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September 13, 2013

D. Larry Todd  
c/o Rideau Carleton Raceway  
4837 Albion Road  
Ottawa, ON K1V 1A8

Dear Mr. Todd;

Re: Notice of Decision

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Rideau Carleton Raceway  
Application to vary 2013 Approved Race Date Schedule  
Application for the Redirection of Purse Monies

On March 18, 2013 Rideau Carleton Raceway (RCR) submitted an application to vary its 2013 race date schedule for the period April 1 to December 31. The Ontario Racing Commission (ORC) approved the variance for eight April race dates on March 28<sup>th</sup>, and subsequently approved the variance for fifty-six May to December race dates on April 12<sup>th</sup>. The reasons for the April 12<sup>th</sup> decision were released on April 29, 2013.

On May 9, 2013 RCR sent correspondence regarding the ORC's May 7<sup>th</sup> Notice to the Industry regarding approval of Western Fair Association's application for purse funds. The ORC responded to the RCR correspondence the following day, May 10<sup>th</sup>.

On June 4, 2013 RCR applied for the "direction/transfer/release" of purse account funds being held in trust by RCR with respect to the teletheatres in the ORC-approved home market areas historically assigned to Quinte Raceway (Belleville Agricultural Society).

On July 31, 2013 RCR submitted further grounds for the application of June 4<sup>th</sup>.

On August 13, 2013 RCR again submitted further information with regard to the June 4<sup>th</sup> application.

On August 16, 2013 the ORC responded to the June 4<sup>th</sup> application and the subsequent submissions of additional information. RCR responded to this ORC communication on August 23, 2013.

On August 28, 2013 RCR again submitted additional information regarding the application for purse "augmentation".

On September 5, 2013 RCR submitted application for fourteen additional race dates. The ORC responded by reminding RCR of its August 16<sup>th</sup> request for purse account information.

On September 6, 2013 RCR further submitted, in two separate communications, purse account information as requested by the ORC.

After consideration of the various correspondence and submissions, and having considered the recommendation of the Implementation and Monitoring Group and having applied the principles of the Ontario Racing Program, the Director denies the application for the redirection of purse funds from the purse account that RCR holds "in trust for Belleville Area Horse People" to the purse account of RCR. As a result of the interrelation between the purse funding and the additional dates, the director does not approve the application for 14 additional Signature race dates.

Reasons for Decision are attached.

Please be advised that any aggrieved party has the right to appeal the Director's decision to the Commission.

A handwritten signature in black ink, appearing to be 'Steve Lehman', with a long horizontal line extending to the right.

Steve Lehman  
Executive Director

c: Wendy Hoogeveen, ORC  
Implementation and Monitoring Group  
Rob McKinney, ORC  
Gordon McDonald, NCRHHA  
Steve Suttie, CPMA

## REASONS FOR DECISION

The applicant, Rideau Carleton Raceway (RCR), in their approach of applying for the purse redirection first, prior to applying for race dates, signals clearly that there is a direct interrelationship between the purse fund decision and the race date decision. These reasons look at the tenets of RCR's business case, analyze the request in accordance with the principles of the Ontario Racing Program (ORP), and discuss some additional purse considerations.

As noted in the Notice of Decision, the application for the redirection of purse monies held in trust was received on June 4, 2013 and has been the topic of a relatively large volume of correspondence, conversations and submissions.

RCR's application for the use of purse funds specifically focuses on the full amount of purse monies held in trust by RCR. These purse monies represent the horse people's share of pari-mutuel commissions generated from teletheatres operated in the home market areas surrounding the former Quinte Raceway.

### RCR's Business Case

The Director considered the following business factors put forward in the RCR application of June 4<sup>th</sup>:

*(a) The National Capital Region Harness Horse Association (NCRHHA) fully supports this application*

Clearly it is not surprising that local horse people would be supportive of the distribution of these purse monies at their racetrack. While it is obviously preferable that the racetrack operator and local horse people are of same mind on the application, within the spirit of current *Rules of Standardbred Racing*, and pursuant to the implementation of purse pooling under ORP, one must consider the broader, provincial use of purse monies.

*(b) The near-term likelihood of a new Belleville racetrack is non-existent, and*

*(e) RCR is at present the only existing year-round racetrack with the closest racing nexus to the former Quinte Raceway, its horses and horsepeople*

These points are arguably anachronisms. At the time that those trust arrangements for Quinte horse people were made, the thought was one of utilizing funds at the racetrack or in the region where they were generated. Under the current Rules and ORP, purse money is looked at as an economic constraint in a provincial perspective. While geographical proximity is addressed in the May 7, 2013 Notice to the Industry regarding the ORC approval of Western Fair's purse application, it is one of a number of racing and economic factors for consideration.

Despite its characterization as a year-round racetrack, RCR has provided no evidence that the RCR business model will support 2 days per year, full year with Signature level purses. The March 18 application for variance of race dates states RCR's intention "to file the requisite application for variation for 2014 in order to allow it to commence race dates on

March 16, 2014 based on a model similar to 2013” – representing a shut-down of live racing of approximately 11 weeks. The August 28 submission refers to 100 dates conditionally.

- (c) *Rideau Carleton is the only Signature racetrack in Ontario not taking public dollars by way of transitional funding.*

RCR, in its March 18, 2013 application for variance to its 2013 live race date schedule, disclosed that it made “a bona fide application for OMAFRA transition funding”. It went on to say that “the level of funding and the terms and conditions of the proposal for transition funding from the Ministry of Finance/OMAFRA were inconsistent and incompatible with the established business model and business operations of Rideau.” What RCR found unacceptable in those terms and conditions was not disclosed and there was no further explanation of the business rationale for not accepting government’s offer of operational funding through transition payments. Schedule “C” of that application was a letter from NCRHHA stating their “full support of Rideau’s application for race dates”.

The June 4th business case further states that “this non-reliance on public tax dollars is ... one of the cornerstone tenets and goals of the Ontario Racing Program.” This likely refers to a principle regarding the development of “a sustainable model that demonstrates accountability for government’s partnership and investment in horse racing.” The key components of principle were: (1) sustainability - which the current RCR model, one can presume by their current submissions, may not be sustainable without this additional injection of horse people’s purse money and (2) accountability for government’s partnership and investment (acknowledging and assuming the existence of government investment). Based on this, one could certainly argue that RCR’s decision to not accept transfer payment funding from government violated this principle by affecting the sustainability in the region.

The 2013 RCR business model for racing is therefore based on pari-mutuel commission with revised “splits” to fund purses and a portion of the racetrack operating expenses (the proprietor of RCR has committed to “covering” any operating deficit). RCR has given no indication that it has subsequently approached the government for added operational funding for the additional fourteen days.

In its August 23rd submission, RCR notes that in the Notice of Decision and Reasons regarding Grand River’s approved application for purse, there is no comment related to Grand River’s “sustainable racing program and business plan for 2014 and 2015”. The simple response to that is that Grand River has entered into a multi-year agreement with government with respect to racetrack operational transfer payments.

- (d) *RCR is the only Standardbred track east of Highway 11 offering Signature racing*

The ORP recognizes the uniqueness of the Eastern region and the geographical challenges that it faces. Under the Slots at Racetracks Program (SARP), this recognition was affordable and demonstrated through variances such as exceeding the standard number of races per card. According to the 2013 business model that RCR put forth in its March 2013 application for race date variance (and supported at that time by their local horse people), these variances are no longer appear affordable.

- (f) *The current purse structure, at the reduced level of pari-mutuel commission, barely keeps the purse accounts at the minimum plateau for Signature racing.*

- (g) *The requested transfer will assist in maintaining "high-level" Signature live racing closer to the upper limit of \$65,000 per race card.*
- (i) *Maintenance of Signature racing at the higher level of the range ... is necessary and essential to attract and keep the best horses and to support both its simulcast product and on-track racing quality*

These points raise further questions about the sustainability of the RCR business model, as discussed under point (c) above.

It must be recognized that the requested injection of purse funds is a one-time relief that does not address the affordability or the sustainability of Signature racing in Eastern Ontario in 2014 and moving forward. The applicant has not provided a sufficient business plan to demonstrate sustainability of purse or operations beyond the current season. In the absence of a credible 2014 plan, RCR may attract and retain the best horses - but only for 14 additional weeks - after which time horse people will be faced with the same situation, having to make decisions on whether these horses can be maintained in the region beyond December 31<sup>st</sup>. There is a significant risk that adding race dates and purse funds would not contribute to sustainability long term but simply delay the problem by 14 weeks.

- (h) *Reliance on the Western Fair decision of May 7*

Both of the statements represent expressions of the value of Signature racing to the overall ORP. The Eastern Region (and most other regions considered remote) will continue to face the geographical challenges and challenges of scale in that it does not and cannot offer the full hierarchical spectrum of grassroots, signature, and premier racing inherent in the provincial ORP. Horses do, and will continue to, move around the province (and perhaps North America) based on their current position in the racing hierarchy.

### **ORP considerations**

In considering the issues and analysis of ORP factors, the Director considered:

#### **Customer Demand**

RCR and its horse people's purse account benefit from strong wagering and an extensive distribution channel of teletheatres.

In RCR's August 13<sup>th</sup> submission, it estimates pari-mutuel commissions for 2014 to be approximately \$4 million.

#### **Purse Level**

Based on the June 4<sup>th</sup> application, purse supply from the split of pari-mutuel commission is clearly insufficient to support the addition of fourteen race dates. As noted earlier, the decision on the application for additional purse therefore appears to have direct impact on the race date application.

The March 18, 2013 application for race date variance included an initial purse projection for 2013 based on 88 cards of racing in calendar 2013. The March projection showed an

opening January 1st balance of approximately \$500,000 and a “closing balance” of \$535,861.17 at the end of December 2013, with RCR committing to pay a fixed amount of \$3,200,000 in purses. While these purse projections were based on known factors at the time, the subsequent Ontario Lottery and Gaming Corporation (OLG) IFRS settlement infused a material amount of purse monies (\$419,036.40).

It was noted that the RCR actual monthly purse statements varied materially from the projections supplied in March. Upon examination, it appears that RCR has adjusted the pari-mutuel splits to account for the IFRS amount, thereby reducing the actual commission to the purse while still honoring the fixed purse commitment of \$3.2 Million.

In its July 31st submission, RCR reports that purses at the track have decreased from \$14,517,000 in 2012 to \$5,378,000 in 2013 (up slightly from RCR’s original 2013 projection of \$5,258,200 at March 2013). For comparison, RCR’s 2013 model includes \$2.67 million of pari-mutuel commissions attributed to the purse account in 2013. RCR has not provided sufficient information regarding impact of these applications on the purse projection for the remainder of 2013 or 2014. It is therefore unclear how much impact \$600K will have on long term sustainability. As noted above, the requested purse redirection represents a one-time injection of purse that – if used in 2013 – would not be available to support purses in 2014 or any time in the future.

#### **Racing Opportunity and Horse Supply**

Typically, the availability of horse supply is considered in the quantification and approval of race dates. In this case, the argument is being made that these dates are necessary to “attract and keep the best horses”. In its July 31, 2013 submission, RCR provided the update that “throughout June and July 2013 ... our local horse base and horse population is rapidly disappearing in anticipation of the change to one day of live racing per week”. This is supported by anecdotal accounts of trainers and drivers who have left the Ottawa area or have stated intentions to leave. No empirical data of declining horse supply was provided.

A review of Standardbred Canada data shows that RCR entry box has still averaged 134, 132, and 138 horses in June, July and August 2013, respectively. It is also hoped that with the closure of seasonal regional tracks in Quebec and Kawartha, horse supply will not decline to a point where horse supply is insufficient to conduct reasonable cards of racing. The threat of insufficient 2014 purse levels could be considered greater than the threat of inadequate horse supply in the future.

#### **Financial Condition and Motivation to Conduct Live Racing**

RCR management and horse people are admirably trying to conduct this 2013 race season without transfer payment funding. The racetrack operator has demonstrated a willingness to fund the operational expenses of the 14 additional live race dates pending the redirection of the purse funds.

RCR reported advancements at both the Ottawa Finance and Economic Development Committee and later, at the Ottawa City Council in its August 28<sup>th</sup> submission. It is clearly encouraging that Ottawa City Council has confirmed Rideau Carleton Raceway as the “only location” in which casino gaming will be permitted or any gaming expansion will be allowed. The impact of this progress was not quantified or timelines for financial impact disclosed. Additionally, no information was provided that ties horse racing with the potential success of obtaining an expanded gaming operation at the Rideau facility.

Similarly, the August 28<sup>th</sup> submission reported a commitment to 100 race dates for 2014. This commitment was subject to some degree of government funding, expected by RCR “at the end of October.” No financial projections were provided to support this 2014 plan.

### **Harmonized Schedule**

The additional Thursdays are consistent with the objective of harmonizing race schedules.

### **Additional Purse Considerations**

A Notice to the Industry issued on May 7, 2013 addressed the approval of Western Fair’s application for 2013 purse support. The Reasons for Decision detailed in that Notice to Industry described the application of the principles of the ORP in that case. In addition, those Reasons addressed factors affecting the availability of redirected purse funds as breed, geographical proximity, impact on racetrack operating costs, administrative considerations and opportunity costs.

The RCR application for purse redirection targeted “available” funds in that they relate to a track that is no longer racing and has not raced for a number of years.

The applicability of this purse use application also meets the criteria for breed, geographical proximity, and administrative considerations. The impact on racetrack operating costs has not been raised as an issue by RCR.

The final factor relates to opportunity costs. This is where the Director raises concerns regarding RCR’s application. One example of an opportunity cost that is identified in these Reasons is the impact on 2014 purses. Drawing the purse account to virtually nil by the end of the year creates additional strain on 2014 sustainability and cash flow of purses. Another example relates to the possibility of retaining horses in 2013 that will not have adequate racing opportunities in 2014 or timely confidence of 2014 opportunities resulting in relocation out of the area regardless (just delaying the move several weeks).

An option to permit redirection of a partial amount was considered but no amount could be rationally determined in the absence of financial plans for the remainder of 2013 and 2014 for both the racetrack and the purse account.

### **Conclusion**

The Director has empathy for all the industry participants in the RCR area. In addition to the various written communications, the Director considered all of the heartfelt and sincere discussions with racetrack management and local horse people.

In the end, this decision was based on the facts available at this time. The ORC is not privy to or cannot rely on much of what is affecting the economics in this case – OLG leases, transfer payment offers, or final plans for the Eastern region or the industry in general.

In March, the racetrack operator made a business decision not to enter into an agreement for transfer payments from government. As a result, RCR and its horse people agreed on a

plan that meant that some portion of the pari-mutuel commissions would not be available for purses but would instead go to racetrack operations.

Now, concerns are being raised that purses are required to secure 2013 horse supply. No empirical evidence was presented to support this assertion. Further, redirection of purse monies at this time could be looked upon as a replacement for the portion of the pari-mutuel commissions that have been allocated to fund the racetrack operations.

Despite the passage of time and the numerous communications, RCR has not been able to provide adequate financial information that would support its stated plans for 2014. The timing of added gaming monies, the promise of government funding and the projections of contributions to purses are all asking the Director to make a leap of faith in lieu of fact.

In considering what is in the best interest of racing, the Director must look at fact, reasonable assumption and apply a provincial approach (the ORP). It is for these reasons that the Director denies the application for purse redirection and, as a result, similarly denies the application for the 14 additional days of Signature racing.