



State of Indiana Indiana Horse Racing Commission

Michael R. Pence, Governor

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**For Immediate Release
September 24, 2013**

Indiana Court of Appeals Rules in Favor of Indiana Horse Racing Commission; Federal suit dismissed

The Indiana Horse Racing Commission was updated at its September 17, 2013 meeting concerning an Indiana Court of Appeals decision that affirms the Commission's broad discretion in determining who is required to be licensed by the agency.

IHRC General Counsel Lea Ellingwood updated the Commission on the case, which stemmed from an appeal of an agency decision filed by Edmund Martin Jr. Mr. Martin is a former commissioner who had remained active as an owner, breeder, and interested party to horse racing in Indiana. In 2010, Commission Staff determined that Mr. Martin was required to be licensed due to the nature of his work as executive director of the Indiana Thoroughbred Owners and Breeders Association (ITOBA). Mr. Martin refused to apply for a license, and the IHRC excluded him from regulated grounds. Mr. Martin appealed the Commission's decision, and a trial court reversed the Commission's decision to exclude in 2012. The IHRC appealed the trial court's ruling, and in a decision certified on August 8, 2013, the Court of Appeals reinstated the exclusion.

The Court of Appeals opinion stated that "the IHRC reasonably takes a broad view of the phrase 'participating in racing' to include those individuals who are directly or indirectly participating in pari-mutuel racing. We conclude that the IHRC reasonably interpreted IC 4-31-6-1 and particularly the phrase 'participate in racing' when it promulgated 71 IAC 5.5-1-1(a) which defines which persons must be licensed to participate in pari-mutuel racing."

"The Court of Appeals' decision to reinstate Mr. Martin's exclusion affirms that the Commission has been properly asserting its right to require that individuals participating in horse racing must be licensed by the agency," said Ms. Ellingwood. "The Court's opinion puts the IHRC in a very favorable position with its regulatory work moving forward."

Mr. Martin's time to seek transfer to the Indiana Supreme Court has passed, so the Court of Appeals' decision is final. Mr. Martin's exclusion will run through October 16, 2013.

A separate case filed against the IHRC by Mr. Martin in the Southern District Federal Court has concluded after the case was dismissed, with prejudice, in its entirety by party agreement. In the case, filed on April 9, 2012, Mr. Martin made a variety of allegations against the IHRC, including: racial or class-based discrimination; deprivation of civil rights; tortious interference with employment; tortious interference with a contractual relationship; unreasonable search and seizure; and defamation. Mr. Martin initially demanded \$700,000.00 plus punitive damages. After a second computation of damages, filed in October of 2012, Mr. Martin's claim increased to \$13,000,000.00.

Mr. Martin also named in their individual capacities IHRC Executive Director Joe Gorajec, former IHRC Chairwoman Sarah McNaught, and IHRC Director of Security Terry Richwine in his complaint. Claims against each of the individually named parties also have been dismissed, with prejudice.

“Mr. Martin’s allegations were inflammatory and false,” Ms. Ellingwood said. “Commission Staff is pleased the litigation has concluded without further expense to Indiana taxpayers.”