

**MINUTES  
WV RACING COMMISSION  
Tuesday, July 28, 2015  
WV Lottery Conference Room**

The WV Racing Commission met on July 28, 2015 to conduct business and consider administrative matters. Roll call was taken and present was Chairman Jack Rossi. Commissioner Bill Phillips and Commissioner Greg McDermott were present via conference call. Counsel was represented by Kelli Talbott.

**Consideration of new Equine Testing Lab**

Joe Moore stated some time back Indiana came out with results of some QA testing they had conducted on samples sent to Truesdail. After 26 days or so of testing, they came up with 7 or so positives from their QA testing that Truesdail had not picked up in their testing as their primary laboratory. One of those positives happened to be a Class 1 drug that there are no thresholds in our Rule for at all. Ongoing, the Commission has had a discussion of this consideration of acquiring a new primary Equine Testing Lab. Requests were put out to those labs that are currently RMTCC accredited and a proposal came back that was forwarded to the Commissioner's for their consideration from Industrial Laboratories in Colorado. Ms. Hartman has answered some questions and we have had conversations about items that were brought forward by Counsel.

Kelli Talbott stated it is her understanding that Truesdail had initially indicated that some of the reasons they missed the corticosteroid positives was the sensitivity level of their testing wasn't calibrated properly and they have since addressed that and have implemented new protocols that would avoid that issue. She's not exactly sure how that plays in with them missing the Class 1 drug positive for which there would be no threshold. Truesdail has generally stated they've implemented protocols to address the problems that caused them to miss the positives in Indiana. There are other Mid-Atlantic states that Truesdail tests for, including Delaware, Maryland, New Jersey and West Virginia. They also test for some non-Mid-Atlantic states as well. The Commission entered into a MOU with Truesdail not quite a year ago, but are coming up on a year. The reason we switched to Truesdail was because the previous lab the Commission used, Dalare, did not have RMTCC accreditation. There are now a handful of accredited labs out there, but our options are somewhat limited.

Mr. Phillips asked if anyone happened to know if any state, other than Indiana, has left Truesdail at this point? Ms. Talbott replied none have left that have been reported and she doesn't know if any of them are considering it. The one issue she raised was that right now under the current MOU, Truesdail tests a certain number of samples at what they call a basic testing level and then a certain number of random samples at an American Graded Stakes level, which is a higher level of testing. She's not sure if the Commission wants to continue to do that if they switch labs or if that's been considered. She believes Industrial's quotations for pricing are slightly higher than what the Commission is paying Truesdail now.

Mr. Phillips stated the other concern he has with leaving Truesdail is that we never got around to doing a quality assurance program to help us make this decision. Mr. Moore replied that is correct. A discussion was had about having quality control testing done on the current samples that Truesdail is currently testing and after that discussion was held, the second report came out of Indiana with the additional positives and the Class 1 and at that point in time he got some feeling of assurance that the testing should be put in place going forward. Mr. Phillips asked if we should consider putting a QA program in place immediately as it relates to Truesdail

so that we feel more comfortable about the decision we have to make? Mr. Moore replied regardless of the Commission's decision today, a protocol will be drafted and the QA program will be put in place with whichever lab the Commission decides to have an MOU with. Mr. Phillips asked how long will it take to put that in place if it is decided today not to make a change in labs? Mr. Moore replied it would be hard for him to speak to a specific time period. He can't imagine it would be a lengthy process. Protocols would have to be drafted for the test barn employees and contract with a second lab, which we have a proposal from earlier on with Industrial that covered the QA testing program. Writing a contract would not take that long it would just be getting that process in place with the test barn employees. Mr. McDermott asked what are the costs associated with the quality assurance process? Mr. Moore replied he believes it was about \$50 a sample. Kelli Talbott stated in regards to timing, Indiana picked samples over 26 days of racing and sent those as they were being taken from horses. You want to have a time period that's large enough it is representative. Therefore, you're not only going to have to get the protocols and contract in place but then it's another month of samples, so you're probably looking at a couple of months. Mr. Moore added that was part of the discussion that was had when it was decided not to conduct the QA samples originally and there wasn't going to be a long enough body of work to conduct an effective QA program.

Mr. Rossi stated he has a question in his mind about credibility in the entity we are using now (Truesdail) and if he can overcome his questions. Mr. Phillips stated he has the same concerns and that's why he would have liked to have seen a QA of some nature. He heard this discussed at the RCI Board meeting the other day and he still didn't get the feel that lots of people were jumping ship at this point in time. Mr. Rossi stated he would like to think that going to another entity would put those concerns behind them. His big concern is compliance with the rules, regulations, and safety. Mr. Moore stated it may not be a concern or a consideration but there are currently only 5 accredited RMTTC labs and if everybody were to decide to jump ship from Truesdail, where would you end up if you were one of the last Commission's to do so? Mr. Rossi stated that personally he would like to see the Commission make the change.

Mr. Phillips asked if the Commission made the change, when would that go into effect? Mr. Moore replied he spoke with the test barn manager at Charles Town this morning and his response was as long as the lab you made the change to had adequate time to get their supplies sent to the track, they could turn around and start sending those samples back to that laboratory. He doesn't think that is anything further than a week out, provided that Industrial will be able to get supplies to the two tracks within that time period. Ms. Talbott stated you might want to look at letting the 1 year contract with Truesdail expire since it is in August sometime. Mr. Rossi added that would be his thought, go through the end of the contract and make the switch. Mr. Phillips stated it would give more than adequate time to be comfortable everything is in place when the next phase of this begins. Ms. Talbott added also we would need a little bit of time to get the MOU drafted and signed.

Mr. Phillips asked if the costs are similar between the two vendors? Mr. Moore replied he thinks Industrial is slightly higher than Truesdail. Ms. Talbott added she thinks Industrial's prices were \$95 for basic testing per sample and \$100 for American Graded Stakes testing per sample. We asked them if they would absorb shipping costs and if that would affect their pricing. Mr. Moore stated they didn't come back with an adjusted quote for that but their response was they could get us estimated shipping costs and would be more than willing to accept twice a week shipments. Ms. Talbott stated that would be an improvement over what the Commission has now because we only ship once a week to Truesdail and their turnaround time for test results are 10 days from receipt so when we ship once a week that adds time to the amount of time we can release purses because purses aren't released until we get test results. If you ship twice a week, that would mean the test results would be turned around faster and you'll be able to release purses faster. She believes Industrial's proposal was if there were no issues with the testing they would let us know the results within 5 business days of receipt and if

we needed to hold a sample it would be an additional 5 days for them to confirm whether there was a drug present and the amount. Their proposal actually turns the samples around just a little quicker than what we are getting with Truesdail. Mr. Phillips asked if we've had any conversation with Truesdail? Ms. Talbott replied other than the conference call she participated in with Truesdail in the beginning of July there has not been any. Mr. Phillips stated they did not initiate a call with us? Mr. Moore replied they provided their written response that was provided to the Commissioner's in May but that's the only thing we've received from them.

Mr. McDermott made the motion to continue with Truesdail until the current contract expires but in the meantime work on the MOU with Industrial with the idea we will transition once we are comfortable with the MOU, seconded by Mr. Phillips. Motion passed.

Mr. Rossi stated one other thing that was discussed was the QA process and maybe they should go ahead and authorize the Executive Director and Counsel to begin working on that also. Motion was made by Mr. Phillips to proceed with the process, seconded by Mr. McDermott. Motion passed.

#### **Authorize Acting Executive Director to post opening for part-time Lasix employee**

Joe Moore stated this employee would be at Mountaineer Park and his/her sole responsibility would be the oversight and accompanying the Vets who currently administer Lasix to the horses. We recently changed the way this process is done. In the past, it was the horsemen who took the horses to the receiving barn to have the Lasix administered and the Commission recently decided upon Mountaineer Park's HBPA in supplying a golf cart for Commission use, our employees would accompany the Vets to the barns where the horses are located for them to administer and oversee the Lasix program. Since then, there have been some issues arise with possible health concerns of the current staff that are currently performing those duties. We've received 1 doctor's letter advising the Commission that a Commission employee was physically unable to perform those duties as they are currently written. We have an opportunity, if the Commission would choose, for a part-time employee, probably 4 hours a day for the number of race days they run, at very little expense, to hire a part-time employee to conduct those duties, and only those duties, on the Commission's behalf. Mr. Rossi stated he thinks this is something they need to authorize the Executive Director to do. Motion was made by Mr. McDermott for approval, seconded by Mr. Phillips. Motion passed.

#### **Executive Session – Consideration of applicants for Executive Director, Legal Advice on Employee Evaluations, Discussion of Horse Death at Charles Town**

Motion was made by Mr. McDermott go to into Executive Session, seconded by Mr. Phillips. Motion passed.

Motion was made by Mr. Phillips to come out of Executive Session, seconded by Mr. McDermott. Motion passed.

Mr. Rossi stated as a result of the Executive Session, there is no action to be taken at this time.

#### **Public Comments**

There were no public comments.

**Adjournment**

Mr. Phillips made the motion to adjourn, seconded by Mr. McDermott. Meeting adjourned.