

# Minutes of the Meeting Held on Thursday, Oct. 20, 2011

1. The meeting was called to order by Chairman Robert K. Schmitz at 10:00 am in Conference Room South B & C, 31st Floor, 77 South High St., Columbus, Ohio, pursuant to due notice.
2. Roll call. The following Commissioners were determined to be present: Todd Book, William Koester and B.J. Roach.
3. Approval of the minutes from the meeting held on September 15, 2011. Motion by Commissioner Book, second by Commissioner Roach, unanimously approved.
4. Advisory opinion issued by the Ohio Ethics Commission. Assistant attorney general Vivian Tate explained details of a communication from the Ohio Ethics Commission dated Sept. 30, 2011. The communication contained responses to questions posed by the Ohio State Racing Commission.

## 5. Executive Director's Report:

### A. Beulah Park

1. In a communication dated September 14, 2011, a request to move the live racing program for quarter horses from Monday, October 17, 2011, to Tuesday, October 18, 2011. The change was sought by the Ohio Quarter Horse Racing Association. Motion by Commissioner Roach, second by Commissioner Koester, unanimously approved.
2. In a letter dated September 15, 2011, a request to drop Pick 3 wagering on race 1 and on either race 4 or 5 (depending on how many races are scheduled); add a Pick 5 wager (with a 75% carryover) on either race 4 or 5; reduce the minimum on Pick 3, Pick 4, Pick 5 and Trifecta wagers to fifty cents; and reduce the takeout for Pick 3, Pick 4 and Pick 5 wagers to 15.00%. This was approved subject to ratification by the commission. Motion by Commissioner Roach, second by Commissioner Koester, unanimously approved.
3. In a letter dated September 30, 2011, a request to move post time on Breeder's Cup day, Saturday, November 5, 2011, from 1:15 pm to 1:05 pm. Motion by Commissioner Book, second by Commissioner Koester, unanimously approved.
4. In a communication dated October 14, 2011, a request to permit Gary Stewart to replace Rob Fairholm as the horse identifier beginning on October 15, 2011. This was approved subject to ratification by the commission. Motion by Commissioner Book, second by Commissioner Roach, unanimously approved.

### B. River Downs

1. In a communication dated September 27, 2011, a request to treat the Breeders Cup programs scheduled on Friday, November 4, 2011, and Saturday, November 5, 2011, as special events. The request has the support of the Ohio Horsemen's Benevolent & Protective Association. Motion by Commissioner Roach, second by Commissioner Book, unanimously approved.

### C. Thistledown

1. In a letter dated October 3, 2011, request to change the wagering format by eliminating the Fortune 6 wager after a mandatory payout on Thursday, October 6, 2011. This was approved subject to ratification by the commission. Motion by Commissioner Koester, second by Commissioner Roach, unanimously approved.

### D. Lebanon Raceway

1. In a communication dated October 10, 2011, a request to permit Becky Shindeldecker to serve as starter for the qualifying races conducted on October 11, 2011. This was approved subject to ratification by the commission. Motion by Commissioner Roach, second by Commissioner Koester, unanimously approved.
2. In a communication dated October 13, 2011, a request to permit Paul Combs to serve

as associate judge during the live racing program on October 15, 2011. This was approved subject to ratification by the commission. Motion by Commissioner Roach, second by Commissioner Koester, unanimously approved.

6. Approval of the host, guest and additional simulcast product for November. Motion by Commissioner Book to approve the submissions by Beulah Park, River Downs, Thistledown, Lebanon Raceway, Northfield Park, Northfield Park on behalf of Cedar Downs, and Raceway Park. Second by Commissioner Koester, unanimously approved.

7. Request for the expenditure of fine money:

- a. **Thistledown:** In a communication dated September 19, 2011, a request for the expenditure of \$2,000 to pay for a lunch for horsemen on October 31, 2011. Motion by Commissioner Koester, second by Commissioner Book, unanimously approved.
- b. **Lebanon Raceway:** In a communication dated October 13, 2011, a request for the expenditures of \$1,000 for a cookout for horsemen on November 5, 2011; \$1,500 for a Thanksgiving dinner for horsemen on November 23, 2011; and \$1,500 for a Christmas dinner for horsemen on December 15, 2011. Motion by Commissioner Koester, second by Commissioner Book, unanimously approved.

8. Hearing Officer's Report and Recommendation:

- a. **Enzo Canelo:** Mr. Canelo was present. Assistant Attorney General Vivian Tate summarized the Hearing Officer's Report and Recommendation related to medication violations resulting from races at Beulah Park on February 5, 2011 and on March 29, 2011. Motion by Commissioner Koester to accept the Hearing Officer's Report and Recommendation and for the suspension of all licenses held by Mr. Canelo to begin on November 5, 2011. Mr. Canelo would receive a fifteen-day suspension for the first violation and thirty days for the second. He shall return the purse money won in each race. He shall pay fines of \$250 for the first violation and \$500 for the second. He will also be assessed the cost of the hearing. Second by Commissioner Book, unanimously approved.
- b. **Jose Corrales:** Mr. Corrales was not present. Assistant Attorney General Vivian Tate summarized the Hearing Officer's Report and Recommendation resulting from a race at Beulah Park on May 7, 2011. Motion by Commissioner Roach to accept the Hearing Officer's Report and Recommendation. Mr. Corrales shall return the purse money won and be assessed the cost of the hearing. Second by Commissioner Koester, unanimously approved.

9. Monthly Financial Report: This report was presented by Fiscal Officer Sherry White.

10. Compliance Report: This report was presented by Chief Investigator Steve Zaper.

11. Committee Reports: There were none.

12. Chairman's Comment: Mr. Schmitz announced that after new business was transacted, the meeting would be recessed at that time until 2:00 pm. The commission is waiting for an executive order from the governor to promulgate emergency rules that result from the passage of House Bill 277. Provided that the executive order is forthcoming by 2:00 pm, the emergency rules will be made public at that time and will have a life of 90 days. During the 90 days, those rules will go through the Chapter 119 rule-making process.

Chairman Schmitz also said Ohio lost one of its great patriarchs, Gene Riegler, this week. He asked for a moment of silence for Mr. Riegler.

13. Public Comment: There were none.

**Old Business:** None

**New Business:** None

At approximately 11:05 am, a motion to recess by Commissioner Book, second by Commissioner Koester, unanimously approved. .

At 2:00 pm the meeting resumed.

- 14.** Rules related to the passage of House Bill 277. A letter from Commissioner Book (attached as Exhibit A) was read into the record by Mr. Crawford. The letter stated that Mr. Book would refrain from participating in the matter at hand due to a conflict of interest. Chairman Schmitz said the governor has delivered to the commission an executive order (attached as Exhibit B) that permits the adoption of emergency rules 3769.20.01, 3769.20.02, 3769.20.03, and 3769.20.04. Having possession of this signed executive order, he asked for a motion of approval. Upon motion by Commissioner Roach, second by Commissioner Koester, unanimously approved.
- 15.** Executive Session: There was none.

A motion to adjourn by Commissioner Koester, second by Commissioner Roach, unanimously approved.

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Date, Time & Place of Next Meeting:  
**Thursday, November 21, 2011 at 10:00 a.m.**  
**77 South High St., Columbus, Ohio**  
**31st Floor, Room West B & C**

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Exhibit A

HARCHA BOOK & BECK, LLC  
ATTORNEYS AT LAW  
800 GALLIA STREET, SUITE 800  
PORTSMOUTH, OHIO 45662  
TELEPHONE 740-353-3113  
FAX 740-353-5561

HOWARD H. HARCHA, JR. (RETIRED)  
THOMAS T. BOOK  
DAVID B. BECK

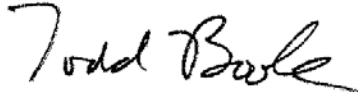
October 20, 2011

Ohio Racing Commission  
77 South High Street  
Columbus Ohio, 43215

Chairman Robert K. Schmitz,

Be advised it is necessary for me to recuse myself from this afternoon's meeting due to a conflict of interest.

Thank you for your consideration in this matter.



Todd Book

## Exhibit B



JOHN R. KASICH  
GOVERNOR  
STATE OF OHIO

### **Executive Order 2011-23K**

The Emergency Adoption of Rules 3769-20-01, 3769-20-02, 3769-20-03 and 3769-20-04 of the Ohio Administrative Code by the Ohio State Racing Commission

**WHEREAS**, the horse racing industry in Ohio generates approximately \$730 million annually in economic benefits to the State, including job creation, contributions to the PASSPORT program created under Section 173.40 of the Ohio Revised Code, and support of programs and activities that advance sustainable agriculture.

**WHEREAS**, the implementation of video lottery terminals at commercial race tracks, where live horse racing and simulcasting are conducted in accordance with Chapter 3769 of the Ohio Revised Code, at the earliest opportunity will (1) increase revenue to the equine industry within Ohio and to the lottery education fund, (2) spur economic development, and (3) generate employment and resultant revenue to state and local governments.

**WHEREAS**, the Ohio State Racing Commission wishes to immediately adopt rules that authorize permit holders who operate a commercial race track where live horse racing and simulcasting are conducted in accordance with Chapter 3769 of the Ohio Revised Code ("Permit Holders") (1) to be eligible to become a video lottery sales agent, and/or (2) the ability to relocate tracks, in order to: (i) capture revenue for the State; (ii) advance economic development in the State; and (iii) generate employment opportunities for the welfare of the citizens of the State which would otherwise be foregone.

**WHEREAS**, Section 3 of Substitute House Bill Number 277 of the 129<sup>th</sup> General Assembly (H.B. 277) authorizes the Ohio State Racing Commission to promulgate rules in accordance with Chapter 119 of the Ohio Revised Code that govern the ability of Permit Holders to be eligible to become a video lottery sales agent and/or relocate racetracks.

**WHEREAS**, Section 119.03(F) of the Ohio Revised Code authorizes the Governor, on the request of a state agency, to suspend the normal rule making procedures with respect to specific rules when an emergency exists necessitating the immediate adoption, amendment, or rescission of such rules. When such a determination is made, the agency may immediately adopt, amend, or rescind such rules, but the rules are only valid for ninety (90) days.

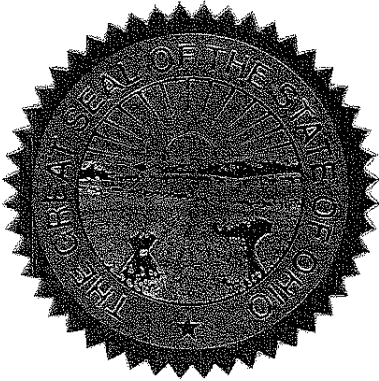
**WHEREAS**, the Ohio State Racing Commission has requested a determination whether an emergency exists that requires the immediate adoption of Rules 3769-20-01, 3769-20-02, 3769-20-03 and 3769-20-04 of the Ohio Administrative Code in order for the Ohio State Racing Commission, pursuant to Section 3 of H.B. 277, to immediately adopt rules necessary to govern

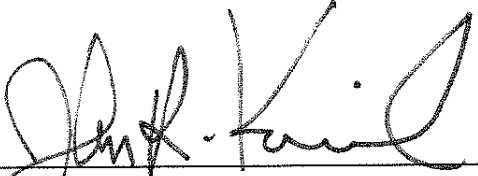
the ability of Permit Holders to be eligible to become a video lottery sales agent and/or relocate racetracks.

**NOW THEREFORE**, I, John R. Kasich, Governor of the State of Ohio, have determined, upon the request of the Ohio State Racing Commission, that an emergency exists requiring the immediate adoption of Rules 3769-20-01, 3769-20-02, 3769-20-03 and 3769-20-04 of the Ohio Administrative Code by the Ohio State Racing Commission. Further, I hereby order that the procedures prescribed by Section 119.03 of the Ohio Revised Code with respect to the adoption of such specified rules be suspended and the Ohio State Racing Commission be permitted to immediately adopt these rules by electronically filing them with the Secretary of State, the Director of the Legislative Service Commission, and the Joint Committee on Agency Rule Review.

Further, I hereby order that this Executive Order be filed in electronic form with the Ohio State Racing Commission, the Secretary of State, the Director of the Legislative Service Commission, and the Joint Committee on Agency Rule Review.

I signed this Executive Order on October 20, 2011 in Columbus, Ohio, and it will expire at the end of the ninetieth day it is in effect.



  
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John R. Kasich, Governor