

**In the Matter Of:**

*INDIANA HORSE RACING COMMISSION MEETING*

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**Transcript of Proceedings**

*September 28, 2022*

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INDIANA HORSE RACING COMMISSION MEETING

HELD ON

SEPTEMBER 28, 2022

2:00 P.M.

INDIANA STATE LIBRARY

315 WEST OHIO STREET

INDIANAPOLIS, INDIANA

TAKEN BY:

ROBIN P. MARTZ, RPR

NOTARY PUBLIC

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1 APPEARANCES

2 Philip Borst, DVM, Chairman  
 3 Bill Estes  
 4 George Pillow  
 5 Gus Levengood

6 Deena Pitman, Executive Director  
 7 Tom Linkmeyer, Assistant Executive Director

8 Matthew Eggiman, Esq.  
 9 Dale Pennycuff, Esq.

10 INDIANA HORSE RACING COMMISSION  
 11 1302 North Meridian Street, Suite 175  
 12 Indianapolis, IN 46202

13 AGENDA

- 14 1. Consideration of Recommended Order Granting  
 15 Default Judgment in the matter of IHRC v. Samuel  
 16 Mendez 3
- 17 2. Readoption of administrative rules scheduled to  
 18 expire. 8
- 19 3. Review and consideration of the following IHRC  
 20 emergency rules 10
- 21 4. Review of Commission rulings 14
- 22 5. Ratify Executive Director Pitman's approval of  
 23 Harrah's Hoosier Park's request to amend the expected  
 24 2022 Capital Expenditure Equipment Plan and substitute  
 25 with an alternative 2022 purchase. 15
6. Ratify Executive Director Pitman's approval of  
 Caesars Debt (refinance) Transaction 19
7. HISA update from a racing perspective given by the  
 Commission's Senior State Steward Eric Smith. 22
- New Business - Request for IHRC delegate authority to  
 approve any 2022 race matters prior to next Commission  
 meeting to Executive Director Pitman 27

1 CHAIRMAN BORST: We will call the meeting of  
2 the Indiana Horse Racing Commission to order.  
3 First we will swear in Robin.

4 (At this time the oath was administered to the  
5 court reporter by Chairman Borst.)

6 CHAIRMAN BORST: First on the agenda is the  
7 approval of the June 29, 2022 meeting and executive  
8 session. Dale, anything to add to that?

9 MR. PENNYCUFF: No, Chairman.

10 CHAIRMAN BORST: I will take a motion and a  
11 second then.

12 COMMISSIONER PILLOW: I make the motion to  
13 accept the minutes of the June 29th meeting.

14 COMMISSIONER ESTES: I second.

15 CHAIRMAN BORST: Been moved and seconded. Any  
16 discussion?

17 (No response.)

18 CHAIRMAN BORST: Seeing none, all those in  
19 favor say "aye."

20 THE COMMISSION: "Aye."

21 CHAIRMAN BORST: Opposed?

22 (No response.)

23 CHAIRMAN BORST: Passes unanimously.

24 Next is consideration of recommended order  
25 granting default judgment in the matter of IHRC

1 Staff versus Samuel Mendez. Matt, I think you are  
2 going to be representing the Commission.

3 MR. EGGIMAN: Agenda item number one is your  
4 consideration of the Recommended Order of Default  
5 Judgment in favor of petitioner, Indiana Horse  
6 Racing Commission Staff, issued by Administrative  
7 Law Judge Michael Buker in the matter of Indiana  
8 Horse Racing Commission Staff versus Samuel Mendez.  
9 For this agenda item, I will act as your counsel.  
10 Commission Staff is and has been represented by  
11 Mr. Dale Pennycuff to my right. Mr. Mendez is not  
12 present today nor is he represented by counsel in  
13 this matter.

14 The case evolves from Administrative Complaint  
15 No. 221001 filed on or about November 17, 2021 by  
16 Executive Director Deena Pitman alleging that  
17 Mr. Mendez had violated Indiana Code 4-31-12-20 by  
18 possessing a battery or other electrical device  
19 that may be used to affect speed or reaction of a  
20 racehorse on at least three occasions on the  
21 premises of Indiana Grand, now known as Horseshoe  
22 Indianapolis. This included the use of the device  
23 during a race held on September 4, 2021.

24 The matter was scheduled to be heard by ALJ  
25 Buker. However, on or about January 12, 2022,

1 counsel for Mr. Mendez was granted withdrawal from  
2 further representation of Mr. Mendez. Following  
3 counsel's withdrawal, a telephonic prehearing was  
4 conducted with the parties, including a Spanish  
5 interpreter for Mr. Mendez. ALJ Buker made it  
6 abundantly clear to Mr. Mendez the importance of  
7 legal representation in the matter. On March 2,  
8 2022, another telephonic prehearing was conducted  
9 with the parties, and Mr. Mendez indicated his  
10 desire to be represented by counsel. ALJ Buker  
11 gave Mr. Mendez until March 12 to retain counsel.

12 Since that time, Mr. Mendez neither retained  
13 counsel nor requested an extension of time in which  
14 to do so. The matter proceeded with several  
15 scheduling orders issued by ALJ Buker. And despite  
16 those orders and countless attempts by Commission  
17 Staff to engage Mr. Mendez in the matter,  
18 Mr. Mendez has not participated at all in the case  
19 since the March 2, 2022 telephonic prehearing.

20 The Administrative Orders and Procedures Act,  
21 also known as AOPA, in the Indiana Code, which  
22 provides the statutory requirements for conducting  
23 administrative law proceedings, contains a section  
24 that allows the administrative law judge to issue a  
25 proposed default order if one of four events occurs

1 during the proceeding. Mr. Mendez failed on at  
2 least two of those. He failed to attend or  
3 participate in a prehearing conference, hearing, or  
4 other part of the proceeding and take, and he took  
5 no action on the matter for a period of at least 60  
6 days if the party is responsible for taking the  
7 action.

8 ALJ Buker issued a proposed default order on  
9 July 13, 2022, six days after an evidentiary  
10 hearing was scheduled, convened, and then  
11 continued. Mr. Mendez had not attended that  
12 evidentiary hearing. Pursuant to AOPA, Mr. Mendez  
13 had seven days to file a response to the proposed  
14 default order, or ALJ Buker was required to issue a  
15 Final Recommended Order of Default Judgment. With  
16 no response from Mr. Mendez, on July 20, 2022, ALJ  
17 Buker issued the Recommend Order you have in front  
18 of you for your consideration today.

19 Commissioners, feel free to ask any questions.  
20 It must be noted that Mr. Mendez did not file an  
21 objection to ALJ Buker's Recommended Order of  
22 Default Judgment. In fact, pursuant to statute, he  
23 is prohibited from filing an objection anyway due  
24 to being in default. Therefore, the Commission  
25 really has only one option today, and that is to

1 affirm the Recommended Order.

2 If you have any questions, we can certainly  
3 take them. ALJ Buker has been kind enough to be  
4 here as well if you have any questions.

5 CHAIRMAN BORST: Any questions? I guess it  
6 struck me this is probably the most severe penalty  
7 I've seen, \$10,000 and a 20-year suspension. I was  
8 wondering what triggered that. I mean, what he did  
9 was not good. I'm just surprised at 20 years and  
10 \$10,000. So maybe somebody can explain.

11 EXECUTIVE DIRECTOR PITMAN: Yes, Chairman, one  
12 of the reasons why this one was a more severe  
13 penalty is because we had information that and  
14 testimony, quite frankly, that it was not a  
15 one-and-done situation. It was multiple times.  
16 And that's what increased the penalty on this, in  
17 addition to the fact also that we probably had five  
18 or six of these same cases, not as egregious as  
19 this particular one, but it's obvious to me that it  
20 keeps happening. And it seems like the ten years  
21 isn't necessarily making an impact.

22 CHAIRMAN BORST: None of that was in here so  
23 that's why I didn't know. I figured there had to  
24 be something.

25 Any further questions? If not, we will



1 entertain a motion and second.

2 COMMISSIONER PILLOW: So moved.

3 COMMISSIONER ESTES: Seconded.

4 CHAIRMAN BORST: Been moved and seconded to  
5 accept, I guess, the recommendation I guess is how  
6 I will say it. Any further discussion?

7 (No response.)

8 CHAIRMAN BORST: All those in favor say "aye."

9 THE COMMISSION: "Aye."

10 CHAIRMAN BORST: Opposed?

11 (No response.)

12 CHAIRMAN BORST: The "ayes" have it  
13 unanimately. Thank you for attending today too.  
14 Thank you for all your work.

15 MR. BUKER: Sure.

16 CHAIRMAN BORST: It's unheralded stuff. I'm  
17 sure you get tired of hearing the same thing, but  
18 we appreciate it. Very important part of horse  
19 racing in Indiana. Okay.

20 Next on the agenda is the readoption of  
21 administrative rules scheduled to expire. Dale, do  
22 you want to take that one?

23 MR. PENNYCUFF: Yes. Like other  
24 administrative agencies, the Commission's  
25 administrative rules automatically expire every

1 seven years. However, the agency is given the  
2 opportunity to readopt the rules so long as the  
3 rule language remains identical. There are a  
4 number of rules scheduled to expire at the end of  
5 the year, each of which is listed in the Notice of  
6 Intent to Readopt labeled LSA document 22-265.

7 Commission Staff posted the rules on the  
8 Legislative Service Agency's website as required by  
9 statute. This gives an opportunity for members of  
10 the public to ask us to consider making changes to  
11 the rules or readopt them separately. We did not  
12 have any requests to do so. We also shared the  
13 list of readoptions with the horsemen's  
14 associations and Caesars just for informational  
15 purposes.

16 At this time, Commission Staff respectfully  
17 requests the Commission's approval for these rules  
18 to be readopted without change before the end of  
19 the year.

20 CHAIRMAN BORST: Okay. Any questions,  
21 comments? This is one good thing the state of  
22 Indiana does, checking the rules every seven years.  
23 Sometimes you've got stuff sitting around, and it  
24 shouldn't be. This gives the opportunity to get a  
25 fresh look at it.

1           Okay. Any questions? If not, take a motion.

2           COMMISSIONER ESTES: So moved.

3           COMMISSIONER PILLOW: I second it.

4           CHAIRMAN BORST: Moved and seconded to readopt  
5 the administrative rules about ready to expire.

6 Any members of the public wish to speak? I know  
7 you've had a chance already, but you never know.

8           Seeing none, all those in favor say "aye."

9           THE COMMISSION: "Aye."

10          CHAIRMAN BORST: Opposed?

11          (No response.)

12          CHAIRMAN BORST: The "ayes" have it  
13 unanimously.

14          Next is the review and consideration of the  
15 following Indiana Horse Racing Commission emergency  
16 rules, Thoroughbreds and Standardbred. Matt, do  
17 you want to take that one?

18          MR. EGGIMAN: Yes. Agenda item number three  
19 is the proposed emergency rules which cover harness  
20 racing and flat racing. The rule packet in your  
21 meeting booklets was provided to stakeholders with  
22 request for any comments or suggestions. We  
23 received no public comments. The matching  
24 Standardbred rule was not included in the rules we  
25 sent out for review. There was a clerical

1 correction in reference to the most recent ARCI  
2 model rules. We failed to include the  
3 Standardbred. So it was added later as a  
4 housekeeping item.

5 The current version of these proposed rules  
6 was posted on the IHRC website about last Wednesday  
7 under Commission meeting information for  
8 September 28, 2022. There may be one or more  
9 individuals wishing to make a statement this  
10 morning.

11 Although these rules are presented on the  
12 agenda separately, the Commission typically casts a  
13 single vote in favor or opposition to the passage  
14 of the emergency rules as a single document, which  
15 is then sent to the Legislative Services Agency.

16 Under the Commission's Emergency rulemaking  
17 authority, the rules will go into effect as soon as  
18 they are filed. At this time Commission Staff  
19 respectfully requests the approval of the rules  
20 listed in the agenda and provided in the meeting  
21 materials.

22 CHAIRMAN BORST: Thank you. Any Commission  
23 questions?

24 COMMISSIONER LEVENGOOD: How many horses are  
25 either chipped or tattooed? Does anybody know?

1 Is it 50/50, 10/20?

2 EXECUTIVE DIRECTOR PITMAN: Dr. Peterson,  
3 would you like to respond to that?

4 DR. KERRY PETERSON: So currently now, it's  
5 required for Thoroughbreds to be microchipped so  
6 all young Thoroughbreds are microchipped. So  
7 that's the majority unless they're --

8 COMMISSIONER LEVENGOOD: When was that?

9 DR. KERRY PETERSON: So anything 2018 and  
10 older have chips. All Standardbreds as of this  
11 year had to be chipped, but a lot of them still  
12 have freeze brand. But Quarter Horses right now  
13 are all lip tattooed.

14 COMMISSIONER LEVENGOOD: So it will be how  
15 many years total when you work through the system  
16 in your guess?

17 DR. KERRY PETERSON: So it depends on the  
18 longevity of the Thoroughbreds that are still not  
19 required to have chips. So the older Thoroughbreds  
20 that are still racing don't necessarily have to  
21 have a chip, but a lot of them do. But the Quarter  
22 Horses are still the lone holdout for uniform  
23 microchipping, but we are hoping that will take  
24 place here soon.

25 COMMISSIONER LEVENGOOD: Thank you.

1 CHAIRMAN BORST: I suppose in the future then,  
2 these will not be stated as revised by ARCI. It  
3 will be HISA, I suppose, in the future.

4 EXECUTIVE DIRECTOR PITMAN: Depending on the  
5 breed. So for Thoroughbred, yeah. And there  
6 are -- well, we're not sure how many of the  
7 medication rules will be overridden or preempted by  
8 HISA, but the majority probably will be. We are  
9 figuring that out right now.

10 CHAIRMAN BORST: Will it be next month? Is  
11 that what they told us, October we should have some  
12 indication?

13 EXECUTIVE DIRECTOR PITMAN: We will see.

14 CHAIRMAN BORST: Everything else has been slow  
15 so probably won't be.

16 EXECUTIVE DIRECTOR PITMAN: Except the bills.

17 CHAIRMAN BORST: Of course, government's got  
18 to get paid, right.

19 Okay. Any further comments by the public?  
20 No. I'll take a motion and second again on  
21 adoption.

22 COMMISSIONER ESTES: I'll make a motion.

23 COMMISSIONER PILLOW: I'll second it.

24 CHAIRMAN BORST: Not very enthusiastic. Poor  
25 guy's got a condominium down in Florida getting

1 smacked right now and probably won't be there. So  
2 we'll give him a little courtesy.

3 All those in favor say "aye."

4 THE COMMISSION: "Aye."

5 CHAIRMAN BORST: Opposed?

6 (No response.)

7 CHAIRMAN BORST: "Ayes" have it unanimously.

8 Next one is just the review of Commission  
9 Rulings. No vote on this. If you have any  
10 questions on any of these, there's quite a few of  
11 them. Quite a few whip violations this time, more  
12 than there used to be because of the changes, but I  
13 noticed that right off there are a whole lot of  
14 those. I don't think we're going to have a  
15 whipping demonstration today. I'm not sure.

16 COMMISSIONER LEVENGOOD: We have had that in  
17 the past.

18 EXECUTIVE DIRECTOR PITMAN: No, I guess not.

19 CHAIRMAN BORST: No, you don't want to do it  
20 again. Sorry, Brian. That was the highlight of my  
21 day. I had never seen that one before. I tried to  
22 explain that to my wife.

23 COMMISSIONER LEVENGOOD: I did too.

24 CHAIRMAN BORST: You had to be there to  
25 understand.

1           Next is ratify Executive Director Pitman's  
2 approval of Harrah's Hoosier Park's request to  
3 amend the expected 2022 Capital Expenditure  
4 Equipment Plan and substitute with an alternate  
5 2022 purchase.

6           Matt, I guess you're going to take that and  
7 talk about gators and stuff.

8           MR. EGGIMAN: Thank you, Chairman Borst.  
9 Commissioners, pursuant to the Commission's Final  
10 Order from the petition of Eldorado Resorts  
11 International for the IHRC to approve the permit  
12 transfer dated July 15, 2020, and I'll quote from  
13 the order "ERI covenants to materially comply with  
14 the schedule for equipment replacement through 2033  
15 as set forth in the titled "Hoosier Park and  
16 Indiana Grand Equipment Summary, Revised May 18,  
17 2018" and understands that any material deviation  
18 from this schedule is subject to approval by the  
19 Commission or its Executive Director, which  
20 approval shall not be unreasonably withheld."

21           As you can see from the letter in your  
22 packets, Hoosier Park is requesting a substitution  
23 of equipment from its original 2022 equipment list  
24 to better fit its needs. The resulting equipment  
25 purchase, a snowblower instead of purchasing all 14



1 Gators it anticipated needing, is approximately  
2 4.2 percent higher than what Hoosier Park intended  
3 to spend on all of those Gators for 2022. When  
4 compared to Hoosier Park's total capital  
5 expenditures for 2022, that overage is only .003  
6 percent increase.

7 Executive Director Pitman has already given  
8 approval to Hoosier Park for the equipment  
9 substitution. Commission Staff respectfully  
10 requests the Commission ratify Executive Director  
11 Pitman's approval of Harrah's Hoosier Park's  
12 request to amend the expected 2022 Capital  
13 Expenditure Equipment Plan and substitute with an  
14 alternate 2022 purchase, a needed snowblower.

15 Commissioners, feel free to ask any questions.  
16 Public as well. I'm sure Mr. Rick Moore would be  
17 more than willing to clarify anything for you.

18 CHAIRMAN BORST: It's always a good thing to  
19 buy what you need, not just because it's on the  
20 plan. A snowplow would probably come in handy.

21 RICK MOORE: Mr. Chairman, Members of the  
22 Commission, Executive Director Pitman, Staff,  
23 you're right, Chairman, exactly right, particularly  
24 with now having the winter training, that  
25 snowblower, which is actually an attachment to the

1 skid steer, which was on the equipment list last  
2 year, will be invaluable in blowing snow off the  
3 racetrack and away from the barns where the horses  
4 are during the winter. It will really be a nice  
5 piece of equipment.

6 Quite honestly, when we looked at it, we just  
7 couldn't justify all the Gators that are on that  
8 list. This is really going to be a nice piece of  
9 equipment for us. I appreciate Executive Director  
10 Pitman giving us the approval.

11 CHAIRMAN BORST: Okay. Anybody have any  
12 questions?

13 COMMISSIONER LEVENGOOD: What do you do with  
14 the old ones?

15 RICK MOORE: The old ones, we trade those in.

16 COMMISSIONER LEVENGOOD: Because I didn't see  
17 any trade value on your bill of sale. Do you do  
18 those separately?

19 RICK MOORE: We didn't put that in there, but  
20 we can get that for you.

21 COMMISSIONER LEVENGOOD: It would be great  
22 just to know.

23 RICK MOORE: Pardon me?

24 COMMISSIONER LEVENGOOD: It would be nice to  
25 know.

1 EXECUTIVE DIRECTOR PITMAN: You can just send  
2 it to me.

3 CHAIRMAN BORST: Okay. Anything else? Seeing  
4 none, any members of the public have anything to  
5 say about Gators or snowblowers, or things like  
6 that?

7 EXECUTIVE DIRECTOR PITMAN: I'm learning that  
8 John Deere carries a lot of equipment.

9 CHAIRMAN BORST: Of course, the chairman of  
10 John Deere is a Purdue graduate. Got to work that  
11 in there. Makes sense, I guess, right. He gives  
12 quite a bit of money back to Purdue too.

13 Seeing no further discussion, how about a  
14 motion and a second.

15 COMMISSIONER PILLOW: I have a motion we make  
16 Rick's life real comfortable.

17 COMMISSIONER ESTES: And I second.

18 CHAIRMAN BORST: Been moved and seconded to  
19 accept this and make Rick's life so you don't have  
20 to get out there and hand shovel.

21 RICK MOORE: That's a good thing.

22 CHAIRMAN BORST: That I'd like to see. All  
23 right. All those in favor say "aye."

24 THE COMMISSION: "Aye."

25 CHAIRMAN BORST: Opposed?

1 (No response.)

2 CHAIRMAN BORST: The "ayes" have it  
3 unanimately.

4 RICK MOORE: Thank you, Mr. Chairman.

5 CHAIRMAN BORST: Next is to ratify Executive  
6 Director Pitman's approval of Caesars Debt  
7 Transaction pursuant to Indiana Horse Racing  
8 Commission Rule 71 IAC 11-1-12. Matt is going to  
9 take that one.

10 MR. EGGIMAN: Thank you, Chairman Borst.  
11 Commissioners, pursuant to 71 IAC 11-1-12(a)(5),  
12 the Commission or the Executive Director must  
13 approve any contract between a permit holder and  
14 any party that equals or exceeds \$50 million in  
15 value. In early August, Caesars Entertainment,  
16 Incorporated provided notice to the IHRC that it  
17 intended to undertake debt refinancing  
18 transactions. Caesars intends to use the proceeds  
19 of the potential financing transaction to make  
20 strategic business decisions. They are confident  
21 that these potential transactions are in the best  
22 interest of the company.

23 In accordance with Indiana Code 4-33-4-21, the  
24 proposed financing transactions do not result in  
25 the lease, hypothecation, or borrowing against

1 Harrah's Hoosier Park and Casino or Horseshoe  
2 Indianapolis Racing and Casino. In addition, these  
3 new financings do not change the terms of the  
4 existing put-call contained in the lease with VICI,  
5 nor is the Commission being asked to review the  
6 put-call at this time.

7 Pursuant to applicable securities and Indiana  
8 public access laws, such potential activities,  
9 including the transaction terms and structure, were  
10 described in detail to the Commission but are kept  
11 confidential and not subject to public disclosure.  
12 This process to undertake and receive approval for  
13 a debt financing transaction is longstanding and  
14 utilized not only by Caesars but other Indiana  
15 casino owner's licensees.

16 Information concerning the debt activity and  
17 required pursuant to Indiana Gaming Commission  
18 regulations was provided to the Indiana Gaming  
19 Commission and IHRC. The Gaming Commission issued  
20 a confidential report on September 9, 2022,  
21 evaluating the potential activities. After  
22 conducting a review on September 14, 2022, the  
23 Gaming Commission approved of these potential  
24 activities, and ratification of the approval was  
25 placed on the agenda for its September 27, 2022,

1 business meeting and was indeed ratified yesterday.

2 On September 15, 2022, after consulting with  
3 Chairman Borst, Executive Director Pitman issued an  
4 interim approval based on the review conducted by  
5 the Gaming Commission and its confidential report,  
6 as well as the Gaming Commission's interim  
7 approval.

8 Commission Staff respectfully requests that  
9 the Commission ratify Executive Director Pitman's  
10 interim approval concerning the proposed  
11 transactions. Mr. Jeff Hendricks from Caesars is  
12 here to take any questions that you may have.

13 CHAIRMAN BORST: Anything you'd like to say in  
14 defense?

15 JEFF HENDRICKS: Good afternoon, Chairman,  
16 Commissioners, Executive Director, Staff. I just  
17 want to say we much appreciate the staff's quick  
18 review of these matters. It's a lot of information  
19 on a fairly complicated matter. Staff handled that  
20 with expediency and professionalism. I want to say  
21 thank you. We appreciate that. And to the extent  
22 I can, I would be happy to answer any questions  
23 here or provide you any additional information.

24 CHAIRMAN BORST: Anybody have any questions?  
25 Indeed it was a complicated matter, but we're glad

1 the Gaming Commission did their due diligence and  
2 looked it all over, and everything is on the up and  
3 up.

4 COMMISSIONER PILLOW: Is Caesars refinancing  
5 any of their other properties?

6 JEFF HENDRICKS: This is a corporate matter,  
7 and I can say specifically it has no direct impact  
8 on the Indiana racing licensees.

9 CHAIRMAN BORST: Anything else? All right.  
10 If not, I'll accept a motion and second to ratify  
11 the approval.

12 COMMISSIONER ESTES: Move to accept.

13 COMMISSIONER PILLOW: I'll second that motion.

14 CHAIRMAN BORST: Been moved and seconded. If  
15 no further discussion, all those in favor say  
16 "aye."

17 THE COMMISSION: "Aye."

18 CHAIRMAN BORST: Opposed?

19 (No response.)

20 CHAIRMAN BORST: The "ayes" have it  
21 unanimously. Thank you for being here.

22 Next is the HISA update from a racing  
23 perspective given by the Commission's Senior State  
24 Steward Eric Smith. We appreciate you  
25 in-the-trench view of what's going on.

1           ERIC SMITH: Good afternoon, Commissioners.  
2 We're approaching 90 days since HISA has taken  
3 affect, and we're approaching 50 race days at  
4 Horseshoe Indianapolis since implementation of  
5 HISA. In those approximately 50 days, we have  
6 issued 25 rulings under the HISA rules. Each of  
7 those have been for a riding crop violation. And  
8 each of those riding crop violations have been  
9 Class 3 variety, which is the least severe by the  
10 HISA guidelines. That means that the jockey struck  
11 the horse one to three times more than his allotted  
12 six strikes. Fortunately, we've had no jockey go  
13 four more strikes over the limit, which would  
14 result in a purse redistribution. The total result  
15 of these 25 rulings is \$6,350 in fines and 32 days  
16 in suspensions to the riders.

17           We've had two claims voided that otherwise  
18 would not have been voided under the previous  
19 Indiana rule simply by virtue of different criteria  
20 for what constitutes a lame horse post race. And  
21 we've made one referral to the HISA Racetrack  
22 Safety Committee for a rules violation that,  
23 according to HISA, falls outside the jurisdiction  
24 or authority of the stewards.

25           It was a significant rule violation. And it



1 occurred in the first week that we were under HISA  
2 oversight. The referral was made the day after the  
3 violation was observed. And to date, we have not  
4 been contacted by anyone from HISA in regard to  
5 that violation, nor have they even acknowledged  
6 that has been referred to them.

7 Fortunately, we did have a rule that was not  
8 preempted by HISA. We have a rule in the Indiana  
9 Code that allowed us to take action. And the  
10 person or persons of interest are at the time being  
11 presently summarily suspended pending further  
12 adjudication of the case.

13 I think when HISA was introduced and forced  
14 upon all of us, we were told that it would be in  
15 the best interest of the sport. We were told it  
16 would result in greater uniformity. And I can  
17 confidently say that I've seen absolutely no  
18 increase in uniformity between the jurisdictions  
19 since HISA has taken affect. We're still hearing  
20 stories from jockeys and conversations with other  
21 stewards in other jurisdictions, they're  
22 interpreting the riding crop rule differently, what  
23 constitutes a strike, what doesn't constitute a  
24 strike. In short, there's no more uniformity than  
25 there was before. With that, I would be happy to

1 take any questions you might have.

2 CHAIRMAN BORST: I got loss on the first 25.  
3 Those are HISA violations, but you can take care of  
4 those and didn't have to go to HISA?

5 ERIC SMITH: There are three areas that HISA  
6 allows the stewards to rule on directly rather than  
7 referring back to HISA. That is riding crop  
8 violations, Rule 2280; anything to do with  
9 shockwave treatment, or electrical device or  
10 battery device. Those three things we have a  
11 ruling for on procedure to go through at the  
12 stewards level. Anything else in the HISA 2000  
13 series of rules, which is the safety rules, I fill  
14 out an incident report and send it of, which I have  
15 done once.

16 CHAIRMAN BORST: And you still haven't heard.  
17 How long ago was that?

18 ERIC SMITH: July 5th.

19 CHAIRMAN BORST: That was at the beginning.

20 COMMISSIONER PILLOW: Are they operating out  
21 of Lexington?

22 ERIC SMITH: I believe so. That's their  
23 mailing address. I don't know what manpower they  
24 have in that building, but that's their mailing  
25 address.

1 CHAIRMAN BORST: They have two people.

2 EXECUTIVE DIRECTOR PITMAN: Maybe, they might  
3 have a couple others now. I'm not sure.

4 ERIC SMITH: I don't know their staff.

5 EXECUTIVE DIRECTOR PITMAN: They don't let us  
6 know these things.

7 CHAIRMAN BORST: So far you haven't seen  
8 anything that's what you would call improvements.

9 ERIC SMITH: No, I have not seen anything that  
10 I would consider improvement.

11 CHAIRMAN BORST: Probably because you guys  
12 were doing everything right to begin with.

13 ERIC SMITH: I would like to think that.

14 CHAIRMAN BORST: Any other questions? Thank  
15 you. Hopefully, we can do this every once in a  
16 while.

17 ERIC SMITH: I would be happy to.

18 EXECUTIVE DIRECTOR PITMAN: I do believe it's  
19 a work in progress. I think there's a lot of  
20 things that they never anticipated. And  
21 unfortunately, had they come to the individuals  
22 that are in the trenches to begin with when they  
23 put the program together, we could have helped them  
24 in that aspect. But as it is, they didn't so this  
25 is where we are.

1           CHAIRMAN BORST: That's what we figured was  
2 going to happen. It's too bad because I hate to  
3 see it hurt the sport and tracks and horsemen. I  
4 don't know, just not the right way to do things.  
5 Don't have the bugs worked out yet. Okay. Thank  
6 you.

7           Do we have any old business? I don't think we  
8 have anything around.

9           COMMISSIONER LEVENGOOD: Just old guys.

10          CHAIRMAN BORST: Just old people. New  
11 business. Dale.

12          MR. PENNYCUFF: Thank you, Chairman Borst.  
13 Commissioners, each year there are matters that  
14 arise throughout the race meet that require quick  
15 turnaround and a quick decision. Because the  
16 Commission may not meet often enough for these  
17 immediate matters to be handled, Commission Staff  
18 routinely requests that the Commission delegate  
19 authority to Executive Director Pitman to handle  
20 any matters that arise between Commission meetings.

21          Pursuant to 71 IAC 2-2-1, the Commission may  
22 delegate authority to the Executive Director to  
23 implement and execute the duty of regulating each  
24 race meeting and persons participating in each  
25 meeting. At this time, Commission Staff

1 respectfully requests delegation of authority to  
2 Director Pitman to make race meet decisions as  
3 required that cannot be left for a Commission  
4 meeting through the end of both race meets.

5 CHAIRMAN BORST: So you would like a motion, I  
6 guess, to give, delegate approval?

7 MR. PENNYCUFF: Yes.

8 CHAIRMAN BORST: Somebody like to make that  
9 motion?

10 COMMISSIONER ESTES: Yes, I will make the  
11 motion to delegate to Ms. Pitman.

12 COMMISSIONER PILLOW: I'll second it.

13 CHAIRMAN BORST: Moved and seconded. Any  
14 discussion? Seeing none, all those in favor say  
15 "aye."

16 THE COMMISSION: "Aye".

17 CHAIRMAN BORST: Opposed?

18 (No response.)

19 CHAIRMAN BORST: The "ayes" have it. Okay.

20 Seeing no further business, this was we knew  
21 was going to be a short one, but there were some  
22 things we had to get done. And the Caesars thing  
23 came up too. With that, we are adjourned.

24 (The Indiana Horse Racing Commission meeting  
25 adjourned at 2:36 p.m.)

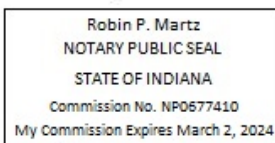
1 STATE OF INDIANA  
2 COUNTY OF JOHNSON  
3

4 I, Robin P. Martz, a Notary Public in and for  
5 said county and state, do hereby certify that the  
6 foregoing matter was taken down in stenograph notes  
7 and afterwards reduced to typewriting under my  
8 direction; and that the typewritten transcript is a  
9 true record of the Indiana Horse Racing Commission  
10 meeting;

11 I do further certify that I am a disinterested  
12 person in this; that I am not a relative of the  
13 attorneys for any of the parties.

14 IN WITNESS WHEREOF, I have hereunto set my  
15 hand and affixed my notarial seal this 6th day of  
16 October, 2022.

17 *Robin P. Martz*  
18



19  
20  
21 My Commission expires:  
22 March 3, 2024

23 Job No. 175848  
24  
25

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