



June 21, 2021

Michelle Lujan Grisham
Governor
Jeremy J. Romero
Chairman

TO: New Mexico Racetrack Gaming Operator Licensees, Via Email and Website Publication

Re: Notice of Racetrack Casino Operator Compliance Required with the New Mexico Racing Commission (NMRC) Decision May 20, 2021, regarding the Distribution of Purse Monies to the New Mexico Horsemen's Association (NMHA) and to a Political Action Committee (PAC).

Dear Racetrack Gaming Operator Licensees:

It has come to the Gaming Control Board's attention that there may be a past practice of Racetrack Casino Operators to deduct from purse monies, which are allocated by the Gaming Control Act to horsemen entrants only, a 1% fee of gross purse monies a \$5.00 starter fee and a \$2.00 PAC fee per horseman entrant, all of which fees are paid to the New Mexico Horsemen's Association (NMHA). This practice must cease immediately, if it has not already. As I understand it, Racetrack Casino Operators expressed general support to the New Mexico Racing Commission decision on May 20, 2021, to end this practice to the extent it has existed statewide among racetrack licensees.

You are hereby directed by the Gaming Control Board (GCB) to cease any such practice of deducting any fees from the 20% of gaming net take that is to be only allocated to the horsemen race entrants pursuant to the Gaming Control Act, NMSA 1978, Sec. 60-2E-47(E), and in conformance with the decision of the NMRC dated May 20, 2021, and as set forth in the Order dated June 10, 2021, attached hereto.

The Board advises that you keep informed of related decisions by the New Mexico Racing Commission. The GCB Audit & Compliance Division will be requesting to examine your Racetrack Gaming Operator records to ensure compliance with the statutorily mandated 20% distribution of gaming net take to horsemen's purse monies only. Also, please feel free to contact me at (505) 841-9700 or Janice.Maniaci@state.nm.us if you have any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "Janice Y. Maniaci".

Janice Y. Maniaci, Executive Director

Attachments: Decision and Order of the New Mexico Racing Commission, filed June 10, 2021.

cc: New Mexico Horsemen's Association
GCB Audit Division, Enforcement Division, Licensing Division, and Legal Division

4900 Alameda Blvd. NE, Albuquerque, NM 87113
Phone 505.841.9700 Fax 505.841.9725



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STATE OF NEW MEXICO
RACING COMMISSION



NEW MEXICO RACING COMMISSION

Michelle Lujan Grisham
Governor

Sam Bregman
Chairman

David "Hossie" Sanchez
Vice-Chairman

John Buffington
Commissioner

Billy Smith
Commissioner

ISMAEL "IZZY" TREJO
Executive Director

ORDER

IN THE MATTER OF THE RECEIPT BY THE NEW MEXICO HORSEMEN'S ASSOCIATION OF THE ONE PERCENT (1%) PURSE DIVERSION, \$5.00 STARTER FEE AND \$2.00 PAC FEE
2021-COMM-11

THIS MATTER having been included on the published agenda for the May 20, 2021, public meeting of the State of New Mexico Racing Commission (hereinafter "the Commission") and due consideration on the issue having been given, the Commission **FINDS** and **CONCLUDES** the following:

1. The State of New Mexico Legislature has given the Commission a mandate and broad authority to regulate and oversee both the state's horse racing industry and its participants as set forth in the "Horse Racing Act", NMSA 1978, Sections 60-1A-1 through 60-1A-30;

2. The Legislature has empowered the Commission with the mandatory and important responsibility to "regulate the size of the purses to be offered at horse races run in the state." *See* NMSA 1978, § 60-1A-4(B)(9);

3. In the “Gaming Control Act”, NMSA Sections 60-2E-1 through 60-2E-62, the State of New Mexico Legislature has mandated that “[i]n addition to the gaming tax, a gaming operator license that is a racetrack shall pay twenty percent of its net take to purses to be distributed in accordance with rules adopted by the state racing commission.” *See* NMSA 1978, § 60-2E-47(E);

4. In furtherance of its mandatory Legislative responsibility to regulate purses, the Commission has defined “purse” as “the total cash amount for which a race is contested whether paid at the time of the race or at a future date.” *See* 15.2.1.7(P)(19) NMAC;

5. The One Percent (1%) Purse Diversion, \$5.00 Starter Fee, and the \$2.00 PAC (Political Action Committee) Fee are all received by the New Mexico Horsemen’s Association which describes itself as a not-for-profit corporation associated with horse racing in New Mexico;

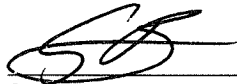
6. Nowhere in either the current statutory “Horse Racing Act” or the administrative rules pertaining to the regulation of the horse racing industry by the Commission is there authority addressing or permitting the diversion of gaming tax funds, *see* Section 60-2E-47(E), to the New Mexico Horsemen’s Association for either the One Percent (1%) Purse Diversion, \$5.00 Starter Fee, or the \$2.00 PAC Fee;

7. In its statutory mandate to regulate purses, *see* Section 60-1A-4(B)(9), the Commission throughout its history has never addressed or approved the diversion of gaming tax monies, *see* Section 60-2E-47(E), away from purses and to the New Mexico Horsemen’s Association, essentially a private, not for profit corporation;

8. In response to the foregoing and in furtherance of its regulatory duties, the Commission, at its May 20, 2021, public meeting entertained and unanimously passed a Motion prohibiting the New Mexico Horsemen’s Association from continuing to take from gaming tax revenue

legislatively mandated solely for purses the One Percent (1%) Purse Diversion, \$5.00 Starter Fee, and \$2.00 PAC Fee for that organization's use.

THEREFORE, given the total absence of statutory or administrative rule authority allowing for such diversions, the Commission's responsibility to ensure all relevant laws are followed and applied correctly and that the Legislature's mandates and intentions are properly carried out and adhered to by both the Commission and those individuals, organizations and entities it regulates, the Commission's decision is to take effect immediately. The New Mexico Horsemen's Association and all five (5) racetracks in New Mexico are hereby **ORDERED** to take all action necessary to stop all processes in place by which the One Percent (1%) Purse Diversion, \$5.00 Starter Fee, and \$2.00 PAC Fee is transferred to and/or collected by the New Mexico Horsemen's Association.



Sam Bregman
Chairman
State of New Mexico Racing Commission