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DRAFT REGULATIONS COMMENT FORM**Please complete all of the fields below before printing:**

DATE	05/26/2006	ADDRESS 1
SECTION # OR SUBJECT	Purse and Pension Act 71 Slots Bill	ADDRESS 2
FIRST NAME	Ronald	CITY
LAST NAME	Battoni	STATE
ORGANIZATION NAME	Pennsylvania Harness Horsemen's Assn.	ZIP CODE
EMAIL ADDRESS		COUNTY
		TELEPHONE

COMMENTS

Chairman Decker and Members of the Pennsylvania Gaming Control Board:

On behalf of the Pennsylvania Harness Horsemen's Association representing more than 500 members across the Commonwealth we are pleased to submit the enclosed comments on the Draft Regulations.

1. Under Definitions Horseman

A thoroughbred owner or trainer a standardbred owner, trainer, or driver who races a horse at a licensed racing entity in the current or prior calendar year and meets the membership requirements of the horsemen's organization to participate in the receipt of benefits therefrom.

2. Question

Under 436.6 a. (1) (2) Health and Pension plans

We currently have a health program in place, how would this affect the program.

JUN 05 2006

DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	5/30/06	ADDRESS 1	
SECTION # OR SUBJECT	SB VII B - CH-436	ADDRESS 2	
FIRST NAME	RANDALL	CITY	
LAST NAME	ROLFE	STATE	
ORGANIZATION NAME	LICENSED HORSEMAN	ZIP CODE	
EMAIL ADDRESS		COUNTY	
		TELEPHONE	

COMMENTS

The proposed horsemen's organization requirements are well written and broad enough to create the required "transparency" that has previously not existed.

These individuals and groups should be held accountable for their actions to the highest degree.

Congratulations on your fine efforts.

Neil Ote

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board
P.O. Box 69060
Harrisburg, PA 17106-9060
Attn: Public Comment

LAW OFFICES

JUN 05 2006

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A PROFESSIONAL CORPORATION

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June 1, 2006

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*ALSO MEMBER NJ BAR

Pennsylvania Gaming Control Board
P. O. Box 69060
Harrisburg, PA 17106-9060
ATTN: Public Comment

Re: Comments to the Draft Regulations: Horsemen's Organizations

We are counsel to the Pennsylvania Thoroughbred Horsemen's Association, a Pennsylvania non-profit corporation ("PTHA"), an organization which consists of owners and trainers who race at Philadelphia Park. On behalf of our client, we enclose its proposed comments to sections 436.1 and 436.5 of the Board's proposed draft temporary administrative regulations.

Feel free to contact me with any questions or concerns regarding the comments we have provided. Thank you for your time and consideration.

Very truly yours,



Salvatore M. DeBunda

/mab

Enclosures

cc: Lawrence R. Riviello, President, PTHA
Michael P. Ballezzi, Executive Director, PTHA

**BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD**

**In re: Promulgation of Temporary Administrative
Regulations Pertaining to Chapter 436 - Horsemen's Organizations**

**COMMENTS OF
PENNSYLVANIA THOROUGHBRED HORSEMEN'S ASSOCIATION**

On this 1st day of June, 2006, by and through its undersigned counsel, the Pennsylvania Thoroughbred Horsemen's Association, a Pennsylvania non-profit corporation ("PTHA"), located at Philadelphia Park, _____, respectfully submits these comments pursuant to the Board's Order of May 19, 2006. In so doing, PTHA seeks to share with this Board the perspective of Pennsylvania horse owners and trainers who are significantly affected by the Pennsylvania Race Horse Development and Gaming Act cited as Title 4 of the Pennsylvania Consolidated Statutes, Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) hereinafter referred to as the "Gaming Act."

Introduction.

PTHA is an organization consisting of owners and trainers of thoroughbred horses that race, train and board their horses at Philadelphia Park _____. The PTHA represents approximately 4,000 owners and trainers of thoroughbred horses who race their horses in the Commonwealth of Pennsylvania. The owners purchase the horses and assign the horses to trainers stationed at Philadelphia Park. These owners pay for the cost of training, feeding, medication, transportation and race entrance fees to compete throughout the Commonwealth of Pennsylvania. The trainers hire groomers, exercise riders and hot walkers,

coordinate medical treatment, design training programs and administer medication, in compliance with the laws of the Commonwealth of Pennsylvania.

As counsel to the PTHA, we have been asked to review the Board's proposed draft temporary administrative regulations Chapter 436 - Horsemen's Organizations (hereinafter referred to as the "Horsemen's Regulations") and provide comments as it concerns PTHA and other owners and trainers of horses throughout the Commonwealth of Pennsylvania.

Accordingly, our comments are as follows.

Comment – Modifications to Definitions.

The PTHA proposes the following modifications to section 436.1 (definitions) of the Horsemen's Regulations (page 2):

1. In the definition for the term "Health Benefits," second line down, between "maintained by" and "horsemen's organization" delete "the" and replace with "a". There is more than one horsemen's organization in Pennsylvania and using the indefinite article "a" demonstrates that point.

2. The defined term "Horseman" be changed in its entirety as follows:

Horseman - A thoroughbred or standardbred horse owner or trainer who enters and runs a horse at a licensed racing entity in the current or prior year and meets the membership requirements of its his or her horsemen's organization operating at such licensed racing entity to participate in the receipt of benefits therefrom.

The first change is to be consistent with how the defined term is used throughout Chapter 436. The changes in the third and fourth line down was made to make clear that the horsemen can only receive benefits from the horsemen organization who operates at the licensed racetrack where such horsemen enter and run their horses. The current language could be interpreted to mean that a horse owner or trainer who does not qualify for benefits at his own horsemen's organization could qualify for benefits at another horsemen's organization. The PTHA wishes to avoid that confusion and the proposed change clarifies the issue.

3. In the definition for the term “Pension Benefits,” second line down, between “maintained by” and “horsemen’s organization” delete “the” and replace with “a”. There is more than one horsemen’s organization in Pennsylvania and using the indefinite article “a” demonstrates that point.

4. In the definition for the term “Horsemen’s organization officer,” in connection with the phrase in the fourth line down: “any member of its executive board”, it is not clear whether the Board intends “executive board” to mean the executive committee of the board of directors. If the Board does so intend that meaning, then the PTHA proposes that the said phrase be changed to “any member of the executive committee of the board of directors” to clarify the intended meaning. If not, then the Board needs to amend the existing language to clarify its intended meaning.

Comment – Clarifying Licensing of Representatives.

The PTHA proposes that subsection (a) of section 436.3 of the Horsemen’s Regulations (pages 4 to 5) be amended in its entirety as follows:

§ 436.3. Licensing of officers, directors, representatives and fiduciaries.

(a) Every officer, director or representative of a horsemen’s organization who is presently elected or appointed and duly authorized to act on behalf of the horsemen’s organization, or any individual acting duly authorized to act in a fiduciary capacity on behalf of horsemen, shall be licensed as a key employee by the Board pursuant to § 435.3 (relating to key employee license).

The reason for the requested change is to make clear that the application for a key employee license by these individuals should only be made until after such individuals are elected or appointed. These are elected or appointed positions and therefore, subject to change. As such, the present language of section 436.3(a) does not address the issue of whether the application for a key employee license should be made before or after the particular individual is elected or appointed to the position requiring the license. For example, the term of office for the directors of the PTHA will expire in December, 2007. Will the members running in an election

for the open board of directors positions need to be licensed before they win their election or will they not be able to assume the position until they obtain the key employee license? Although it may seem obvious to some that they would not be required to obtain the key employee license prior to the election, interpretations will vary and the PTHA is interested in guarding against multiple interpretations and the PTHA believes that the comments described above accomplish this objective.

Another scenario that needs to be addressed is when a key employee license application for an officer, director, representative or fiduciary is denied. The issue is whether such individual will be required to resign from that position or be precluded from participating in any gaming activities. The gaming activities is only a part of the total operations of a horsemen's organization and these individuals serve very important functions to serve the varying needs of the horsemen's organization. As such, it would be unfair to require an officer, director, representative or fiduciary who is elected and is doing a good job for the horsemen's organization to resign, because he or she is denied from being licensed as a key employee. Therefore, the PTHA proposes that this section 436.3(a) be amended to include the following language immediately at the end thereof:

“In the event that a present officer, director, representative or fiduciary of a horsemen's organization is denied from being licensed as a key employee as required by this section 436.3(a), such officer, director, representative or fiduciary shall be precluded from engaging in any activity of the horsemen's organization involving gaming funds allocated to, received by or distributed from the horsemen's organization; provided, however, such individuals may continue to serve the horsemen's organization in their elected or appointed position in all other areas of operations of the horsemen's organization.”

Comment – Attorney Exemption from Licensing Requirement.

PTHA proposes that subsection (b) of section 436.3 of the Horsemen’s Regulations (page 5) be amended in its entirety to read as follows:

§ 436.3. Licensing of officers, directors, representatives and fiduciaries.

(b) A person is who is a third party provider of health or pension benefit plan to a horsemen’s organization or a licensed attorney or accountant representing horsemen’s organizations shall be exempt from the requirements of this section.

The reason for specifically exempting attorneys and accountants from the licensing requirements is that attorneys and accountants who represent horsemen’s organizations in the negotiation of live racing agreements and related matters could be deemed to be within the meaning of the defined term “horsemen’s organization representative” and therefore, would be required to be licensed as a key employee under the proposed section 436.3 of the Horsemen’s Regulations. The role of attorneys and accountants in representing horsemen’s organizations is tantamount to an independent third party having no vested interest in the business of the horsemen’s organization, such as third party providers of health and pension benefit plans. As such, PTHA believes that section 436.3(b) should be amended to include attorneys and accountants who represent horsemen’s organizations in the exemption from the licensing requirements of section 436.3(a) of the Horsemen’s Regulations. To do otherwise, might disadvantage the horsemen’s organizations, because good attorneys and accountants may be deterred from representing horsemen’s organizations due to this licensing requirement.

Conclusion.

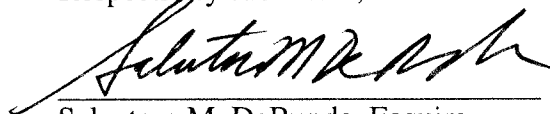
As the Board makes major steps toward licencing the gaming sites throughout the Commonwealth of Pennsylvania, PTHA would like to emphasize that while the primary objective of the Gaming Act is protect the public through the regulation and policing of all activities . . . the secondary purpose of the Gaming Act is provide for the authorization to install and operate slot machines to enhance live horse racing, breeding programs, entertainment and employment in the Commonwealth. *See* 4 Pa. C.S.A. 1102(1)-(2). A further intended objective

of the Gaming Act is the authorization of limited gaming to positively assist the Commonwealth's horse racing industry, support programs intended to foster and promote horse breeding and improve the working conditions of personnel who work and reside in and around the stable and backside areas of racetracks. *See* 4 Pa.C.S.A. 1102(4). The objectives of the PTHA as an association of horsemen mirrors the intention of the Gaming Act, to assist the live horse racing industry and assure that live racing is preserved throughout the Commonwealth of Pennsylvania.

The PTHA strongly believes that the foregoing comments are important to the overall support and needs of the horse racing industry, which was one of the purposes of the Gaming Act. Therefore, it is important that the foregoing issues be clarified so as to avoid any unnecessary delays in the progress of integrating the gaming funds into the operations of the live racing industry.

WHEREFORE, for the foregoing reasons, the PTHA respectfully requests that this Honorable Board amend its proposed draft temporary administrative regulations in such a manner that is consistent with these comments.

Respectfully submitted,



Salvatore M. DeBunda, Esquire
Michael A. Brenna, Esquire
Pelino & Lentz, P.C.

Counsel to the Pennsylvania Thoroughbred
Horsemen's Association