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COMPTROLLER



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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

May 6, 2020

Mr. Robert Williams
Executive Director
Gaming Commission
One Broadway Center
Schenectady, NY 12301

Re: Equine Health and Safety
Report 2019-F-49

Dear Mr. Williams:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the Gaming Commission (Commission) to implement the recommendations contained in our audit report *Equine Health and Safety* (Report [2017-S-77](#)).

Background, Scope, and Objective

The Commission regulates all aspects of gaming activity in the State, including horse racing and pari-mutuel wagering, Class III Indian Gaming, the State lottery (including video lottery terminals), and charitable gaming. The Commission was created by Chapter 60 of the Laws of 2012 and became effective February 1, 2013. The law merged the Racing and Wagering Board with the Division of Lottery to form a single State agency. The Commission oversees and regulates four thoroughbred tracks: Finger Lakes Gaming and Raceway (privately owned), Saratoga Racecourse, Aqueduct Racetrack, and Belmont Park. The New York Racing Association, Inc. operates the latter three under a franchise agreement with the State. The Commission also oversees and regulates seven privately owned harness tracks: Batavia Downs, Buffalo Raceway, Monticello Raceway, Saratoga Gaming and Raceway, Tioga Downs, Vernon Downs, and Yonkers Raceway.

The Commission's Equine Medical Director (Director) is responsible for all aspects of equine health, safety, and welfare at State racetracks and advises the Commission on equine medication policies, as well as the safety and condition of racetrack facilities and surfaces. The Director oversees equine testing procedures, ensures compliance with regulatory veterinary protocols, investigates incidents, and monitors the Commission's necropsy (autopsy) program.

We issued our initial audit report on November 13, 2018. The audit objective was to determine whether the Commission was monitoring and enforcing New York State rules and regulations designed to promote the health and safety of equines at New York State racetracks. Our scope covered the period January 1, 2014 through August 29, 2018.

We found that the Director had implemented measures to improve the Commission's

practices to promote equine health and safety. However, we determined the Commission could better document its daily operating policies and procedures; improve how information is recorded in the Equine Breakdown, Death, Injury and Incident Database; and ensure adherence to drug testing requirements.

The Commission did not provide our office with a 90-day response indicating any steps it had taken to implement the recommendations made in the initial audit report, as required by Section 170 of the Executive Law. Additionally, during the course of this follow-up review, the Commission impeded the progress of our review – there were numerous delays in providing requested information, documentation, and meetings.

The objective of our follow-up review was to assess the extent of implementation, as of February 20, 2020, of the two recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

Commission officials have made limited progress in addressing the problems we identified in the initial audit, and additional action is still needed. Of the initial report's two audit recommendations, one was partially implemented and one was not implemented.

Follow-Up Observations

Recommendation 1

Develop and ensure adherence to written policies and procedures for operations pertaining to equine health and safety for both harness and thoroughbred racetracks, which may include:

- *Daily operating functions for Commission staff.*
- *Procedures for post-race drug testing.*
- *A uniform incident reporting policy.*

Status – Partially Implemented

Agency Action – During the initial audit, auditors requested operating policies and procedures for specific Commission functions. However, as noted in the audit report, many of the written procedures were created in response to our requests. Officials stated that the created documents were actually summaries of existing policies and procedures provided to make the content more understandable. However, we were not told that the information provided during the audit was summary information, nor were we provided with the corresponding policies and procedures. During the follow-up review, we found that the Commission has developed procedures for equine post-race drug testing. The procedures include a step-by-step protocol and forms to be used for collecting and shipping post-race samples. However, the Commission did not provide evidence the procedures are being followed. In addition, the Commission reiterated that it had formal policies and procedures for daily operating functions and a uniform incident reporting policy. However, once again, it did not provide these to us.

Recommendation 2

As soon as practicable, develop and implement a comprehensive database that more effectively tracks each drug test sample from receipt through final disposition.

Status – Not Implemented

Agency Action – The Commission is supportive of securing a comprehensive database that tracks each drug test sample from receipt through final disposition. However, fiscal restraints have prevented the Commission from taking steps to develop such a database.

Major contributors to this report were Nadine Morrell, Cynthia Herubin, Claudia Christodoulou, Anthony Calabrese, and James Rappaport.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report.

Very truly yours,

Brian Reilly, CFE, CGFM
Audit Director

cc: Ms. Sandra Meadows, Commission