

Unidentified Male: New York State Racing Power Mutual Wagering _____ [00:00:02]
Section 102 provides that the New York State Gaming Commission shall
consist of seven members appointed by the Governor with the advice and
consent of the Senate. Floor [?] members confirmed by the New York
State Senate are necessary before the commission _____ [00:00:16] to
establish a form and _____ [00:00:17] take action. This present meeting of
the commission is now called to order. Ms. Secretary, please call the roll.

Unidentified Female: John Crotty [ph].

John Crotty: here.

Unidentified Female: Peter Machety [ph].

Peter Machety: Here.

Unidentified Female: John Baclemba [ph].

John Baclemba: Here.

Unidentified Female: Barry Sample [ph].

Barry Sample: Here.

Unidentified Female: Jerry Scurnick [ph].

Jerry Scurnick: Here.

Unidentified Female: Todd Snyder [ph].

Todd Snyder: Here.

Unidentified Male: Ms. Secretary, please have the record reflect that a _____ [00:00:50] of
qualified members is present thus enabling transaction of business. _____
[00:00:55] Sample.

Unidentified Male: _____ [00:00:55] of the commission being conducted on March 26, 2018,
have been provided to the members in advance. At this time I'd like to ask
members if there are any edits, corrections, or amendments? No. May I
have a motion to approve the minutes?

Unidentified Male: So moved.

Unidentified Male: So moved.

Unidentified Male: Second?

Unidentified Male: Second.

Unidentified Male: Thank you. Next on the agenda is the acting executive director's report, Ron.

Ron: Thank you Mr. Chairman. I'd like to address two items. First to touch upon the United States Supreme Court's decision on Murphy BNCAA [?] regarding sports betting and second, the upcoming Belmont Stakes [?]. As I am certain you are all aware, this past week the Supreme Court ruled that provisions of the Professional and Amateur Sports Protection Act violated constitutional principles limiting the federal government from controlling _____ [00:01:45] policies by unconstitutionally forcing states to prohibit sports betting under their own laws.

As we have previously discussed, New York law contains a sports wagering provision that can become effective upon a ruling of a court of competent jurisdiction. That such activity is lawful. The Supreme Court's decision appears to have triggered this provision. As a side note, commission staff have long been working on regulations that would effectuate sports gambling under the existing statutory language.

Staff anticipates being able to provide a draft for your review in the near term. With respect to the Belmont Stakes, I'm certain you are all aware a race is scheduled to be conducted on June 9th at Belmont Park. What justifies victory in the _____ [00:02:29] stakes on Saturday, the Belmont will host the 35th horse attempting to become a triple crown winner. Justify has New York connections.

The partnership that owns the horse includes Heads of Plains Partners and Starlike Racing. Starlike Racing is operated by Saratoga Springs resident Jacelyn Lori Wolf [ph] by Heads of Plains Partners operated by New York City _____ [00:02:51]. In addition to the possibility of the 13th crown being won, the Belmont Stakes _____ [00:02:57] includes perhaps the best day of racing outside of the Breeders' Cup.

No less than nine _____ [00:03:02] stake racing will be contested including six grade one's and three grade two races. The grade one races are the Acorn, the 150th [?] running of the Belmont Stakes, the _____ [00:03:13] Just a Game, the _____ [00:03:15] the _____ [00:03:16]

Metropolitan Handicap, and the Wilford Reserve Manhattan Handicap [?]. The grade two races are the Brooklyn _____ [00:03:23], the _____ [00:03:24] Invitational [?] and the Woody Stevens [?] presented by Mohegan Son.

Three of the grade one races, the Belmont, Metropolitan, and Manhattan have _____ [00:03:33] of at least \$1 million, which triggers the Commission's additional security protocols. Which include a dedicated horse watch, _____ [00:03:41] competition blood sampling, treatment monitoring, and daily posting of veterinarian records. Thank you.

Unidentified Male: Thank you. And we have two rule making items for today. New York State Racing Paramutual Wagering and Breeding Law authorizes the Commission to promulgate rules and regulations that it deems necessary to carry out its responsibilities. In that regard the Commission from time to time will promulgate rules and amendments pursuant to the state administrative procedure act. We have two items for consideration today. And, Ron, will you please outline the items.

Ron: Yes, sir. For Commission consideration, our proposed amendments to previously considered casino licensing regulations. These proposed amendments follow the _____ [00:04:24] of the public common _____ [00:04:25] wherein Rivers Casino and Resort suggested several refinements. Staff evaluated the River's comments, and agreed with several, but not all.

Specifically, River suggested the addition of a subdivision deed to rule 5306.3 to state that the Commission has discretion to now perform a background check of a nongaming employee, a fingerprint result do not disclose any criminal history [?]. As not statute regulation requires a full background check of a nongaming employee. Commission staff agrees with the River's suggestion.

This proposed change would be consistent with Commission discretion and would make licensing of nongaming employees more efficient, and cost-effective. River's also suggested expansion to the list of providers that are not required to be licensed, or registered as a vendor to include nurses, emergency medical technicians, and other medical providers, mail carriers, delivery service providers, online booking agents, and nongaming publicly traded companies.

Commission staff agree with River's suggestion regarding nurses, emergency medical technician, and other medical providers, mail carriers, delivery service providers, and online booking agents. But disagree with adding nongaming publicly traded companies to the exempted list. River's also suggested that proposed rule 6307.5E be amended to require that an employee of a vendor registration [?] only complete a service provider form rather than a nongaming employee registration application.

While Commission staff agreed that a full background check may not be necessary for each nongaming employee registration ____ [00:06:01] staff believes that criminal history fingerprint reviews should be required. Accordingly, Commission staff recommends the proposed rule be revised to indicate saying if a revision is authorized, this will make the ____ [00:06:13] be ____ [00:06:15] and a new 30 day public ____ [00:06:16] will open. Staff recommends that the Commission authorize the revised proposal of this rule making.

Unidentified Male: Do we have any questions, concerns about the proposal? None? We have a motion for the ____ [00:06:33] second?

Unidentified Male: Second.

Unidentified Male: Discussion on the motion, all in favor, aye.

Unidentified Male: Aye. ____ [00:06:41].

Unidentified Male: Motion carries. You have a ____ [00:06:49].

Unidentified Male: Yeah. ____ [00:06:50] gaming.

Unidentified Male: For Commission considerate, our proposed rule changes ____ [00:06:53] various provisions of recent ____ [00:06:55] gaming legislation and to update variable gaming regulations. We recall part MM of Chapter 59 of the Laws of 2017. May various charitable gaming reforms addressing price limits, raffle tickets, process, and advertising.

Another statute, Chapter 464 of the Laws of 2017 address changes to purchasing of raffle tickets. The proposed rules address these legislative changes and make other stylistic edits to conform charitable gaming regulation to the amended statutes and other Commission regulation. Staff recommends that the Commission authorize the proposal of this rule making.

- Unidentified Male: Any questions on the proposal? May I have a motion on the rule?
- Unidentified Male: So moved. _____ [00:07:40].
- Unidentified Male: Second?
- Unidentified Male: Second.
- Unidentified Male: Discussion? All in favor.
- Unidentified Male: Aye. _____ [00:07:45].
- Unidentified Male: Motion carries. The next item for scheduled business regards adjudications and today we have five items for adjudication. I'm sorry. Ron.
- Ron: On October 28, 2016, Brandon Challery [ph] claimed a horse at Belmont Park in his own name as claimant and owner. Steward [?] review determined that Mr. Challery in fact made the claim on behalf of others who were ineligible to make such claim resulting in the state steward issuing a \$3,000 fine and suspending Mr. Challery license for 60 days.
- Given the gravity of the offense, the Stewards referred the matter to the Commission's main office for further review and action. Following investigation, the Commission charged Mr. Challery with committing an improper corrupt and fraud act, and practice in relation to racing. And committing and attempting to commit fraud, and misrepresentation with racing in violation of various rules.
- Mr. Challery requested a hearing which was conducted on March 15, 2018. The hearing officer submitted a report dated May 9, 2018, recommending that Mr. Challery's license as an assistant trainer, trainer, and owner be revoked. And that he be ineligible to reapply for a period of at least two years. The Commission considered this matter in a meeting conducted pursuant to judicial _____ [00:09:04] proceedings _____ [00:09:06] of New York Public Officer's Law Section 108.1.
- Unidentified Male: Did Commission dually [?] deliberate it and consider this matter, and determined upon a six to zero vote to modify the hearing officer's report and recommendations. Next item.
- Ron: On January 28, 2018, the Bureau of License denied the applicant of James White for a nongaming employee registration as an environmental services attendant at Resort's World Catskill [?] citing Commission rule

5306.2B which refers to the standards set forth in New York Racing Paramutual Wagering and Breeding Law, Section 1318. Mr. White requested a hearing, which was conducted on March 6, 2018. The hearing officer submitted a report dated April 4, 2018, recommending that the applicant's registration denial be upheld. The Commission considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceeding exemption of New York Public Officer's Law 108.1.

Unidentified Male: The Commission dually [?] deliberate it and considered this matter, and determined upon a six to zero vote to sustain the hearings officer's report and recommendations.

Ron: On October 20, 2017, the Bureau of License denied the application of Nicholas Zufelt [ph] for a license as a thoroughbred groom citing that his experience, character, and general fitness are such that his participation in racing or related activity would be inconsistent with the public interests, convenience, or necessity, or with the best interest of racing generally.

During pendency of his application, Mr. Zufelt also failed a drug test. Finally on August 26, 2017, Mr. Zufelt signed a voluntary agreement to surrender his valid receipt to undergo substance abuse counseling, and agreed not to be present at the race track other than at the living quarters until he provided verification from the drug treatment program that he was fit to perform duties at the race track.

r. Zufelt was subsequently found within a barn at Finger Lakes track premises in violation of his voluntary agreement. Mr. Zufelt requested a hearing in regards to the license denial. The hearing officer submitted a report dated March 2, 2018, recommending that the applicant be deemed suspended from August 26, 2017 through the date of the hearing.

And upon submission of satisfactory proof of completion of a drug treatment program, and in passing a drug test, that his license be restored. The Commission considered this matter at a meeting conducted pursuant to the judicial and quasi-judicial proceedings exception of New York Public Offices Law 108.1.

Unidentified Male: The Commission dually deliberated, and considered this matter. And determined upon a six to zero vote to modify the hearing officer's report, and recommendations. Next item.

Ron: Giving common personnel [?] of the two licensees and the related nature of the matter in each case, I have permission to present both matters together.

Unidentified Male: Please proceed.

Ron: On September 29, 2017, the Bureau of Licensing issued two notices of license suspensions and ordered the immediate temporary suspension of two lottery sales agent licenses, Pathara Food Market Inc. [?] and City Max Market, both located in Buffalo. The notice informed each entity that this suspension was for fraud to see misrepresentation or conduct prejudicial to public confidence in the state lottery.

Specifically, the notices indicated that personnel in each store had participated in discounting of winning lottery tickets presented for payment. And made misleading statements to Commission security personnel. In addition, the Bureau of Licensing issued a second notice of license suspension to Pathara on October 12, 2017, on the grounds that the license had outstanding state taxation liability.

Pathara and City Max requested a hearing in regards to the suspensions. The hearing officer submitted a report dated April, 12, 2018, recommending that each entity's license be revoked. And that the period and the date of suspension to the Commission's final determination be the term of license suspension [?]. The Commission considered this matter at a meeting conducted pursuant to judicial quasi-judicial proceedings exception of New York Public Offices Law of Section 108.1.

Unidentified Male: The Commission dually deliberated and considered this matter, and determined upon a six to zero vote to sustain the hearings officer's report and recommendations. Do we have any old business? Hearing none. Do we have any new business? No. We need to work with Kristen on the scheduling of our next meeting. Do we want to take your issue up of whether we want to go on the record with the modification that we need?

Unidentified Male: My only concern is we have no record of that other than someone writing it down right. And then relating to it. 'Cause I think normally, don't we put the modification on the record? That was my recollection and I'm talking about the Brandon _____ [00:14:07].

Unidentified Male: I think we did put it on the record.

Unidentified Male: Mr. Chairman _____ [00:14:16] I'm perfectly happy to put it on the record.

Unidentified Male: Okay. So can someone give me a modification that we put on the record.

Unidentified Male: Subject to the Commissioner's ratification, my understanding of the modification is that the original fine of the Stewards in the amount of \$3,000 would be imposed. That all licenses from the Gaming Commission of Mr. Challery would be revoked. And that he would not be permitted to reapply for a period of three years.

Unidentified Male: Can we have that in the form of a motion? Someone _____ [00:14:49]. Second?

Unidentified Male: Second.

Unidentified Male: Okay. All in favor.

Unidentified Male: Aye. _____ [00:14:54].

Unidentified Male: Very good. Okay. My mistake, we probably should have done that when we went through it.

Unidentified Male: Would you like to do a further matter of Zufelt as well?

Unidentified Male: If we could, yup. To be consistent, thank you.

Unidentified Male: To be consistent, my understanding is that the Commissioners have modified the hearing officer's report in the matter of Nicholas Zufelt to _____ [00:15:13] state that the denial of Mr. Zufelt's license is upheld. And that he be permitted to apply a new for a license from the Commission subject to his submitting adequate proof of completion of an appropriate drug testing counseling program.

Unidentified Male: Right. Okay. _____ [00:15:35] consider that in the form of a motion?

Unidentified Male: _____ [00:15:36].

Unidentified Male: Second?

Unidentified Male: Second.

Unidentified Male: Second.

Unidentified Male: All in favor?

Unidentified Male: Aye. _____ [00:15:39].

Unidentified Male: Okay. Did you have—

Unidentified Male: Nope. _____ [00:15:47].

Unidentified Male: Okay. We're going to work with – the tentative date for our next meeting is the 25th of June.

Unidentified Male: Mr. Chairman, I have a conflict on that day.

Unidentified Male: Yes. As do I, actually _____ [00:15:59].

Unidentified Male: Okay. So Kristen will work with all of us to reschedule our June meeting.

Unidentified Male: Okay.

Unidentified Male: okay.

Unidentified Male: Hopefully we'll have a triple crown winner again. No? All things are possible I guess at this point.

Unidentified Male: Right. It's possible.

Unidentified Male: We're supposed to take sides?

Unidentified Male: I'm rooting for _____ [00:16:14] sport.

Unidentified Male: Yeah. With no other comments I will conclude our public agenda for the day. We still need to go back into executive session briefly if you don't mind. Okay. Thank you.