live horse and greyhound racing and the parimutuel system of wagering provided in K.S.A. 74-8813 and 74-8814.
7. K.S.A. 74-8814 authorizes the commission to adopt regulations permitting the waiver of commission rules and regulations for horse and greyhound fair meets.
8. The KRGC has adopted K.A.R. 112-17-14, pursuant to its authority under K.S.A. 74-8814, permitting the KRGC to waive commission-adopted rules and regulations for horse and greyhound fair meets.
9. The KRGC may authorize a refund for any fee paid for any racing day that is canceled with advance notice to and with the approval of the KRGC. K.S.A. 74-8813(g).
10. It is in the best interests of racing for the KRGC to grant the applicant a horse and greyhound fair race meet organization license to conduct a horse and greyhound fair race meet with horse and greyhound racing and parimutuel wagering at Anthony Downs for the 2009 season.



## ORDERS

Based upon the foregoing findings of fact and conclusions of law, the verified responses contained in the application, the exhibits, and other representations made by the applicant and commission staff, the KRGC hereby enters the following orders, including:

1. **IT IS HEREBY ORDERED**, that a conditional organization license be granted to AFA for the purpose of conducting a horse and greyhound fair race meet with parimutuel wagering thereon at Anthony Downs, in Anthony, Harper County, Kansas, for 2009. Pursuant to K.A.R. 112-17-15, any distribution of horse fair racing benefit monies to Anthony Downs shall be payable by the Commission on a weekly basis, as reimbursement for purses allowed under K.A.R. 112-17-15, and upon receipt of supporting documentation. Prepayment of purses shall be in the amount of the surety bond, not to exceed \$117,317. The grant award is in the amount of money from the Horse Purse Fund, with \$562,120.41 from the fund to be used for horse purses. Any profit as a result of the operation of horse meet shall be used to retire Anthony Downs current debt, enhance purses or be used to refund entry fees on a prorated basis.

2. **IT IS FURTHER ORDERED**, that the term of the organization license shall include six days of live racing as requested, to include July 10-12 and 17-19, 2009.

3. **IT IS FURTHER ORDERED**, that this license shall be subject to the authority of the commission to review, modify, impose further conditions, or, in an appropriate case, suspend or revoke the license in accordance with the Kansas Parimutuel Racing Act, K.S.A. 74-8801, *et seq.*

4. **IT IS FURTHER ORDERED**, pursuant to K.S.A. 74-8814(a) and K.A.R. 112-17-1(e), that the commission hereby establishes the license fee for six days of live racing with parimutuel wagering thereon at the sum of \$600.

5. **IT IS FURTHER ORDERED**, that the foregoing license fees shall be paid to the Commission within 100 days after the granting of the applicant's fair meet organization license.

6. **IT IS FURTHER ORDERED**, that all breakage shall be distributed no later than the 15th day of the month following the race from which the breakage is derived, or no later than August 15, 2009.

7. **IT IS FURTHER ORDERED**, that the licensee retain all unclaimed ticket proceeds from parimutuel wagering on live horse and greyhound races and remit to the commission no earlier or later than September 18, 2009.

8. **IT IS FURTHER ORDERED**, that the tax on parimutuel wagering shall be remitted to the commission by the licensee by the next business day following the day on which wagers took place.

9. **IT IS FURTHER ORDERED**, that each, every, and all of the representations, promises, covenants, assurances, and every other term and condition set forth in the applicant's racing application described herein and any amendments or additions thereto and any other representations made by the applicant either in writing or orally at the commission meetings at which this application has been under consideration, are hereby made an integral part of this conditional license order.

10. **IT IS FURTHER ORDERED**, that post times for live race days shall be 5:30 p.m. on Fridays and 2:00 p.m. on Saturdays and Sundays.

11. **IT IS FURTHER ORDERED**, that commission approval shall be obtained for any change in race dates, conditions, or substantial changes in post times.

12. **IT IS FURTHER ORDERED**, that the applicant's organization license is conditioned upon the applicant forwarding the following information/documentation to the KRGC's offices on or before June 4 2009, unless extended by the commission for good cause, including:

(a) A copy of each contract and agreement which the applicant proposes to enter into and any proposed modification of any such contract or agreement, including but not limited to those involving:

1. Any person to be employed by the applicant;
2. any person supplying goods and services to the applicant, including management, consulting, or other professional services;
3. any lease of facilities, including real estate or equipment or any other personal property; or
4. the operation of any concession within or adjacent to the racetrack facility;

(b) proof of insurance, to include workers' compensation, jockey insurance, public liability, and directors' and officers' liability;

(c) applicant shall make daily bank deposits and shall provide proof of an irrevocable letter(s) of credit or surety bond from a financial institution to be approved by the commission in the minimum amount of \$117,317, as determined by the commission to be sufficient to pay the licensee's potential liability for unpaid taxes, purses, and distribution of parimutuel winnings and breakage pursuant to K.S.A. 74-8813(e);

(d) provide the names of and obtain KRGC approval of all management personnel, racing officials, backup officials, and volunteers prior to the same undertaking any official functions or duties;

(e) applicant shall designate a horsemen's bookkeeper and bookkeeping system subject to approval by the commission's designee;

(f) applicant shall forward to the commission copies of all pleadings and documents filed in any court with respect to litigation involving the applicant;

(g) a full test of all racing operation systems and equipment to ensure that all such systems and equipment are fully operational to the satisfaction of the commission stewards, racing judges, and animal health officer, if appropriate, shall be conducted at least one week prior to the beginning of live racing;

(h) a test of all phone lines, radios, and speakers shall be conducted at least one week prior to the beginning of live racing;

(i) applicant shall adequately maintain records sufficient to determine the number of free admissions to the racetrack facility for the commission's auditors to determine the appropriate amount of admissions tax due and payable resulting from such free admissions;

(j) applicant shall provide specifics with respect to what promotional activities will be undertaken by the applicant; and

(k) any condition book, which shall include an 70/30 split of scheduled to run Thoroughbred and Quarterhorse races whereby reflecting an 70/30 distribution of purses, funded from the funds allocated in accordance with K.S.A 74-8836(g)(4), among each respective breed, shall be reviewed and approved by the commission prior to the publication of same. Such condition book shall contain a clear depiction of the amount of entry fees charged, the purpose of such entry fees and a matrix outlining all possible purse payout variations. Any subsequent changes to the condition book will be brought to the commission for approval.

13 **IT IS FURTHER ORDERED**, that the distribution of horse purses will be 55 percent, 20 percent, 15 percent, and 10 percent going to the first through fourth place finishers and shall not be changed without further order from the commission. No more than an amount equal to 75% of the entry fee being paid out as purses to the fifth through last place finishers shall be funded from the funds allocated in accordance with K.S.A 74-8836(g)(4);

14. **IT IS FURTHER ORDERED**, that the distribution of purses for Anthony Downs nomination and stakes race purses will be 55 percent, 20 percent, 12 percent, 8 percent, and 5 percent respectively, unless specifically stated otherwise in the approved condition book.

15. **IT IS FURTHER ORDERED**, that a total of at least \$584,358.68 shall be used for horse purses from the Horse Purse Fund.

16. **IT IS FURTHER ORDERED**, that the applicant's wagering format for the 2009 live horse and greyhound race meet will include win/place/show, daily double (one early, one late), quinella, exacta, trifecta, and superfecta wagers with takeouts of 18 percent for win/place/show and 25 percent for all other pools.

17. **IT IS FURTHER ORDERED**, that the following dates are hereby established for the Anthony Downs 2009 horse and greyhound live fair race meet:

(a) July 10, 11, 12, 17, 18, 19

(b) Effective **July 8, 2009**, no one shall be permitted on the backside or in any other restricted area unless they are properly licensed.

18. **IT IS FURTHER ORDERED**, that the applicant shall identify all volunteers working in the racing facility and specify what role or function each volunteer is to fulfill. Any such volunteers having access to restricted areas of the racing facility shall be required to obtain an occupation license in the same manner as a paid employee.

19. **IT IS FURTHER ORDERED**, that the applicant shall maintain logs for all restricted areas within the racetrack facility that show the name, date, and time of entry of any person entering such restricted area, and a brief statement of the purpose for which such person is accessing such restricted area.

20. **IT IS FURTHER ORDERED**, that no AFA board member shall be permitted to serve on the association's board of directors until such director has submitted to a background investigation and been approved by the commission to serve on the association's board+

21. **IT IS FURTHER ORDERED**, that without exception, all horse/greyhound entries shall be signed prior to a horse or greyhound racing by the horse's or greyhound's

licensed trainer, or such trainer's licensed authorized agent, as previously designated on an official commission authorized agent form on file in the commission's licensing office.

22. **IT IS FURTHER ORDERED**, that the applicant's organization license is further conditioned upon the applicant completing the following,:

(a) Background investigations on the president, vice-president, secretary, and treasurer of AFA as required by K.S.A. 74-8814(c)(1);

(b) background investigations on each officer and each director of the AFA as required by K.S.A. 74-8814(c)(2);

(c) background investigations on such other members or shareholders of AFA that the commission considers necessary to determine eligibility for an organization license [K.S.A. 74-8814(c)(1) and (2)]; and

(d) the filing of background disclosure forms with the commission on the following individuals:

1. Board of directors of:
  - (A) The organization licensee;
  - (B) the facility owner licensee;
  - (C) the facility manager licensee;
2. officers of fair associations seeking organizational licenses;
3. board of directors/officers of nonprofit horsemen's organizations seeking organizational licenses;
4. chief executive officer of organizational/facility licensee;
5. general manager;
6. assistant general manager;
7. horse racetrack official;
8. greyhound racetrack official;
9. backup horse racetrack official;
10. backup greyhound racetrack official;
11. director of security;
12. mutuel employee serving as money room manager;
13. concession manager/operator; and
14. any other position designated for good cause by the commission;

and an affirmative finding by the commission that such background investigations and disclosures do not reveal any disqualifying information.

23. **IT IS FURTHER ORDERED**, that in accordance with K.A.R. 112-17-14, the commission waives the following rules and regulations for the 2009 Anthony Downs horse and greyhound fair race meet for the purpose of simplifying procedures and reducing costs during the six-day Anthony Downs horse and greyhound fair race meet as follows, to wit:

(a) Waiver of the K.A.R. 112-4-1(l) requirement that an occupational licensee be at least 16 years of age, for the limited purpose of allowing greyhound leadouts, concession employees, administrative support runners, and video operators (with prior steward approval only) to be licensed at 14 or 15 years of age;

(b) waiver of the requirement of K.A.R. 112-4-4(b), which states no commission licensed veterinarian, racing official, or photo finish operator shall be licensed as an owner. This waiver would be as it relates to veterinarians, conditioned upon such licensee not racing any animals at this fair meet. Further, the veterinarian would return his license badge at the conclusion of the race meet and provide a written statement that he will no longer practice as a commission licensed track veterinarian during the remainder of the calendar year;

(c) waiver of the K.A.R. 112-4-4a(c)(2) prohibition against the same person holding a commission license as a greyhound racing official and holding a commission license as a greyhound owner, conditioned upon the licensee being licensed as a county fair racing official and returning the racing official license at the end of the Anthony race meet and upon the licensee not racing any greyhounds owned by licensee at the Anthony race meet;

(d) waiver of the K.A.R. 112-7-6(a)(3) requirement that no person shall enter or start a horse in a race unless the horse is in the care of a licensed trainer and owned by an owner licensed by scratch time, except that for the first 10 days of a race meeting or for stakes races, an owner must be licensed by one hour before first post on the day of the race.

The commission hereby orders that for entries into any horse race to be conducted at Anthony Downs, entries may be accepted by the racing office from unlicensed trainers provided that such trainer has, prior to making such an entry, faxed to the commission licensing office at Anthony Downs or the racing office at Anthony Downs an application for licensure and thereafter fulfilled all requirements for the licensure two hours prior to the first race on the date of the race. For all stakes races to be run at Anthony Downs, entries may be accepted by the racing office from unlicensed trainers provided that such trainer has, prior to making an entry, faxed to the commission licensing office at Anthony Downs or the racing office at Anthony Downs an application for licensure and thereafter fulfilled all requirements for licensure two hours prior to the first race on the day of the race. All other provisions of K.A.R. 112-7-6 remain in full force and effect;

(e) waiver of the K.A.R. 112-7-14(a)(2) requirement that provides that penalties and sex allowances shall be obligatory, but only to the extent that trainers may waive sex allowances;

(f) waiver of the requirement of K.A.R. 112-7-18(e), which provides that no jockey shall weigh out without the permission of the owner or trainer if the jockey weighs more than two pounds over the weight assigned to the horse. Under no circumstances shall the margin over the weight limit exceed seven pounds. In such a case, no jockey mount fee shall be due to the overweight jockey. Stewards shall have the discretion to set a weight cap;

(g) approval of an exception to K.A.R. 112-7-23(d), to allow a horse that has raced within 60 days to start a race without a workout, and to allow a horse which has not raced within the last 12 months to start a race, if it completes one satisfactory workout, subject to the discretion of the stewards and/or animal health officers;



(h) waiver of the K.A.R. 112-8-4(d)(6) requirement that each greyhound that is scratched because of overweight or underweight shall school back before starting in an official race so that such greyhound will be allowed to draw back into the races without schooling;

(i) waiver of the K.A.R. 112-8-5(g) requirement for photographing the finishing of, and for videotaping, the greyhound schooling races, conditioned upon review and approval by the racing judges;

(j) waiver of the K.A.R. 112-8-8(c) requirement that the racing judges scratch a greyhound if there is a variation of more than one and one-half pounds above or below the established weight of the greyhound at weighing-in time so that, with the approval of the animal health officer and the racing judges, such greyhound will be allowed an additional one-half pound variation;

(k) waiver of the K.A.R. 112-8-8(f) requirement that the racing judges scratch a greyhound if there is a variation of more than two pounds between the greyhound's weighing-in weight for the present race and the weighing-in weight for its last race so that, with the approval of the animal health officer and the racing judges, such greyhound will be allowed to race with a variation of more than two pounds;

(l) waiver of the K.A.R. 112-8-8(g)(1) requirement that a greyhound that changes weight by more than one pound be schooled at least once at the new weight before being eligible to start a race, because greyhounds are only schooled once at Anthony Downs;

(m) waiver of the requirement of K.A.R. 112-11-14, which states that an ambulance be available during any horse training period;

(n) waiver of the requirement of K.A.R. 112-11-14(d), which requires that a staffed horse ambulance be at the track each day that horses are on the racetrack.

Applicant agrees to provide a staffed horse ambulance during all official works and during all live race days. Applicant shall submit a plan for dealing with horse breakdowns occurring at any other time horses are on the grounds or a dead horse is found in a stall. The commission's animal health officer must be notified within 12 hours of any/all horses that die on the grounds, regardless of cause of death;

(o) waiver of K.A.R. 112-11-14(f) and (g) requirements that a first aid station, equipped equivalently to a type II ambulance, be staffed and operational during each scheduled race, conditioned upon a staffed type II ambulance being present at the track during each scheduled race;

(p) waiver of the K.A.R. 112-11-19(b) requirement that obstacles located 10 to 12 feet from the bottom of the rail post be padded and then approved for safety by the animal health officer;

(q) waiver of the requirements of K.A.R. 112-11-20(c) through (i) concerning lockout kennels, covered walkways, kennel buildings, and sprint paths; and

(r) waiver of the K.A.R. 112-17-2(a)(1)(D) requirement that applicant supply copies of its organizational documents with each application. Once applicant has supplied the commission with certified copies of its articles of incorporation and its other documents, it is an unnecessary expense for applicant to resupply such documentation each year, unless such documentation has been amended or changed. Applicant has supplied such documentation to the commission with its 1993, 1994, 1995, and 1996 applications, and there have been no amendments or changes thereto since 1993.

(s) waiver of the basic security guard training course requirements of K.A.R. 112-11-4, and a waiver of the security guard continuing education requirements of K.A.R. 112-11-5, so that the Applicant can hire personnel without law enforcement or security training as a gate attendants at the horsemen's gate and as a night watchman; and

(t) waiver of K.A.R. 112-4-1(a)(28), K.A.R. 112-4-1(a)(31), and K.A.R. 112-8-3(g) to allow for greyhound schooling on July 6, 2009, by unlicensed owners and owner/trainers. The commission hereby orders that entries for any greyhound race at Anthony Downs may be accepted by the racing office from unlicensed trainers provided that such trainer has, prior to making such an entry, faxed to the commission licensing office at Anthony Downs or the racing office at Anthony Downs an application for licensure and thereafter fulfilled all requirements for ht licensure two hours prior to the first race on the date of the race.

24. **IT IS FURTHER ORDERED**, that occupation licenses shall be required for all persons, paid or volunteer, working at the Anthony Downs fair meet and the requirements of K.A.R. 112-4-1, *et seq.*, shall be enforced, together with the occupation license guidelines approved by the commission, for the Anthony Downs fair meet. In addition, the licensee fees are hereby adopted by the commission for the 2009 Anthony Downs horse and greyhound fair race meet.

25. **IT IS FURTHER ORDERED**, that all security personnel, other than the exception as noted in (a) and in paragraph 23 above, shall be certified law enforcement officers. Additionally, the following security personnel positions will be required:

(a) backside entrance officer - 24 hours a day/7days a week; a gate attendant may be used in place of a security guard on the backside horse gate and the kennel gate;

(b) Director of Security - one hour prior to post, to one hour past last race and on call 24 hours a day/7 days a week; the Director of Security must be on duty during race days but may be utilized as one of the two certified guards on duty required.

(c) night watchman - the night watchman may be the only person on the premises unless additional security is deemed necessary by the Director of Security. The night watchman shall watch all of the property as well as the backside gate.

(d) a certified law enforcement security guard must be on site during the dance.

(e) gate attendants as specified in (a) and all security guards report to the Director of Security.

26. **IT IS FURTHER ORDERED**, that an occupation license shall be required for all persons, paid or volunteer, working at the Anthony Downs fair meet and the requirement of K.A.R. 112-4-1, *et seq.*, shall be enforced together with the occupation license guidelines approved by the KRGC for the Anthony Downs fair meet. The KRGC hereby grants a waiver of fingerprint requirements for persons working at Anthony Downs who are issued a county fair license during the 2009 racemeet who are not required to undergo a background investigation.

27. **IT IS FURTHER ORDERED**, that if the applicant accepts this conditional organization license, it shall agree to be subject to all of the provisions of the Kansas Parimutuel Racing Act and all of the commission rules and regulations previously or hereafter promulgated by the commission except for those rules and regulations to which the licensee has been expressly granted exceptions as explicitly set forth herein. By accepting this conditional organization license, AFA certifies that it will operate and conduct horse and greyhound racing, with parimutuel wagering thereon, as provided in the Kansas constitution. Failure to abide by or fulfill the conditions of this conditional organization license shall, in addition to any other legal reason, constitute just cause for the suspension or revocation of the organization license granted to AFA or the imposition of any other legally permitted penalty against said licensee, its officers, and directors.

28. **IT IS FURTHER ORDERED**, that AFA shall immediately file all amendments or modifications to their application, including current copies of any documents that support such modification, including the condition book, as required by the terms of this order.

**IT IS SO ORDERED**, this \_\_\_\_ day of \_\_\_\_\_, 2009.

**KANSAS RACING AND GAMING COMMISSION**  
**CAROL H. SADER, Chair**

By: \_\_\_\_\_

Stephen L. Martino  
Executive Director

DRAFT

The attached **Order Granting 2009 Conditional Organization License** is hereby  
accepted this \_\_\_\_ day of \_\_\_\_\_, 2009 by the Anthony Fair Association.

By: \_\_\_\_\_

Daniel Bird, President  
Anthony Fair Association

DRAFT

## **JUDICIAL REVIEW**

Pursuant to K.S.A. 74-8813(v), any action for judicial review of this order shall be by appeal to the supreme court in accordance with the act for judicial review and civil enforcement of agency actions, except that the scope of review shall be limited to whether the action of the commission was arbitrary or capricious or constituted abuse of discretion. Any such appeal shall have priority over other cases except those having statutory priority.

DRAFT

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing **ORDER GRANTING 2009**  
**CONDITIONAL ORGANIZATION LICENSE** was served, via United States mail, first class  
postage prepaid, this \_\_\_\_\_ day of \_\_\_\_\_, 2009, addressed to:

Daniel Bird, President  
Anthony Fair Association  
702 N Springfield  
Anthony, KS 67003

Allen Thomas, Vice President  
Anthony Fair Association  
620 N Springfield  
Anthony, KS 67003

Vicki Knapic, Secretary  
Anthony Fair Association  
1044 N. Springfield  
Anthony, KS 67003

Melvin E. Kitts, Treasurer  
Anthony Fair Association  
P.O. Box 444  
Anthony, KS 67003

John Gaffney, Legal Counsel  
Anthony Fair Association  
Albright & Gaffney  
123 N. Bluff  
P.O. Box 334  
Anthony, KS 67003

and a copy hand delivered to:

Patrick D. Martin  
Assistant Attorney General  
Kansas Racing and Gaming Commission  
700 SW Harrison, Suite 500  
Topeka, KS 66603-3754

\_\_\_\_\_  
Commission representative



## *Kansas Racing and Gaming Commission*

### **STAFF AGENDA MEMORANDUM**

**DATE OF MEETING:** May 15, 2009

**AGENDA ITEM:** **Final approval of K.A.R. 112-12-15**

**PRESENTER:** Patrick D. Martin, Assistant Attorney General

**ISSUE SUMMARY:** Because of my mistake, the Commission approved a version of K.A.R. 112-12-15 that included an inconsistent phrase in one of the regulation's subsections. Specifically, the version included in the March 13 agenda packet included the phrase "at Kansas racetracks" as a qualifier for (1) Kansas-bred, (2) Kansas-certified, and (3) non-Kansas-bred horses. That "at Kansas racetracks" qualifier, however, causes confusion when it is applied to "Kansas-certified horses." Those horses are defined in 112-12-1(b) as being in the breeding program -- and therefore will most likely not be running "at Kansas racetracks."

The "at Kansas racetracks" phrase has now been removed from that particular subsection of the distribution formula, and the DOA and AG's office has re-approved the regulation. The Attorney General's office believed that this revision could be treated as a non-substantive change that did not require re-approval by the Commission but, given the contentious history of the purse supplement discussions, we are erring on the side of caution by making the Commission and the public aware of this non-substantive change.

**COMMISSION ACTION REQUIRED/REQUESTED:** Staff asks the Commission to conduct a **roll call vote** to approve the corrected version of K.A.R. 112-12-15 so that it may be published in the Kansas Register and be made permanent.

**STAFF RECOMMENDATIONS:** Staff recommends roll call approval of the regulation.

**112-12-15. Live horse racing purse supplement fund.** (a) The balance of the money credited to the live horse racing purse supplement fund that is subject to distribution pursuant to K.S.A. 74-8767(a)(3), and amendments thereto, shall be apportioned by the commission to purses for the various horse breeds according to the following formula:

- (1) One-third based on the average percentage of each breed's Kansas-bred horse starters at Kansas racetracks for the previous three calendar years;
- (2) one-third based on the average percentage of each breed's Kansas-certified horses for the previous three calendar years; and
- (3) one-third based on average percentage of each breed's non-Kansas-bred starters at Kansas racetracks for the previous three calendar years.

(b) The official registering agency pursuant to K.S.A. 74-8830, and amendments thereto, shall submit a recommendation to the commission for approval of the amount of all proposed payments pursuant to K.S.A. 74-8767(a)(3), and amendments thereto, based on the contribution to the Kansas horse racing and breeding industries and recommendations by each respective breed group. The commission's staff may also submit a recommendation to the commission under this subsection.

(c) The proposed amount of the distribution shall be submitted to the commission for approval no later than March 1 of each distribution year. (Authorized by and implementing K.S.A. 2008 Supp. 74-8767 and 74-8830; effective P-\_\_\_\_\_.)

**ATTORNEY GENERAL**

**APR 14 2009**

**APPROVED  
MF**

**DEPT. OF ADMINISTRATION**

**APR 14 2009**

**APPROVED**

*Kansas Racing and Gaming Commission*

**STAFF AGENDA MEMORANDUM**

**DATE OF MEETING:** March 15, 2009

**AGENDA ITEM:** **Proposed Travel Policy 3-05**

**PRESENTER:** Don Cawby, Director of Administration

**ISSUE SUMMARY:** The Division of Administration is presenting a travel policy for approval of the Commission. This policy clarifies for the Commission and staff state travel policies and provides for further accountability and cost containment measures, such as increased prior authorizations of out-of-state travel.

**COMMISSION ACTION REQUIRED/REQUESTED:** Commission review and discussion.

**STAFF RECOMMENDATIONS:** Approval of policy and authorizing the Chairperson to sign the policy.

Subject		Number	Draft #
<b>Travel</b>		<b>3-05</b>	(2007-010)
Adopted	Last Revision	Rescinds	
May 15, 2009		KRGCPOL0700001	
Executive Director Authorization		Commission Authorization	
Stephen L. Martino, Executive Director	Date	Carol H. Sader, Chairperson, KRG	Date

### A. Purpose/Background

At times, travel is required to promote the mission of the Racing and Gaming Commission. The commission pays expenses incurred by Racing and Gaming Commission personnel in the performance of their official duties in accordance with State of Kansas travel regulations issued by the Department of Administration.

### B. Definitions

1. *Agency*: The staff of the Racing and Gaming Commission.
2. *Commission*: The Racing and Gaming Commission.
  - a. *Executive Staff*: The Executive Director, Chief Counsel, Assistant Attorneys General, division directors or other individuals serving on the agency's Executive Committee.
3. *International Travel*: Travel to cities and countries located outside the borders of the United States or its territories.
4. *Out-of-State Travel*: Travel outside of the borders of Kansas with the exception of travel to the Greater Kansas City Metropolitan area or other areas within 30 miles of the border of the State of Kansas.
5. *State Travel Regulations*: Regulations issued by the Kansas Department of Administration governing travel and employee travel reimbursement.

### C. Policy/Procedure

1. General Policies.
  - a. Racing and Gaming Commission personnel will adhere to the State of Kansas Travel Regulations issued by the Department of Administration. In the event of differing interpretations or conflicts between this policy and the State Travel Regulations, the State Travel Regulations will prevail.
  - b. The official domicile for Racing and Gaming Commission employees shall be the location of their principal work assignment as designated by the Executive Director or his or her designee.

## 2. Out-of-State Travel

- a. Out-of-state travel, as defined by the Department of Administration, shall comply with State of Kansas regulations and policies and shall not require pre-approval by the commission, with the following exception:
  - i. Any out-of-state travel by commissioners to represent the agency at conferences or meetings of organizations related to the commission's activities shall be pre-approved by the entire commission.
- b. The executive director shall submit a quarterly report to the commission at the end of each quarter detailing all staff travel authorized for that quarter and listing for each trip the employees who traveled, purpose of the trip and total expenses incurred.

## 3. International Travel

- a. International travel, except that done for investigative or law enforcement purposes, shall be pre-approved by the commission for any commissioner or staff.
- b. For the protection of the commission's employees, the rental or operation of motor vehicles in foreign countries is prohibited.
- c. For purposes of safety and effective communication, all employees traveling to a foreign country shall be provided with an international cell phone and carry it whenever reasonably possible.

## 4. Prior Written Authorization for Out-of-State or International Travel

- a. Official authorization must be completed before agency personnel make arrangements for out-of-state or international travel.
- b. Personnel should request out-of-state travel authorization by completing an Out-of-State Travel Authorization Form (Form 305-01) to the Fiscal Section at least 10 working days prior to the desired departure date with all the information required.
- c. The Fiscal Section will provide a cost estimate and forward the request to the Director of Administration for approval.
- d. Once approved, a copy of the Out of State Travel Authorization Form will be provided to the person(s) who will be traveling and to the Executive Director.
- e. Fiscal staff will be responsible for filing and maintaining the original.
- f. The assigned agency travel coordinator will assist in obtaining reservations for flights, lodging, and car rentals.

## 5. Lodging

- a. All lodging arrangements should be made through the agency's designated travel coordinator.
- b. A direct bill arrangement should be utilized whenever possible.
- c. When leaving from Kansas City International Airport, or another regional airport, lodging will not be provided by the agency for individuals staying in the proximity of the airport, unless prior authorization is provided by the Executive Director or his or her designee.

## 6. Flight Arrangements.

- a. All flight arrangements will be made through the agency's designated travel coordinator.
- b. Early Departure and Late Arrival
  - i. Employees requesting an early departure and late arrival to allow for personal time or activities on a trip will only be allowed if such departure or arrival is not an expense to the agency.
  - ii. Reimbursement for meals in conjunction with such a departure or arrival will not be made unless an early departure or late arrival was required to conduct state business or did so to accommodate a cancelled or delayed flight.

## 7. Vehicles

- a. Personnel who are not assigned a specific vehicle should use a pool car, if available, for necessary job-related travel.
- b. Personnel should coordinate with the assigned Security Division staff member to see that an agency vehicle is available prior to using a personal or rental vehicle.
- c. A pool car should be used, if available, before the commission will reimburse expenses for using a privately owned vehicle. If more than one person requests to use a pool car during the same time period, preference will be given to the usage that would be most economical and/or advantageous to the agency.

## 8. Exceptions

- a. Exceptions to any provisions of this policy will be made only under unusual, documented circumstances and with the approval of the Executive Director.

## 9. Travel Vouchers

- a. Travel vouchers are prepared for the reimbursement of travel expenses incurred by employees who are required to travel in fulfilling their official duties or in attending seminars per K.S.A. 75-3201.
- b. For procedures on completing travel vouchers, employees are directed to Policy 3-81.

## **D. Citations/References**

State of Kansas Employee Travel Expense Reimbursement Handbook  
Policy 3-81 Travel Vouchers

## **E. Attachments**

1. Out-of-State Travel Authorization Form (Form 305-01)

## **F. Action**

This policy supersedes all other existing Racing and Gaming Commission policies on this topic and shall be implemented upon approval by the commission.

# May 2009 - April 2010

## Commission Planner

May 2009						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

### MAY

*15 Commission Meeting*

### JUNE

*12 Commission Meeting*

### JULY

*17 Commission Meeting*

### AUGUST

*14 Commission Meeting*

### SEPTEMBER

*11 Commission Meeting*

### OCTOBER

*8 Commission Meeting*

### NOVEMBER

*13 Commission Meeting*

### DECEMBER

*11 Commission Meeting*

Nov 2009						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Dec 2009						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

Jun 2009						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

Jan 2010						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Jul 2009						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

Feb 2010						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Aug 2009						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Mar 2010						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Sep 2009						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Apr 2010						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Oct 2009						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					