

**Judiciary Committee  
North Dakota Racing Commission  
May 6, 2014**

Testimony of Gunner laCour, Director, before the Judiciary Committee on the North Dakota Racing Commission's Biennial Report.

I would like to begin by introducing myself as the new Director of the North Dakota Racing Commission. I took the reins from former Director Winston Satran in June of 2013. Raised on horse farms in Kentucky and having received a law degree from the University of Kentucky with several years in private practice, it was the Commission's hope that I would provide the right balance of equine knowledge coupled with an ability to handle the legal and managerial aspects of the Commission. It is my personal goal to make the Racing Commission an entity with which all legislators feel comfortable and have an understanding of its basic functions. I look forward to working with all of you in the coming years and hope that we will have many opportunities to discuss the development of racing in North Dakota.

When the Racing Commission is mentioned, many may think primarily of Account Deposit Wagering (commonly known as "ADW"); an on-line method of wagering on horse racing licensed and regulated by the state of North Dakota. Despite the fact that regulation of this wagering is a significant function of the Racing Commission, it is not our primary purpose. Rather, it is a means to support the horsemen of North Dakota, which will become clear throughout the discussion of the Commission's current operations. However, because wagering is a significant issue to so many, I want to begin by presenting the key aspects of the Commission's regulatory efforts.

Over the last four years, the Racing Commission has gone from having only one licensed ADW company to a current total of eleven (11). In the 2012-2013 fiscal year our ADWs produced \$195 million in handle and are currently on track to reach a projected \$250 million in the 2013-2014 fiscal year due in part to a significant increase in international wagering. While many of these companies initially began operations in North Dakota, we have now also begun to see ADW companies licensed in other jurisdictions moving here as well. These positive signs, in addition to a number of current ADW initiatives supported by the Commission, make us confident that we will continue to see similar increases in handle in the coming years.

The Commission prides itself on access to all levels of government and the mutually beneficial relationship we enjoy with our ADWs. However, the primary reason for the significant increase in ADW activity is the strict regulatory standards we impose on our ADWs. The legitimacy of our regulatory system is the foundation on which each ADW has decided to become licensed in North Dakota. Perhaps the most compelling example of the legitimacy provided by a North Dakota license is the recent approval by the Hong Kong Jockey Club for our ADW WatchandWager.com to directly wager into Hong Kong pools, something never before permitted due to concerns about the legitimacy and integrity of wagering conducted elsewhere. We have been told that the licensure of WatchandWager.com in North Dakota was a significant factor in the Hong Kong Jockey Club's decision.

To that end, substantial steps have been taken by the Commission to ensure that our ADWs are held to a high standard of regulatory compliance and transparency in all

aspects of their operations. By way of example, the following represent some of the Commission's current processes and procedures which require our ADWs to meet or exceed industry standards.

- The Commission has put in place a memorandum of agreement with the Thoroughbred Racing Protective Bureau (TRPB) under which the TRPB conducts a background check on prospective ADWs and their principals prior to taking any action on an application. No license will be issued to an ADW whose business practices do not meet the highest industry standards.
- After receiving Commission approval, ADW applications are reviewed and approved by the North Dakota Attorney General to ensure full compliance with state and federal law.
- ADW employees are required to submit to an FBI national background check through the North Dakota Bureau of Criminal Investigation before they may begin their employment.
- The Commission has contracted with the preeminent pari-mutuel auditing company CHRIMS, Inc. to provide independent monthly auditing of all ADW activity. Every CHRIMS report is reconciled with those provided by the ADWs. Without exception, it is the responsibility of each ADW to provide us with accurate reporting and to fully comply with Commission inquiries into any discrepancy.

- Though not mandatory, the Commission is currently working toward adopting the Racing Commissioners International Model Rules in an effort to ensure that North Dakota follows current industry standards in all aspects of racing.

The Commission understands that the integrity of pari-mutuel wagering within the state is the responsibility of both we as regulators and of the industry as a whole. To that end, it is imperative that any ADW company licensed in North Dakota be absolutely transparent as to the identity of those placing wagers and the methods employed in such wagering. It is the goal of the Commission to continue to implement these rigorous standards while continuously updating and reviewing its operations to ensure the highest level of regulation.

As stated previously, despite the great deal of the time and focus the Commission expends regulating ADWs, the true purpose of the Commission is not the proliferation of gambling, but rather the welfare of the North Dakota horsemen and their families. In fact, the statutory tax structure of the Commission requires that all income resulting from ADW operations directly or indirectly returns to the horsemen. The Commission taxes .0025 of the total ADW handle. That tax is in turn split equally into four funds; the General Fund which offsets Commission funding for the following years, the Promotion Fund which is directed to supporting race meets in the state, the Purse Fund which provides the vast majority of purse funding for our races, and the Breed Fund which promotes the breeding of horses in North Dakota through performance awards. Additionally, all breakage (remaining pennies from pari-mutuel payoffs rounded out to a nickel or dime) from the ADWs retained by the Commission is put directly into the

Promotion Fund. As is evident from this tax structure, the Commission is by necessity an organization which must assess every action it takes in terms of the preservation and improvement of live horse racing in this state.

The positive trend in ADW tax contributions should allow the Commission to begin remitting taxes equivalent to our biennial appropriation from the general fund in the near future. In addition to payments to the general fund, over the 2012-13 and 2013-14 fiscal year the Commission will have made the following direct contributions to the states equine industry:

Promotion:	\$532,000
Purse:	\$400,500
<u>Breeders:</u>	<u>\$218,000</u>
Total:	\$1,150,500

While this money has been provided in support of many different efforts, the fact is that it all directly inures to the benefit of the horsemen and the broader equine industry of North Dakota. What is more difficult to quantify is the secondary effect of this funding. Specifically, the benefits to the local community of temporary and permanent employment created by a strong equine industry can be quite large, particularly in places such as Belcourt with a higher than average unemployment rate. Additionally, a significant portion of this funding makes its way to the larger state economy as each horsemen engages with numerous individuals and businesses throughout the remainder of the year to support their equine operations.

To further insure the continued benefits to the equine industry and state economy, the Commission is currently investing a significant amount of effort in

resolving the lingering debt associated with the initial development of the North Dakota Horse Park in Fargo. The Horse Park is the premier live horse racing venue in North Dakota. As such, the strength of our breeding and racing industry is largely dependent upon its success. It also serves a vital role as an educational facility for NDSU's Animal Sciences Program. However, due to failure of past management, there is the possibility that the Horse Park could be lost forever resulting from the inability to address its outstanding debts to the City of Fargo.

In response, the Commission has established an Advisory Committee which will guide the Horse Park through a reorganization and work to establish a new business plan that not only addresses this outstanding debt, but also looks toward the future to ensure the Horse Park can benefit both Fargo and the larger North Dakota community for years to come. You will no doubt recognize many of the Advisory Committee member's names: Chairman Senator Tony Grindberg, Congressman Rick Berg, Fargo Mayor Bruce Furness, Judge Pat Weir, and Fargo City Commissioner John Cosgriff. Each member of the Advisory Committee has devoted their time and effort to this cause because they see that the Horse Park not only provides significant benefits for NDSU and the Fargo region, but that the equine activities of this state are an important cultural resource which should be protected.

While the Racing Commission certainly faces some hurdles in the future, racing in the state has seen many positive developments in the past years. With the cooperation of the horsemen, the 2013 meets saw zero medication violations; a vast improvement from two years prior when North Dakota had one of the highest violation

rates in the nation. Through open dialogue with the horsemen, the Commission has gained significant support in the community for the implementation of the Racing Commissioners International Model Medication Rules. This clear set of directives has allowed the horsemen to understand and comply with the rules on a consistent basis. As a result, the Commission recently moved to permanently adopt the Model Medication Rules, putting North Dakota at the forefront of this movement in the racing industry.

Additionally, both race tracks in the state (Fargo and Belcourt) saw record or near record attendance and handle. The turnout was so great at the Fargo meet that they broke records for attendance and handle two days in a row. This achievement can only be attributed to the support of horse racing by the people of North Dakota. As a result, North Dakota will see two additional weekends of racing in Fargo this year with many looking forward to what will hopefully be the most exciting season in recent memory. Chippewa Downs will be running June 14/15, 21/22, 28/29, and July 5/6 with the North Dakota Horse Park following on July 19/20, 26/27, and August 2/3.

Looking to the future, the Commission sees additional opportunities to support live racing in the state beyond those previously described. One specific example is the Commission's plan to submit legislation which would allow the Commission to again administer the Breed Fund. Pursuant to NDCC 53-06.2-04.1 the Commission must bid out the administration of the Breed Fund to an outside entity. The estimated cost of such services for a single year is \$40,000, which is deducted from the breed fund, thereby reducing the funding available to the horsemen. According to discussions with our state auditor, the inefficiency of this method of administration will be noted in our

most recent state audit. With the proposed change to the statute, the Commission estimates it could reduce the costs by at least half. Additionally, the Commission believes it could provide an increased level of service to the horsemen while working to develop processes and procedures which would create further efficiencies. Ultimately, the proposed legislation should lead to further support for our horsemen.

In addition to its direct support for the North Dakota equine industry, the Commission is also engaged in several initiatives with Lutheran Social Services (LSS) Gambler's Choice program. This program helps contact and treat problem gamblers in the state. While a minimal number of individuals in the program present pari-mutuel wagering as their primary addiction, the Commission understands that the availability of pari-mutuel wagering may provide an outlet for these addictions. The Commission is therefore committed to supporting this outreach program and has begun providing direct financial support to LSS. The Commission periodically discusses the needs of the Gambler's Choice program and works with LSS to meet these needs throughout the year.

I would also like to highlight some other initiatives the Commission is working on with LSS. At this year's meets, LSS will be setting up a booth and distributing materials as well as providing signs with information on problem gambling. Additionally, the Commission will be working with LSS to develop language to incorporate into our rules which would require our ADWs and tracks to provide easily accessible information on problem gambling. While most of our ADWs and tracks do this already, a uniform mandate will hopefully make such efforts more effective. Though these programs were

just recently implemented, the Commission sees this as a crucial part of supporting the broader North Dakota community.

I hope that you found this to be a helpful discussion of the current status of the North Dakota Racing Commission. In the event there are any questions with regard to the foregoing, please do not hesitate to contact me.

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