

AGENDA

KANSAS RACING AND GAMING COMMISSION 2:00 p.m., Friday, July 17, 2009

KANZA BANK
Hospitality Room
102 East Main Street
Anthony, Kansas

A. CALL TO ORDER

B. APPROVAL OF THE AGENDA

C. APPROVAL OF MINUTES

1. [Minutes of June 13, 2009](#)
2. [Minutes of July 1, 2009 conference call](#)

D. CONSENT AGENDA

Items listed on the consent agenda are a variety of different contracts 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. Anthony Downs – review and approve contracts
 - a. [Gary Edmondson](#), Eureka, Kansas, employment agreement
 - b. [Kevin Halsey](#), Wichita, Kansas, employment agreement

E. FACILITY REPORTS/ITEMS

1. Anthony Downs
2. Eureka Downs

F. COMMISSION ITEMS

1. KHA Reimbursement from Kansas Bred Program

<i>Commission Action:</i>	<i>Commission review and discussion</i>
Staff Presentation:	Don Cawby, Director of Administration
Staff Recommendation:	Staff recommends approval

- a. [Staff Memo](#)
- b. [KHA Letter](#)
- c. [Kansas Bred Registry Income and Cash Flow](#)

2. Elimination of Chief Gaming Officer position
Commission Action: *Commission review and discussion*
Staff Presentation: Stephen Martino, Executive Director
Staff Recommendation: No recommendation
 - a. [Staff Memo](#)
 - b. [Letter from Office of the Governor](#)
3. Final Approval of Article K.A.R. 112-102-1, *et seq.*
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. 112-102-1 et seq. Double Stamped](#)
4. Appointment of designee for approving non-conflicting employment opportunities
Commission Action: *Commission review and discussion*
Staff Presentation: Patrick Martin, Assistant Attorney General
Staff Recommendation: Staff recommends appointing designee
 - a. [Staff Memo](#)

G. PUBLIC COMMENTS

H. STAFF REPORTS

1. Executive Director
2. Director of Communications/Responsible Gaming

I. EXECUTIVE SESSION

1. Attorney-client communication
2. Background investigation reports
3. Personnel

J. OTHER BUSINESS/FURTHER COMMISSION ACTION

1. Discussion, consideration and possible action on background report items
 - a. Charles Dean Bertholf, D.V.M.
 - b. Joseph Wilcox
 - c. Patrick Hall

2. Discussion, consideration and possible action on Licenses and Positions
 - a. Anthony Race Officials
 - i. Terry Allen – Backup Clerk of Scales
 - ii. Dan Bird – General Manager
 - iii. Kevin Halsey – Kennel Master, Greyhound Starter
 - iv. Tim Horan – Director of Racing, Backup Kennel Master, Backup Chart Writer, Backup Lure Operator
 - v. Jan Jones – Chart Writer, Backup Director of Racing
 - vi. Mel Kitts – Clerk of Scales
 - vii. Allen Thomas – Backup General Manager
 - viii. Joseph Wilcox – Lure Operator/Kennel Master
 - b. Anthony Board Member
 - i. Patrick Hall

K. ADJOURNMENT

KANSAS RACING AND GAMING COMMISSION

MINUTES – JUNE 13, 2009

CALL TO ORDER:
(A.)

Vice Chair Glenn Braun called the June 13, 2009, meeting to order at 10 am in the Braden Room at Eureka Downs, 210 North Jefferson Street, Eureka, Kansas. Commissioners Braun, Falstad, McKechnie, and Schwan were present at the meeting. 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; Commission Recording Secretary Linda Pendarvis and other staff.

MOTION, APPROVE
AMENDED AGENDA:
(B.)

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

MOTION, APPROVE MAY
15, 2009, MEETING
MINUTES:
(C.)

Commissioner Falstad (Schwan) moved to approve the minutes of the May 15, 2009, commission meeting as submitted. Motion passed unanimously.

MOTION, APPROVE
CONSENT AGENDA:
(D.)

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

1. Anthony Fair Association – review and approve contracts
 - Tim Horan, *Abilene, Kansas*, employment agreement
 - Erin K. Marshall, *Lawrence, Kansas*, employment agreement
 - Rita Osborn, *Eureka, Kansas*, employment agreement
 - Tara Osborn, *Eureka, Kansas*, employment agreement
 - Gene Wilson & Associates, *Pond Creek, Oklahoma*, photofinish and video services
 - Amtote International, *Hunt Valley, Maryland*, totalisator services agreement
 - TruForm Racing Services, *Henderson, Nevada*, Horse racing program and reporting services

Motion passed unanimously.

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

The commission heard Clint Patty, attorney for Butler National Service Corp. d/b/a Boot Hill Casino and Resort. Mr. Patty provided a hand-out featuring illustrations of construction progress on the Boot Hill Casino and Resort. He reported that the casino remains on track to open in December 2009. Butler has hired a Senior Director of Finance who will be joining the company later this month.

June 13, 2009

Page 2

RACETRACK FACILITY
REPORT, EUREKA
DOWNS:
(E.2.)

The commission heard the Eureka Downs facility report from Rita Osborne, general manager.

RACETRACK FACILITY
REPORT, ANTHONY
DOWNS:
(E.3.)

The commission heard the Anthony Downs facility report from Dan Bird, general manager.

DISCUSSION, KHA
COMPLIANCE AUDIT FOR
YEAR ENDED DECEMBER
31, 2008:
(F.3.)

Brandi Baer, KRGC audit staff, presented the Kansas Horsemen's Association (KHA) audit results for the year ended December 31, 2008.

MOTION, APPROVE KHA
COMPLIANCE AUDIT FOR
YEAR ENDED DECEMBER
31, 2008:
(F.3.)

Commissioner Falstad (Schwan) moved to approve the Kansas Horsemen's Association (KHA) audit results for the year ended December 31, 2008, as presented. Motion passed unanimously.

DISCUSSION, KHA
REQUEST TO ALLOCATE
KANSAS BRED FUNDS:
(F.2.)

The commission heard Charles LaBoy present the Kansas Horsemen's Association (KHA) request to allocate residual thoroughbred Kansas Bred purse supplements that are not paid out at the Eureka and Anthony meets to thoroughbred mare and stallion awards.

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

Commissioner McKechnie (Schwan) moved to approve the request as submitted. Motion passed unanimously.

DISCUSSION, ANTHONY
DOWNS CONDITION
BOOK:
(F.3.)

The commission heard Mr. LaBoy discuss the Anthony Downs condition book. Additional discussion was heard from Mr. Bob Rodgers, president of the Kansas Quarter Horse Racing Association; Mr. Dan Bird, president of the Anthony Fair Association; and Ms. Rita Osborn, racing secretary for the Anthony Fair Association.

MOTION, ANTHONY
DOWNS CONDITION
BOOK:
(F.3.)

Commissioner Schwan (Falstad) moved to approve the Anthony Downs condition book as submitted with the additional requirement that a notice be posted in the racing secretary's office of the 70/30 split and the racing secretary be directed to inform the horsemen who enter as to that condition. Motion passed unanimously.

CALL FOR PUBLIC
COMMENTS:
(G.)

Vice-chair Braun called for public comments.

- Linda Grilz, representing TRAK Southeast
- Howard Grace, owner of The Woodlands

- Representative Bob Grant, speaking in support of TRAK Southeast
- George Wingert, representing The Ruffin Companies
- Bob Rodgers, president of KQHRA
- Diane Ransom, member of KQHRA

STAFF REPORT,
MARTINO:
(H.1.)

The commission heard a staff report from Mr. Martino.

- The Lottery Gaming Facility Review Board has scheduled its first public hearings on June 29 and 30 in Sumner County and July 1 in Wyandotte County.
- The next meeting of the commission will be on Friday, July 17, in Anthony, at 2:00 pm. The commission is invited to stay for the races, which begin at 5:30 pm.

MOTION, EXECUTIVE
SESSION:
(I.1.)

Commissioner Schwan (McKechnie) moved that the commission go into a 20-minute executive session from 11:10 am until 11:30 am for the purpose attorney-client communication. Those included in the executive session were the commission, Mr. Martino and Mr. Martin. 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 11:32 am with all members present as previously noted.

MOTION, EXECUTIVE
SESSION:
(I.2.)

Commissioner Schwan (McKechnie) moved that the commission go into a 45-minute executive session from 11:35 am until 12:20 pm for the purpose of reviewing 68 background reports. Those included in the executive session were the commission, Mr. Martino, Mr. Martin, and security staff. 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 12:30 pm with all members present as previously noted.

MOTION TO AMEND
AGENDA:

Commissioner McKechnie (Schwan) moved that the agenda be amended to reflect the following:

- Re-letter the agenda so the individuals whose names currently appear under J.2.a.ii.a-o will now appear as J.1.b.

MOTION, APPROVE
GTECH CORPORATE
BACKGROUND:
(J.1.a.)

Commissioner Falstad (Schwan) moved that the corporate background of GTECH Corporation be approved. Motion passed unanimously.

MOTION, DEFER
APPROVAL OF GTECH
EMPLOYEE
BACKGROUNDS:
(J.1.b.)

Commissioner Falstad (Schwan) moved to defer approval of the backgrounds listed under J.2.a.ii.a-o until the August 14 commission meeting.

- a) Patrick Craig Director of Operations
- b) Dennis Christian Technology Section Supervisor
- c) Marcus Collette Senior Control Room Operator
- d) Wayne Crith Computer Operator - Senior
- e) William G. Davis Field Service Technician
- f) Casey L. Fulton Computer Operator - Senior
- g) Robert L. Heptig Field Service Manager
- h) David J. Hirsch Systems Administrator
- i) Derek H. Sparks Computer Operator
- j) Bradley Steele Computer Operator - Senior
- k) Algis Valanciunas General Manager – Kansas and
Nebraska
- l) Howard E. Warner Field Service Technician
- m) Laura Wassam Computer Operator - Senior
- n) Darrell E. Wehmeier Computer Operator
- o) Donald Whisler Computer Operator

Motion passed unanimously.

MOTION, APPROVE
SPIELO MANUFACT-
URING ULC CORPORATE
BACKGROUND:
(J.1.c.)

Commissioner Falstad (McKechnie) moved to approve the corporate background report on Spielo Manufacturing ULC. Motion passed unanimously.

MOTION, APPROVE
BACKGROUND OF LUIS
C. SANCHEZ:
(J.1.d.i.)

Commissioner McKechnie (Schwan) moved to approve the background of Luis C. Sanchez. Motion passed unanimously.

MOTION, APPROVE
LICENSE OF SPIELO
MANUFACTURING ULC:
(J.2.a.i.)

Commissioner Schwan (McKechnie) moved to approve the licensure of Spielo Manufacturing ULC. Motion passed unanimously.

MOTION, APPROVE
LICENSE OF GTECH
CORPORATION:
(J.2.a.ii.)

Commissioner Falstad (Schwan) moved to approve the licensure of GTECH Corporation. Motion passed unanimously.

MOTION, APPROVE
POSITION:
(J.2.b.)

Commissioner Schwan (McKechnie) moved to approve Luis C. Sanchez as Clerk of Scales for the Greenwood County Fair Association. Motion passed unanimously.

MOTION, APPROVE
ANTHONY FAIR
ASSOCIATION RACE
OFFICIALS:
(J.2.c.i-xi)

Commissioner Schwan (Falstad) moved to approve the following Anthony Fair Association race officials:

- | | | |
|-------|---------------|--|
| i. | Terry Allen | Backup Patrol Judge |
| ii. | Beth Bird | Horsemen's Bookkeeper |
| iii. | Gary Edmonson | Paddock Judge, Identifier, Starter |
| iv. | Gary Gerber | Patrol Judge |
| v. | Tim Horan | Greyhound Racing Secretary, Backup Paddock Judge, Backup Clerk of Scales |
| vi. | Jan Jones | Clerk of Scales, Backup Greyhound Racing Secretary |
| vii. | Mel Kitts | Backup Clerk of Scales |
| viii. | Synda Kitts | Backup Horsemen's Bookkeeper |
| ix. | Erin Marshall | Mutuel Manager |
| x. | Rita Osborn | Horse Racing Secretary |
| xi. | Tara Osborn | Backup Horse Racing Secretary |

Motion passed unanimously.

ADJOURN:
(K.)

Commissioner McKechnie (Schwan) moved to adjourn at 12:40 pm. Motion passed unanimously.

SUBMITTED BY:

William Falstad
Secretary

APPROVED BY:

Carol H. Sader
Chair

KANSAS RACING AND GAMING COMMISSION

MINUTES – July 1, 2009
CONFERENCE CALL

CALL TO ORDER:
(I.) Chair Sader called the July 1, 2009, conference call meeting to order at 9 am. Commissioners Sader, Braun, Falstad, McKechnie, and Schwan were present by teleconference. Others present included Executive Director Stephen Martino, Commission Recording Secretary Linda Pendarvis and other staff.

MOTION, APPROVE
AGENDA:
(II.) Commissioner Schwan (McKechnie) moved to approve the agenda as submitted. Motion passed unanimously.

DISCUSSION, DECEMBER
5, 2008, ORDER
CONCERNING
ORGANIZATIONAL
LICENSES:
(III.) The commission had received via email, information for discussion, consideration and possible action regarding the commission's December 5, 2008, order concerning the organization licenses of The Racing Association of Kansas East; The Racing Association of Kansas Southeast; and Wichita Greyhound Charities Inc.; and the facility licenses of Kansas Racing LLC; Wichita Greyhound Park Inc. (Camptown); and Wichita Greyhound Park Inc. (Wichita)

MOTION REGARDING
ORDER CONCERNING
ORGANIZATIONAL
LICENSES:
(III.) Commissioner Braun (Falstad) moved that the commission extend the deadline in its December 5, 2008, order concerning the organization licenses of The Racing Association of Kansas East; The Racing Association of Kansas Southeast; and Wichita Greyhound Charities Inc.; and the facility licenses of Kansas Racing LLC; Wichita Greyhound Park Inc. (Camptown); and Wichita Greyhound Park Inc. (Wichita) from July 6, 2009, to July 21, 2009, and that the commission authorize the presiding officer to enter a written order accordingly. Motion passed unanimously.

EXECUTIVE DIRECTOR
STAFF REPORT:
(IV.) Mr. Martino advised that an order would be prepared today for Commissioner Braun's signature. He also reminded the commission that the next regular meeting will be held the afternoon of Friday, July 17, in Anthony (details to be provided).

ADJOURN:
(V.) Commissioner McKechnie (Braun) moved to adjourn at 9:05 am. Motion passed unanimously.

SUBMITTED BY:

William Falstad
Secretary

APPROVED BY:

Carol H. Sader
Chair

Contract Review Cover Sheet

Contract Title: Contract for parimutuel racing services

Licensee: The Anthony Fair Association

Name/Address of Other Party(ies): Gary Edmondson, 1764 120th, Eureka, Kansas 67045

Subject Matter: Horse racing starter

Contract Date: June 1, 2009

Duration: July 10 to July 19, 2009, plus additional time necessary to properly perform service

Renewal: Yes No
Changes: Yes (see attached changes) No Changes

Modification of Existing Agreement: Yes (see attached)

Executed By: Gary Edmondson and Dan Bird

Payment Terms: \$1,600 payable in full on July 19, 2009, plus motel room costs reimbursement upon presentation of statement and two hats.

Date Submitted: June 11, 2009

Submitted By: John M. Gaffney

6/2/2

CONTRACT FOR PARIMUTUEL RACING SERVICES

This contract, dated June 1, 2009, is between the herein below identified independent contractor (Contractor) and The Anthony Fair Association of Anthony, Kansas (AFA), and witnesses that the AFA has hired the services of Contractor as an independent contractor, subject to the following terms and conditions:

1. The Contractor is Gary Edmondson.
2. The services Contractor will provide are: Horse racing starter.

Contractor will furnish all equipment and materials necessary to properly perform such services, all at no cost or liability to the AFA.

Contractor will at all times perform such services in accordance with the rules and regulations of the Kansas Racing Commission.

If Contractor requires additional personnel to provide or perform such services, such additional personnel will be hired by Contractor at no cost or liability to the AFA.

3. Contractor will provide such services for the term of the AFA's 2009 parimutuel racemeet (the actual race dates being July 10, 11 and 12, 2009 and July 17, 18 and 19, 2009), including such additional periods before, between and after such actual race dates as are necessary for Contractor to properly perform such services.

4. For services properly rendered, the AFA will pay Contractor the sum of \$1,350 payable in full on July 19, 2009, plus motel room costs reimbursement upon presentation of statement.

5. Contractor is hired as an independent contractor, and the AFA does not exercise any control or direction whatsoever over the methods or means by which Contractor performs Contractor's services, the AFA's sole concern being a competent and professional end-product or result from Contractor's performance of such services. Under no circumstance is Contractor an employee of the AFA.

6. Either party may terminate this contract for any breach of any of the terms or conditions of this contract.

Neither party is liable to the other party in tort, except for the gross negligence or the willful or wanton misconduct of the tortfeasor party.

If either party is unable to perform such party's obligations under this contract, because of causes or matters beyond the non-performing party's control, such non-performing party is not liable to the other party.

7. This is a personal services contract and may not be assigned by Contractor.

8. This contract is conditioned upon its approval by the Kansas Racing Commission.

9. This contract will be construed in accordance with its plain meaning and will not be strictly construed against either party.

The Anthony Fair Association

Contractor

by Dan Bird
Dan Bird, President

Gary Edmondson
Gary Edmondson

Contract Review Cover Sheet

Contract Title: Contract for pari-mutuel racing services

Licensee: The Anthony Fair Association

Name/Address of Other Party(ies): Kevin Halsey, 3016 West 21st St. N, Wichita, KS 67203

Subject Matter: Greyhound Starter and Kennel Master

Contract Date/ Duration: June 10, 2009

Duration: July 10 to July 10, 2009, plus additional time necessary to properly perform service.

Renewal: Yes No

Changes: Yes (see attached changes) No Changes

Modification of Existing Agreement: Yes (see attached)

Executed By: Kevin Halsey and Dan Bird

Payment Terms: \$700 payable one-half on July 12, 2009 and one-half on July 19, 2009.

Date Submitted: June 12, 2009

Submitted By: Dan Bird

CONTRACT FOR PARIMUTUEL RACING SERVICES

This contract, dated June 10, 2009, is between the herein below identified independent contractor (Contractor) and The Anthony Fair Association of Anthony, Kansas (AFA), and witnesses that the AFA has hired the services of Contractor as an independent contractor, subject to the following terms and conditions:

- 1. The Contractor is: Kevin Halsey.
- 2. The service Contractor will provide: Greyhound starter and kennel master.

Contractor will furnish all equipment and materials necessary to properly perform such services, all at no cost or liability to the AFA.

Contractor will at all times perform such services in accordance with the rules and regulations of the Kansas Racing and Gaming Commission.

If Contractor requires additional personnel to provide or perform such services, such additional personnel will be hired by Contractor at no cost or liability to the AFA.

3. Contractor will provide such services for the term of the AFA's 2009 parimutuel race meet (the actual race dates being July 10, 11 and 12, 2009 and July 17, 18 and 19, 2009), including such additional periods before, between and after such actual race dates as are necessary for Contractor to properly perform such services.

4. For services properly rendered, the AFA will pay Contractor the sum of \$700, payable one-half on July 12, 2009 and one-half on July 19, 2009.

5. Contractor is hired as an independent contractor, and the AFA does not exercise any control or direction whatsoever over the methods or means by which Contractor performs Contractor's services, the AFA's sole concern being a competent and professional end-product or result from Contractor's performance of such services. Under no circumstance is Contractor an employee of the AFA.

6. Either party may terminate this contract for any breach of any of the terms or conditions of this contract.

Neither party is liable to the other party in tort, except for the gross negligence or the willful or wanton misconduct of the tortfeasor party.

If either party is unable to perform such party's obligations under this contract, because of causes or matters beyond the non-performing party's control, such non-performing party is not liable to the other party.

7. This is a personal services contract and may not be assigned by Contractor.

8. This contract is conditioned upon its approval by the Kansas Racing and Gaming Commission.

9. This contract will be construed in accordance with its plain meaning and will not be strictly construed against either party.

The Anthony Fair Association

Contractor

by Dan Bird
Dan Bird, President

[Signature]
Kevin Halsey

Kansas Racing and Gaming Commission

STAFF AGENDA MEMORANDUM

DATE OF MEETING: July 17, 2009

AGENDA ITEM: **KHA Reimbursement from Kansas Bred Program**

PRESENTER: Don Cawby, Director of Administration

ISSUE SUMMARY: The Kansas Horsemen's Association (KHA) is requesting approval and reimbursement of \$2,192.71 for expenses incurred for the operation of the Kansas Bred Program in January 2009. The expenses presented for reimbursement are consistent with expenses incurred by the KHA in the past.

The Kansas Horsemen's Association's request is subject to availability of funds.

The Commission is authorized by K.S.A. 74-8830 to "contract with and designate an official registering agency to implement the registration of horses." The Commission's contract with the KHA provides that funds shall be withdrawn from the Kansas Bred Program account only for maintaining and administering the program in accordance with the agreement and only with the prior approval of the Commission or the Commission's executive director.

COMMISSION ACTION REQUIRED/REQUESTED: Commission discussion, consideration and possible action on the request for reimbursement.

STAFF RECOMMENDATIONS: Staff recommends approval of the January 2009 operating expenses and allowing partial reimbursements with the approval of the executive director as funds become available.

June 11, 2009

Neysa Thomas
Kansas Racing Commission
700 SW Harrison
Topeka, Ks. 66603

Dear Ms. Thomas

The Kansas Horsemen's Association would like to request that the expenses for the balance of December 2008 expenses be paid and a partial payment be made on January 2009. The balance to be paid on December is \$594.03. January 2009 expenses total \$2192.71.

The money would be paid out based on the availability of funds.

Sincerely,



Garry Stwalley
Kansas Horsemen Association
Vice President

PROCESSED

2009 JUN 15 A 9 14

RECEIVED
KANSAS RACING AND
GAMING COMMISSION

	Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09	Jul-09	Aug-09	Sep-09	Oct-09	Nov-09	Dec-09	Total
Income Summary													
Total revenues	4,995.00	595.00	515.00	-	2,045.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00
Total Expenses	(5,493.97)	(2,178.74)	(1.99)	(1.85)	(2,255.00)	-	-	(2,000.00)	-	-	-	-	(2,000.00)
Net Income (Loss)	(498.97)	(1,583.74)	513.01	(1.85)	(210.00)	500.00	500.00	(1,500.00)	500.00	500.00	500.00	500.00	(1,500.00)

	Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09	Jul-09	Aug-09	Sep-09	Oct-09	Nov-09	Dec-09	Total
Cash Flow													
KS Bred checking, beginning balance	2,789.85	2,290.98	707.24	1,220.25	1,218.40	1,008.40	1,508.45	2,008.45	2,508.45	1,008.45	1,008.45	1,508.45	2,008.45
Add: Receipts	4,995.00	595.00	515.00	-	2,045.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00	500.00
Less: Distributions	(5,493.97)	(2,178.74)	(1.99)	(1.85)	(2,255.00)	-	-	(2,000.00)	-	-	-	-	(2,000.00)
KS Bred checking, ending balance	2,290.98	707.24	1,220.25	1,218.40	1,008.40	1,508.40	2,008.45	2,508.45	1,008.45	1,508.45	1,508.45	2,008.45	508.45

June 15, 2009

Carol Sader, Chairperson
Kansas Racing and Gaming Commission
700 SW 7th St, #420
Topeka, KS 66603

Dear Chairperson Sader:

The enactment of the Expanded Lottery Act in 2007 added significantly to the role played by the Kansas Racing and Gaming Commission. A key piece of this enhanced role was the need for strong oversight and control to ensure the integrity of responsible gaming options. At the time, Governor Sebelius asked the Commission to create the position of Chief Gaming Officer to lead that oversight, and Robert Krehbiel was hired to fill the position.

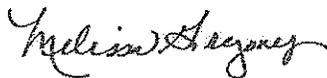
Under your leadership the Kansas Commission met the challenges of their added responsibilities and managed the many highs and lows of the industry with the changing economic landscape.

However, with the recent retirement of Robert Krehbiel, along with a significantly decreased workload and the budget situation facing all state offices, it is clear the need for one person responsible for the implementation and enforcement of the Expanded Lottery Act is no longer necessary. I would like to ask the Kansas Racing and Gaming Commission to eliminate the position of Chief Gaming Officer effective the date of this letter.

As you know, Sally Howard in the Governor's office stepped up to assume the responsibility of Chief Gaming Officer when Krehbiel retired. Sally will remain the key policy person for gaming for Governor Parkinson.

Thank you for your consideration of this request.

Sincerely,



Melissa Gregory
Director of Appointments

Cc: Governor Mark Parkinson
Lieutenant Governor Troy Findley
Sally Howard, Chief Counsel

Kansas Racing and Gaming Commission

STAFF AGENDA MEMORANDUM

DATE OF MEETING: July 17, 2009

AGENDA ITEM: **Elimination of the Position of Chief Gaming Officer.**

PRESENTER: Stephen Martino, Executive Director

ISSUE SUMMARY: The governor's office, through its appointments secretary, has requested, effective June 15, 2009, that the commission eliminates the position of chief gaming officer. The reasons for doing so are set forth in the letter, which is part of this agenda packet.

COMMISSION ACTION REQUIRED/REQUESTED: Eliminate the position of chief gaming officer.

STAFF RECOMMENDATIONS: There is no staff recommendation.

Kansas Racing and Gaming Commission

STAFF AGENDA MEMORANDUM

DATE OF MEETING: July 17, 2009

AGENDA ITEM: **Final approval of gaming article 112-102-1, *et seq.*, regarding Gaming and Non-Gaming Suppliers**

PRESENTER: Patrick D. Martin, Assistant Attorney General

ISSUE SUMMARY: On March 13, the Commission gave its final approval of seven articles of gaming regulations and two parimutuel regulations. All but one regulation in Article 102 was then set for approval. At that meeting, the Commission deferred action on Article 102 so that staff could investigate the need for any changes that were not raised in this article's public comment period. Staff completed that investigation and has now made non-substantive changes.

Legally, Article 102 fits within the Expanded Lottery Act's requirement that the Commission adopt "such rules and regulations as the commission deems necessary to carry out the duties and functions of the commission pursuant to Kansas expanded lottery act." K.S.A. 74-8772. Moreover, the Commission is required to establish "a certification requirement, and enforcement procedure, for those persons, including electronic gaming machine manufacturers, technology providers, and computer system providers, who propose to contract with a lottery gaming facility manager, a racetrack gaming facility manager or the state for the provision of goods or services related to a lottery gaming facility or racetrack gaming facility, including management services." *Id.* at (b). This article complies with those general and specific statutory requirements.

All of these regulations have followed the rigorous process involved in creating permanent regulations. That is, these regulations have been reviewed by the KRGC staff and consultants, the Department of Administration, the Attorney General's office, the Joint Committee on Administrative Rules and Regulations, and members of the regulated community. Suggested revisions from each entity have been adopted into the current sets of regulations.

COMMISSION ACTION REQUIRED/REQUESTED: Staff asks the Commission to conduct a **roll call vote** to approve K.A.R. 112-102-1, *et seq.*

STAFF RECOMMENDATIONS: Staff recommends approval of the article.

112-102-1. Prohibition against uncertified business. No person identified in K.A.R. 112-102-2 as a gaming or non-gaming supplier may provide any equipment or services to a gaming facility or manager unless the person is certified by the commission with a current gaming supplier certificate, non-gaming supplier certificate, or temporary supplier permit. (Authorized by and implementing K.S.A. 2008 Supp. 74-8751 and 74-8772; effective P-_____.)

ATTORNEY GENERAL

**FEB 11 2009
APPROVED
MF**

DEPT. OF ADMINISTRATION

FEB 09 2009

APPROVED

112-102-2. Gaming supplier and non-gaming supplier defined. (a) Each person that performs one or more of the following shall be considered a gaming supplier:

(1) Manufactures, sells, leases, supplies, or distributes devices, machines, equipment, accessories, or items that meet at least one of the following conditions:

- (A) Are designed for use in a gaming facility;
- (B) are needed to carry out a lottery facility game;
- (C) have the capacity to affect the result of the play of a lottery facility game;

or

(D) have the capacity to affect the calculation, storage, collection, or control of the revenues from a gaming facility;

(2) provides maintenance services or repairs gaming equipment, including slot machines;

(3) provides services directly related to the management or administration of a gaming facility;

(4) provides junket services; or

(5) provides items or services that the commission has determined are used in or are incidental to gaming or to an activity of a gaming facility.

(b) Any person that is not a gaming supplier but otherwise meets one or more of the following may be considered a non-gaming supplier:

(1) Acts as a manager of an ancillary lottery gaming facility;

(2) is not a public utility and provides goods or services to a facility manager

ATTORNEY GENERAL

DEPT. OF ADMINISTRATION

JUN 18 2009

JUN 09 2009

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APPROVED b (2 of 15)

or ancillary lottery gaming facility in an amount of \$100,000 or more within a one-year period; or

(3) provides goods or services to a gaming facility and could present a security, integrity, or safety concern to the gaming operations as determined by the executive director. (Authorized by and implementing K.S.A. 2008 Supp. 74-8751 and 74-8772; effective P-_____.)

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JUN 18 2009

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DEPT. OF ADMINISTRATION

JUN 09 2009

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112-102-3. Gaming and non-gaming supplier employees. Any employee or agent of a gaming or non-gaming supplier may be required by the commission to be separately investigated or licensed. (Authorized by and implementing K.S.A. 2007 Supp. 74-8772; effective P-_____.)

ATTORNEY GENERAL
OCT 20 2008
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OCT 16 2008
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112-102-4. Application for a certificate. Each person that does not qualify for reciprocal certification under K.S.A. 74-8751(b), and amendments thereto, and any directives of the executive director and is seeking a gaming supplier certificate or a non-gaming supplier certificate shall submit the following to the commission staff:

- (a) A completed application for the certificate on a commission-approved form;
- (b) any supporting documents;
- (c) a copy of the applicant's contractual agreement or statement of intent with a facility manager that the applicant expects to be supplying its goods or services. As a part of that contract or statement of intent, the applicant shall describe any arrangement it has made with the facility manager to cover the fees and costs incurred by the commission in performing the background investigation of the applicant pursuant to K.A.R. 112-102-7; and
- (d) any other information that the commission deems necessary for investigating or considering the applicant. (Authorized by and implementing K.S.A. 2008 Supp. 74-8751; effective P-_____.)

ATTORNEY GENERAL

JUN 18 2009

APPROVED
MF

DEPT. OF ADMINISTRATION

JUN 15 2009

APPROVED F.3.b (5 of 15)

112-102-5. Temporary supplier permit. (a) The commission staff may issue a temporary supplier permit if all of the following conditions are met:

(1) The commission staff determines that the applicant has filed a completed application for a gaming or non-gaming supplier certificate.

(2) The applicant has no immediately known present or prior activities, criminal records, reputation, habits, or associations that meet either of these conditions:

(A) Pose a threat to the public interest or to the effective regulation of gaming;
or

(B) create or enhance the dangers of unfair or illegal practices in the conduct of gaming.

(3) The applicant has completed a supplier-sponsored agreement with each gaming facility that the applicant proposes to conduct business with.

(b) A temporary supplier permit may be issued for a period not to exceed 90 days. Any temporary supplier permit may be extended by the commission's licensing staff for an additional 90 days.

(c) The issuance of a temporary supplier permit shall not extend the duration of the gaming or non-gaming supplier certificate for which the applicant has applied.

(Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective P-
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DEPT. OF ADMINISTRATION

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112-102-6. Affirmative duty to demonstrate qualifications. Each applicant for a certificate as a gaming supplier or non-gaming supplier shall have an affirmative duty to the commission to demonstrate that the applicant, including the applicant's directors, officers, stockholders, and principal employees and any persons deemed necessary by the executive director because of that person's relationship to the applicant, is qualified for certification. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective P-_____.)

ATTORNEY GENERAL

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DEPT. OF ADMINISTRATION

AUG 15 2008

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112-102-7. Background investigations. (a) Each applicant and each person whom the executive director deems to have a material relationship to the applicant, including officers, directors, key gaming employees, and any persons known to directly or indirectly own an interest of at least 0.5% in the applicant, shall submit to a background investigation conducted by the commission's director of security or other person designated by the executive director.

For purposes of this regulation, a material relationship shall mean a relationship in which a person participates in the business decisions or finances of the applicant or can exhibit control over the applicant, as determined by the executive director.

(b) To determine the known owners as required in subsection (a), each applicant or certificate holder that is a publicly traded company or is owned by a publicly traded company shall rely on the publicly traded company's most recent annual certified shareholder list.

(c) Each applicant or certificate holder shall identify any passive investing company that owns between 0.5% and 10% as a candidate for completing a commission-approved institutional investor background form. (Authorized by and implementing K.S.A. 2008 Supp. 74-8751 and 74-8772; effective P-_____.)

ATTORNEY GENERAL

JUN 18 2009

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DEPT. OF ADMINISTRATION

JUN 16 2009

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112-102-8. Disqualification criteria. (a) A certificate shall be denied or revoked by the commission if the applicant or certificate holder has been convicted of any felony, crime involving gambling, or crime of moral turpitude.

(b) A certificate may be denied, suspended, or revoked by the commission, and a certificate holder may be sanctioned by the commission under K.A.R. 112-113-1 if the certificate holder or its officers, directors, key gaming employees, or any person known to directly or indirectly own an interest of at least 0.5% in the applicant meets any of the following conditions:

- (1) Has knowingly provided false or misleading material information through its employees to the commission or commission staff;
- (2) fails to notify the commission staff about a material change in the application within 11 days;
- (3) has violated any provision of the act or any regulation adopted under the act;
- (4) has failed to meet any monetary or tax obligation to the federal government or to any state or local government;
- (5) is financially delinquent to any third party;
- (6) has failed to provide information or documentation requested in writing by the commission in a timely manner;
- (7) does not consent to or cooperate with investigations, inspections, searches, or having photographs and fingerprints taken for investigative purposes;

ATTORNEY GENERAL

DEPT. OF ADMINISTRATION

OCT 20 2008

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APPROVED F.3.b (9 of 15)

- (8) has failed to meet the requirements of K.A.R. 112-102-6;
- (9) has any officers, directors, key gaming employees, or any person known to directly or indirectly own an interest of at least 0.5% in the applicant that has any present or prior activities, criminal records, reputation, habits, or associations meeting either of the following criteria:
- (A) Pose a threat to the public interest or to the effective regulation of gaming;
- or
- (B) create or enhance the dangers of unfair or illegal practices in the conduct of gaming; or
- (10) has violated any contract with the Kansas lottery. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective P-_____.)

ATTORNEY GENERAL

OCT 20 2008

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DEPT. OF ADMINISTRATION

AUG 15 2008

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112-102-9. Certificate duration. Each certificate for a gaming supplier or non-gaming supplier shall be issued by the commission for no longer than two years and one month. Each certificate shall expire on the last day of the month of the anniversary date of issue. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751; effective P-_____.)

ATTORNEY GENERAL

OCT 20 2008

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DEPT. OF ADMINISTRATION

OCT 16 2008

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112-102-10. Certificate renewal application. Each renewal application for a gaming or non-gaming supplier certificate shall be filed with the commission staff at least 120 days before the expiration date of the license. Each certificate holder shall submit the renewal application on a commission-approved form along with any supporting documents. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751; effective P-_____.)

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DEPT. OF ADMINISTRATION

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112-102-11. Change in ownership. (a) Each change in either of the following shall be sufficient cause for revoking any certificate or temporary permit granted by the commission:

(1) The ownership of the applicant or the holder of a gaming supplier or non-gaming supplier certificate; or

(2) the ownership of any holding or intermediary company of the applicant or certificate holder, unless the holding or intermediary company is a publicly traded corporation.

(b) Each proposed new owner shall submit to the commission an application for initial certification as a gaming supplier or non-gaming supplier and all supporting material. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective P-_____.)

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DEPT. OF ADMINISTRATION

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APPROVED F.3.b (13 of 15)

112-102-12. Certificates, temporary supplier permits, and badges to be commission property. (a) Each gaming supplier certificate, non-gaming supplier certificate, temporary supplier permit, and badge issued by the commission shall be the property of the commission.

(b) Possession of a certificate, temporary supplier permit, or badge shall not confer any right upon the certificate holder or temporary permittee to contract with or work for a gaming facility.

(c) Each certificate holder or temporary permittee shall return that person's certificate or temporary supplier permit and each badge in that person's possession to commission staff no later than one day after the certificate holder's or temporary supplier permit holder's business is terminated. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective P-_____.)

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112-102-13. Records. (a) Each gaming supplier and each non-gaming supplier certified by the commission shall maintain that supplier's business records in a place secure against loss and destruction. Each certificate holder shall make these records available to the commission upon the commission's request. The records shall include the following:

- (1) Any correspondence with the commission and any other governmental agencies;
- (2) any correspondence related to the business with a gaming facility, whether proposed or existing;
- (3) a copy of any publicity and promotional materials;
- (4) the personnel files for every employee of the certified gaming supplier or non-gaming supplier, including sales representatives; and
- (5) the financial records for all the transactions related to the certificate holder's business with a gaming facility, whether proposed or existing.

(b) Each certificate holder shall keep the records listed in subsection (a) for at least five years from the date of creation. (Authorized by and implementing K.S.A. 2007 Supp. 74-8751 and 74-8772; effective P-_____.)

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Kansas Racing and Gaming Commission

STAFF AGENDA MEMORANDUM

DATE OF MEETING: July 17, 2009

AGENDA ITEM: **Appointment of a Commission designee for approving non-conflicting employment opportunities**

PRESENTER: Patrick D. Martin, Assistant Attorney General

ISSUE SUMMARY: The KRGC's Code of Conduct prohibits employees and Commission members from engaging in conflicting employment. On the other hand, KRGC employees and members may engage in other employment so long as the other employment: (1) does not conflict with their KRGC duties; (2) is disclosed to the Executive Director; and (3) is "approved by the Commission or its designee." *Id.* §4(a). In full, Code § 4(a) states that:

Commission members, employees and agents must not hold or pursue employment, office, position, business or occupation that may conflict with the Commission member, employee or agent's official duties. Commission members, employees and agents may engage in other employment so long as it does not interfere or conflict with their duties, provided that such employment is disclosed to the Executive Director of the Commission and approved by the Commission or its designee.

The KRGC has not previously designated someone to consider these "other employment" situations, though other opportunities for KRGC employees have arisen from time to time. If the Commission is inclined to name a designee, there are a few possible candidates including the KRGC Chair, Vice Chair, or Assistant Attorney General.

COMMISSION ACTION REQUIRED/REQUESTED: Staff asks the Commission to establish a standing order appointing a designee to consider "other employment" situations.

STAFF RECOMMENDATIONS: Staff recommends appointing a designee.

July 2009 - June 2010

Commission Planner

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JULY

17 Commission Meeting in Anthony

AUGUST

14 Commission Meeting

SEPTEMBER

11 Commission Meeting

OCTOBER

8 Commission Meeting

NOVEMBER

13 Commission Meeting (Tentatively in Dodge City)

DECEMBER

11 Commission Meeting

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