

Agenda Item #1

STATE OF INDIANA
BEFORE THE INDIANA HORSE RACING COMMISSION

IN RE:

2021 Application for Registration of Indiana)
Horsemen’s Benevolent & Protective Association, Inc.)
Pursuant to 71 IAC 13-1-1 *et seq.*)

**NOTICE OF HEARING AND PRE-HEARING ORDER ON 2021 APPLICATION FOR
REGISTRATION OF INDIANA HORSEMEN’S BENEVOLENT & PROTECTIVE
ASSOCIATION PURSUANT TO 71 IAC 13-1-1 ET SEQ.**

This matter comes before the Indiana Horse Racing Commission (hereinafter “the Commission”) on an Application for Approval as a Registered Horsemen’s Association pursuant to 71 IAC 13-1-1 *et seq.* for the calendar year 2021 (hereinafter “the Application”), submitted by the Indiana Horsemen’s Benevolent & Protective Association, Inc. (hereinafter “the Applicant” or “IHBPA”) on or about August 29, 2020. The Commission, by its Chair, issues this notice and order pursuant to the provisions of the Indiana Administrative Orders and Procedures Act, Indiana Code sections 4-21.5-1-1 *et seq.*

NOTICE OF HEARING

The Indiana Horse Racing Commission will hold a hearing on Thursday, December 10, 2020, to begin soon as this matter advances on the Commission’s agenda during its regularly scheduled meeting which will commence at 10:30am EST, at Indiana Grand Racing & Casino, 4300 N. Michigan Road, Shelbyville, IN 46176 (Room TBA). The Hearing will relate to the following Application that was filed with the Commission on or about August 29, 2020:

2021 Application for Registration of the Indiana Horsemen’s Benevolent &
Protective Association, Inc. Pursuant to 71 IAC 13-1-1 *et seq.*

The Hearing will be held for the purpose of providing an opportunity for the Applicant to make a presentation of its Application to the Indiana Horse Racing Commission; an opportunity for the Commission to ask questions of any party representatives and witnesses who may testify at the Hearing; and an opportunity for interested nonparty organizations and persons to provide testimony in support of or adverse to the Application.

The Hearing is to be held by the Indiana Horse Racing Commission pursuant to the authority granted to it by Indiana Code section 4-31-1-1, Indiana Code section 4-35-7-12, 71 IAC sections 13-1-1 *et seq.* and Indiana Code sections 4-21.5-3-1 *et seq.* All members of the Indiana Horse Racing Commission intend to act as the Administrative Law Judge for the Hearing. The members include: Philip Borst, Chairman; Greg Schenkel, Vice Chairman (electronic); George Pillow, Bill Estes, and Bill McCarty (by phone), Members. Noah Jackson, Esq. is and will act as legal counsel to the Indiana Horse Racing Commission during these proceedings. Deena Pitman,

Executive Director, will also appear for the Indiana Horse Racing Commission Staff. Mr. Jackson may be contacted for information concerning the proposed Hearing schedule, the procedure to be followed at the Hearing, and for inspection of copies of the notice to the parties, at the offices of the Indiana Horse Racing Commission, 1302 N. Meridian St., Ste. 175, Indianapolis, Indiana 46204 (tel. no. 317-233-3119).

PRE-HEARING ORDER

The Commission, by its Chairman, Philip Borst, pursuant to Indiana Code section 4-21.5-3-19(d), issues the following Pre-Hearing Order with respect to the matters described herein:

I. Purpose of the Hearing on Applicant's Petition.

The Commission will consider IHBPA's 2021 Application for Registration as a Registered Horsemen's Association Pursuant to 71 IAC 13-1-1 *et seq.* filed with the Commission on or about August 29, 2020, requesting Commission approval to serve as the registered horsemen's association for the calendar year 2021 to receive the monies specified by Indiana Code section 4-35-7-12 to be distributed for the benefit of thoroughbred owners and trainers.

II. Application Process Time Line.

a. Hearing Date and Time

The hearing will commence in the (Room TBA) at Indiana Grand Racing & Casino as soon as it advances on the agenda of the Commission meeting at 10:30am EST. This matter will be heard and will continue, with appropriate recesses, until completed. The record will be closed at the conclusion of the hearing. Thereafter, the Commission will deliberate on and decide whether the Application will be approved or denied and does not comprehend discussion during the deliberation with the Applicant or other interested parties.

b. Incorporation by Reference of IHBPA's 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and 2020 Applications and Related Materials.

The Application incorporates by reference any documents submitted, considered or generated with respect to IHBPA's 2011-2020 Applications for Registration, including, but not limited to, any amended commission staff reports. Note: No substantive changes to the Application made after Monday, November 30, will be considered as part of the Application.

c. Report of the Commission Staff.

The Commission Staff will review the Application and related information provided and may submit a Staff Report on the Application, which would be

distributed to the Applicant on or before the close of business on Monday, November 30.

d. Exhibits the Commission Proposes to Make a Part of the Record.

A list of exhibits which the Commission intends to make a part of the record may be prepared by the Commission's counsel and distributed to the Applicant's representative or counsel for the Applicant on or before the close of business on Thursday, November 30, 2020. It should be understood that even in the absence of filing a list of exhibits, the Commission will offer into evidence the Application, any supplements thereto timely filed by the Applicant and any Staff Report issued by the Commission Staff. It should also be understood that the Commission will take official notice of any record of prior related hearings (including Final Orders) involving the Applicant, pursuant to Indiana Code section 4-21.5-3-26(c). The Applicant must notify the Commission in writing of any exhibit to which it objects on or before noon on Friday, December 5, 2020. If no objection is timely made, all specified exhibits will be made a part of the record at the commencement of the hearing. The Commission may expand that list prior to or at the scheduled hearing, however, the Applicant will be given an opportunity to make an objection to any such additional materials.

e. Witness and Exhibit Lists of Applicants.

Unless the Applicant intends to submit an additional filing or supplement to the Application, no Witness List is contemplated. In the event that the Applicant does submit an additional filing, or otherwise determines that witness testimony is necessary, any such Witness and Exhibit List are to be filed with the Commission on or before noon on Friday, December 5, 2020. When the Applicant files the Witness and Exhibit List, copies of the exhibits are to be left with the Commission so that they can be marked sequentially by the court reporter. While the Applicant may retain its oversized exhibits, reduced copies must be made available to the Commission on or before noon on Friday, December 5, 2020. Documents or exhibits not identified on Applicant's Exhibit List may not be introduced by Applicant.

f. Request for Official Notice.

The Applicant should submit in writing any request for matters to be officially noticed pursuant to Indiana Code section 4-21.5-3-26(f) on or before noon on Friday, December 5, 2020.

g. Issuance of Subpoenas.

The Applicant should submit proposed subpoenas to be issued by the Commission no later than the time that the Witness and Exhibit Lists are filed so that they can

be issued pursuant to Indiana Code section 4-21.5-3-22. Subpoenas shall be issued on the signature of the Chair, or on the signature of the Vice Chairman in the event the Chair is unavailable.

III. Matters Relating to the Conduct of the Hearing.

a. The Commission will be sitting as an Administrative Law Judge at the Hearing.

The Commission is sitting both as an Administrative Law Judge and as “ultimate authority” (pursuant to Indiana Code section 4-21.5-1-15) with respect to this Application for Registration. Indiana Code section 4-21.5-3-11 provides in part that an Administrative Law Judge serving in a proceeding may not communicate directly or indirectly, regarding any issue in the proceeding while the proceeding is pending with any party or any individual who has a direct or indirect interest in the outcome of the proceeding. Such communications are prohibited and are referred to as “ex parte communications.” Additionally, while a Commission Member may communicate separately with another Commission Member and may receive aid from members of the Commission Staff, the Commission Staff is prohibited from having ex parte communications with a Commission member which contain information that would furnish, augment, diminish, or modify the evidence in the record. If the Commission receives an ex parte communication in violation of this statute, please contact counsel for the Commission so that an appropriate public disclosure can be prepared pursuant to the Administrative Orders and Procedures Act. In appropriate circumstances, a Commission Member receiving or otherwise participating in such a prohibited communication can be disqualified from acting further on the Application before the Commission.

Additionally, when acting as an Administrative Law Judge, each Commission Member is prohibited (pursuant to Indiana Codes section 4-21.5-3-12) from commenting publicly, except as to hearing schedules or procedures, about pending proceedings. Accordingly, both the Commission Members and the members of the public are to be mindful of this limitation as the Commission moves forward to consider the evidence and to make a decision on the Application.

b. Hearing to be Conducted under Oath.

The hearing will be conducted under oath or affirmation pursuant to Indiana Code section 4-21.5-3-26(b). In order to insure consistency, any non-party statements are to be given under oath or affirmation pursuant to Indiana Code section 4-21.5-3-25(f).

c. Staff Review and Presentation of Findings.

The Commission Staff is conducting a review of the Application and may speak to its report (*see* II.d., *supra*) at the hearing.

d. Application Hearing Time Schedule.

The maximum time allotted for each part of the hearing is as follows:

Opening Statement of Applicant	Up to 10 minutes
Oral Presentation by Applicant	Up to 15 minutes
Testimony of Commission Staff	Up to 10 minutes
Testimony of Interested Persons And Organizations	Up to 10 minutes
Rebuttal and Final Statements	Up to 5 minutes

e. Chairman to Rule on Procedural Issues.

The Chair will rule on any procedural issues requiring an immediate ruling which are raised at the hearing on the Application.

f. Commission Free to Ask Questions.

During the hearing on the Applicant's presentation, any Commissioner, the Commission's counsel, or the Commission's Executive Director may ask questions of any witness in the nature of cross-examination or to assist the Commission's understanding of the issues relevant to the Application and any appropriate action to be taken.

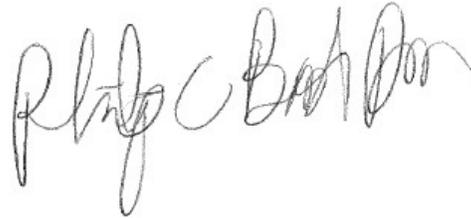
g. Individuals Requesting Time to Speak to the Application.

A sign-up sheet will be made available on the date of the hearing for those interested in speaking during the time allotted for Testimony of Interested Persons and Organizations. An appropriate amount of time will be determined by the Chair at the hearing with consideration of the number of individuals who wish to speak and the total amount of time available in which to do so.

IV. Notice of Pre-Hearing Order

The Applicant is advised that if it fails to attend or participate in the scheduled hearing, or any other stage of the proceeding, the proceeding may be dismissed pursuant to Indiana Code section 4-21.5-3-24.

This Pre-Hearing Order is issued by the Indiana Horse Racing Commission this 2nd day of December, 2020.

A handwritten signature in black ink, appearing to read "Philip C. Borst". The signature is written in a cursive, somewhat stylized font.

Philip Borst, DVM
Chairman
Indiana Horse Racing Commission

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the following parties by email and by first class United States mail, postage prepaid, this 2nd day of December, 2020.

Indiana Horse Racing Commission:
Philip Borst, Chairman
Greg Schenkel, Vice Chair
George E. Pillow, Jr., Member
Susie Lightle, Member
William D. McCarty, Member
1302 N. Meridian Street
Ste. 175
Indianapolis, IN 46202

Deena Pitman, Executive Director
Indiana Horse Racing Commission
1302 N. Meridian St. Ste. 175
Indianapolis, IN 46202

Jeffrey Stemerick, Esq.
Taft
One Indiana Square, Ste. 3500
Indianapolis, IN 46204

Joseph Davis
IHBPA President
1682 Asher Ct.
Hebron, KY 41048

Brian Elmore
IHBPA Executive Director
7539 W. Village Way
New Palestine, IN 46163

/s/ Noah Jackson
Noah Jackson
General Counsel

Agenda Item #2

STATE OF INDIANA
BEFORE THE INDIANA HORSE RACING COMMISSION

IN RE:

2021 Application for Registration of Quarter)
Horse Racing Association of Indiana, Inc.)
Pursuant to 71 IAC 13-1-1 *et seq.*)

**NOTICE OF HEARING AND PRE-HEARING ORDER ON 2021 APPLICATION FOR
REGISTRATION OF QUARTER HORSE RACING ASSOCIATION OF INDIANA, INC.
PURSUANT TO 71 IAC 13-1-1 ET SEQ.**

This matter comes before the Indiana Horse Racing Commission (hereinafter “the Commission”) on an Application for Approval as a Registered Horsemen’s Association pursuant to 71 IAC 13-1-1 *et seq.* for the calendar year 2021 (hereinafter “the Application”), submitted by the Quarter Horse Racing Association of Indiana, Inc. (hereinafter “the Applicant” or “QHRAI”) on or about August 28, 2020. The Commission, by its Chair, issues this notice and order pursuant to the provisions of the Indiana Administrative Orders and Procedures Act, Indiana Code sections 4-21.5-1-1 *et seq.*

NOTICE OF HEARING

The Indiana Horse Racing Commission will hold a hearing on Thursday, December 10, 2020, to begin soon as this matter advances on the Commission’s agenda during its regularly scheduled meeting which will commence at 10:30am EST, at Indiana Grand Racing & Casino, 4300 N. Michigan Road, Shelbyville, IN 46176 (Room TBA). The Hearing will relate to the following Application that was filed with the Commission on or about August 28, 2020:

2021 Application for Registration of the Quarter Horse Racing
Association of Indiana, Inc. Pursuant to 71 IAC 13-1-1 *et seq.*

The Hearing will be held for the purpose of providing an opportunity for the Applicant to make a presentation of its Application to the Indiana Horse Racing Commission; an opportunity for the Commission to ask questions of any party representatives and witnesses who may testify at the Hearing; and an opportunity for interested nonparty organizations and persons to provide testimony in support of or adverse to the Application.

The Hearing is to be held by the Indiana Horse Racing Commission pursuant to the authority granted to it by Indiana Code section 4-31-1-1, Indiana Code section 4-35-7-12, 71 IAC sections 13-1-1 *et seq.* and Indiana Code sections 4-21.5-3-1 *et seq.* All members of the Indiana Horse Racing Commission intend to act as the Administrative Law Judge for the Hearing. The members include: Philip Borst, Chairman; Greg Schenkel, Vice Chairman (electronic); George Pillow, Bill Estes, and Bill McCarty, Members. Deena Pitman, Executive Director, will also appear for the Indiana Horse Racing Commission Staff. Noah Jackson is and will act as legal counsel to

the IHRC Staff during these proceedings. Mr. Jackson may be contacted for information concerning the proposed Hearing schedule, the procedure to be followed at the Hearing, and for inspection of copies of the notice to the parties, at the offices of the Indiana Horse Racing Commission, 1302 N. Meridian St., Ste. 175, Indianapolis, Indiana 46204 (tel. no. 317-233-3119).

PRE-HEARING ORDER

The Commission, by its Chairman, Philip Borst, pursuant to Indiana Code section 4-21.5-3-19(d), issues the following Pre-Hearing Order with respect to the matters described herein:

I. Purpose of the Hearing on Applicant's Petition.

The Commission will consider QHRAI's 2021 Application for Registration as a Registered Horsemen's Association Pursuant to 71 IAC 13-1-1 *et seq.* filed with the Commission on or about August 28, 2020, requesting Commission approval to serve as the registered horsemen's association for the calendar year 2021 to receive the monies specified by Indiana Code section 4-35-7-12 to be distributed for the benefit of thoroughbred owners and trainers.

II. Application Process Time Line.

a. Hearing Date and Time

The hearing will commence in the (Room TBA) at Indiana Grand Racing & Casino, as soon as it advances on the agenda of the Commission meeting at 10:30am EST. This matter will be heard and will continue, with appropriate recesses, until completed. The record will be closed at the conclusion of the hearing. Thereafter, the Commission will deliberate on and decide whether the Application will be approved or denied and does not comprehend discussion during the deliberation with the Applicant or other interested parties.

b. Incorporation by Reference of QHRAI's 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and 2020 Applications and Related Materials.

The Application incorporates by reference any documents submitted, considered or generated with respect to QHRAI's 2011-2020 Applications for Registration, including, but not limited to, any amended commission staff reports. Note: No substantive changes to the Application made after Monday, November 30, 2020, will be considered as part of the Application.

c. Report of the Commission Staff.

The Commission Staff will review the Application and related information provided and may submit a Staff Report on the Application, which would be distributed to the Applicant on or before the close of business on Monday, November 30, 2020.

d. Exhibits the Commission Proposes to Make a Part of the Record.

A list of exhibits which the Commission intends to make a part of the record may be prepared by the Commission's counsel and distributed to the Applicant's representative or counsel for the Applicant on or before the close of business on Monday, November 30, 2020. It should be understood that even in the absence of filing a list of exhibits, the Commission will offer into evidence the Application, any supplements thereto timely filed by the Applicant and any Staff Report issued by the Commission Staff. It should also be understood that the Commission will take official notice of any record of prior related hearings (including Final Orders) involving the Applicant, pursuant to Indiana Code section 4-21.5-3-26(c). The Applicant must notify the Commission in writing of any exhibit to which it objects on or before noon on Friday, December 5, 2020. If no objection is timely made, all specified exhibits will be made a part of the record at the commencement of the hearing. The Commission may expand that list prior to or at the scheduled hearing, however, the Applicant will be given an opportunity to make an objection to any such additional materials.

e. Witness and Exhibit Lists of Applicants.

Unless the Applicant intends to submit an additional filing or supplement to the Application, no Witness List is contemplated. In the event that the Applicant does submit an additional filing, or otherwise determines that witness testimony is necessary, any such Witness and Exhibit List are to be filed with the Commission on or before noon on Monday, Friday, December 5, 2020. When the Applicant files the Witness and Exhibit List, copies of the exhibits are to be left with the Commission so that they can be marked sequentially by the court reporter. While the Applicant may retain its oversized exhibits, reduced copies must be made available to the Commission on or before noon on Monday, Friday, December 5, 2020. Documents or exhibits not identified on Applicant's Exhibit List may not be introduced by Applicant.

f. Request for Official Notice.

The Applicant should submit in writing any request for matters to be officially noticed pursuant to Indiana Code section 4-21.5-3-26(f) on or before noon on Monday, November 30, 2020.

g. Issuance of Subpoenas.

The Applicant should submit proposed subpoenas to be issued by the Commission no later than the time that the Witness and Exhibit Lists are filed so that they can be issued pursuant to Indiana Code section 4-21.5-3-22. Subpoenas shall be issued

on the signature of the Chair, or on the signature of the Vice Chairman in the event the Chair is unavailable.

III. Matters Relating to the Conduct of the Hearing.

a. The Commission will be sitting as an Administrative Law Judge at the Hearing.

The Commission is sitting both as an Administrative Law Judge and as “ultimate authority” (pursuant to Indiana Code section 4-21.5-1-15) with respect to this Application for Registration. Indiana Code section 4-21.5-3-11 provides in part that an Administrative Law Judge serving in a proceeding may not communicate directly or indirectly, regarding any issue in the proceeding while the proceeding is pending with any party or any individual who has a direct or indirect interest in the outcome of the proceeding. Such communications are prohibited and are referred to as “ex parte communications.” Additionally, while a Commission Member may communicate separately with another Commission Member and may receive aid from members of the Commission Staff, the Commission Staff is prohibited from having ex parte communications with a Commission member which contain information that would furnish, augment, diminish, or modify the evidence in the record. If the Commission receives an ex parte communication in violation of this statute, please contact counsel for the Commission so that an appropriate public disclosure can be prepared pursuant to the Administrative Orders and Procedures Act. In appropriate circumstances, a Commission Member receiving or otherwise participating in such a prohibited communication can be disqualified from acting further on the Application before the Commission.

Additionally, when acting as an Administrative Law Judge, each Commission Member is prohibited (pursuant to Indiana Codes section 4-21.5-3-12) from commenting publicly, except as to hearing schedules or procedures, about pending proceedings. Accordingly, both the Commission Members and the members of the public are to be mindful of this limitation as the Commission moves forward to consider the evidence and to make a decision on the Application.

b. Hearing to be Conducted under Oath.

The hearing will be conducted under oath or affirmation pursuant to Indiana Code section 4-21.5-3-26(b). In order to insure consistency, any non-party statements are to be given under oath or affirmation pursuant to Indiana Code section 4-21.5-3-25(f).

c. Staff Review and Presentation of Findings.

The Commission Staff is conducting a review of the Application and may speak to its report (*see* II.d., *supra*) at the hearing.

d. Application Hearing Time Schedule.

The maximum time allotted for each part of the hearing is as follows:

Opening Statement of Applicant	Up to 10 minutes
Oral Presentation by Applicant	Up to 15 minutes
Testimony of Commission Staff	Up to 10 minutes
Testimony of Interested Persons And Organizations	Up to 10 minutes
Rebuttal and Final Statements	Up to 5 minutes

e. Chairman to Rule on Procedural Issues.

The Chair will rule on any procedural issues requiring an immediate ruling which are raised at the hearing on the Application.

f. Commission Free to Ask Questions.

During the hearing on the Applicant's presentation, any Commissioner, the Commission's counsel, or the Commission's Executive Director may ask questions of any witness in the nature of cross-examination or to assist the Commission's understanding of the issues relevant to the Application and any appropriate action to be taken.

g. Individuals Requesting Time to Speak to the Application.

A sign-up sheet will be made available on the date of the hearing for those interested in speaking during the time allotted for Testimony of Interested Persons and Organizations. An appropriate amount of time will be determined by the Chair at the hearing with consideration of the number of individuals who wish to speak and the total amount of time available in which to do so.

IV. Notice of Pre-Hearing Order

The Applicant is advised that if it fails to attend or participate in the scheduled hearing, or any other stage of the proceeding, the proceeding may be dismissed pursuant to Indiana Code section 4-21.5-3-24.

This Pre-Hearing Order is issued by the Indiana Horse Racing Commission this 2nd day of December, 2020.

A handwritten signature in black ink, appearing to read "Philip C. Borst". The signature is written in a cursive, flowing style.

Philip Borst, DVM
Chairman
Indiana Horse Racing Commission

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the following parties by email and by first class United States mail, postage prepaid, this 2nd day of December, 2020.

Indiana Horse Racing Commission:

Philip Borst, Chairman
Greg Schenkel, Vice Chair
George E. Pillow, Jr., Member
Susie Lightle, Member
William D. McCarty, Member
1302 N. Meridian Street
Ste. 175
Indianapolis, IN 46202

Deena Pitman, Executive Director
Indiana Horse Racing Commission
1302 N. Meridian St. Ste. 175
Indianapolis, IN 46202

Dianne Bennett
Executive Director
6384 E 500 N
Franklin, IN 46131

Paul Martin
QHRAI President
P.O. Box 399
Shelbyville, IN 46176

/s/ Noah Jackson
Noah Jackson
General Counsel

Agenda Item #3

STATE OF INDIANA
BEFORE THE INDIANA HORSE RACING COMMISSION

IN RE:

2021 Application for Registration of Indiana)
Thoroughbred Owner's and Breeder's Association)
Pursuant to 71 IAC 13-1-1 *et seq.*)

**NOTICE OF HEARING AND PRE-HEARING ORDER ON 2021 APPLICATION FOR
REGISTRATION OF INDIANA THOROUGHBRED OWNER'S AND BREEDER'S
ASSOCIATION PURSUANT TO 71 IAC 13-1-1 ET SEQ.**

This matter comes before the Indiana Horse Racing Commission (hereinafter "the Commission") on an Application for Approval as a Registered Horsemen's Association pursuant to 71 IAC 13-1-1 *et seq.* for the calendar year 2021 (hereinafter "the Application"), submitted by the Indiana Thoroughbred Owner's and Breeder's Association (hereinafter "the Applicant" or "ITOBA") on or about August 28, 2020. The Commission, by its Chair, issues this notice and order pursuant to the provisions of the Indiana Administrative Orders and Procedures Act, Indiana Code sections 4-21.5-1-1 *et seq.*

NOTICE OF HEARING

The Indiana Horse Racing Commission will hold a hearing on Thursday, December 10, 2020, to begin as soon as this matter advances on the Commission's agenda during its regularly scheduled meeting which will commence at 10:30am EST, at Indiana Grand Racing & Casino, 4300 N. Michigan Road, Shelbyville, IN 46176 (Room TBA). The Hearing will relate to the following Application that was filed with the Commission on or about August, 28, 2020:

2021 Application for Registration of the Indiana Thoroughbred Owner's
And Breeder's Association Pursuant to 71 IAC 13-1-1 *et seq.*

The Hearing will be held for the purpose of providing an opportunity for the Applicant to make a presentation of its Application to the Indiana Horse Racing Commission; an opportunity for the Commission to ask questions of any party representatives and witnesses who may testify at the Hearing; and an opportunity for interested nonparty organizations and persons to provide testimony in support of or adverse to the Application.

The Hearing is to be held by the Indiana Horse Racing Commission pursuant to the authority granted to it by Indiana Code section 4-31-1-1, Indiana Code section 4-35-7-12, 71 IAC sections 13-1-1 *et seq.* and Indiana Code sections 4-21.5-3-1 *et seq.* All members of the Indiana Horse Racing Commission intend to act as the Administrative Law Judge for the Hearing. The members include: Philip Borst, Chairman; Greg Schenkel, Vice Chairman (electronic); George Pillow, Bill Estes, and Bill McCarty, Members. Noah Jackson, Esq. is and will act as legal counsel to the Indiana Horse Racing Commission during these proceedings. Deena Pitman, Executive

Director, will also appear for the Indiana Horse Racing Commission Staff. Mr. Jackson may be contacted for information concerning the proposed Hearing schedule, the procedure to be followed at the Hearing, and for inspection of copies of the notice to the parties, at the offices of the Indiana Horse Racing Commission, 1302 N. Meridian St., Ste. 175, Indianapolis, Indiana 46204 (tel. no. 317-233-3119).

PRE-HEARING ORDER

The Commission, by its Chairman, Philip Borst, pursuant to Indiana Code section 4-21.5-3-19(d), issues the following Pre-Hearing Order with respect to the matters described herein:

I. Purpose of the Hearing on Applicant's Petition.

The Commission will consider ITOBA's 2021 Application for Registration as a Registered Horsemen's Association Pursuant to 71 IAC 13-1-1 *et seq.* filed with the Commission on or about August 28, 2020, requesting Commission approval to serve as the registered horsemen's association for the calendar year 2021 to receive the monies specified by Indiana Code section 4-35-7-12 to be distributed for the benefit of thoroughbred owners and trainers.

II. Application Process Time Line.

a. Hearing Date and Time

The hearing will commence in the (Room TBA) at Indiana Grand Racing & Casino, as soon as it advances on the agenda of the Commission meeting at 10:30am EST. This matter will be heard and will continue, with appropriate recesses, until completed. The record will be closed at the conclusion of the hearing. Thereafter, the Commission will deliberate on and decide whether the Application will be approved or denied and does not comprehend discussion during the deliberation with the Applicant or other interested parties.

b. Incorporation by Reference of ITOBA's 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and 2020 Applications and Related Materials.

The Application incorporates by reference any documents submitted, considered or generated with respect to ITOBA's 2011-2020 Applications for Registration, including, but not limited to, any amended commission staff reports. Note: No substantive changes to the Application made after Monday, November 30, 2020, will be considered as part of the Application except those already discussed with ITOBA counsel.

c. Report of the Commission Staff.

The Commission Staff will review the Application and related information provided and may submit a Staff Report on the Application, which would be

distributed to the Applicant on or before the close of business on Monday, December 3, 2020.

d. Exhibits the Commission Proposes to Make a Part of the Record.

A list of exhibits which the Commission intends to make a part of the record may be prepared by the Commission's counsel and distributed to the Applicant's representative or counsel for the Applicant on or before the close of business on Monday, November 30, 2020. It should be understood that even in the absence of filing a list of exhibits, the Commission will offer into evidence the Application, any supplements thereto timely filed by the Applicant and any Staff Report issued by the Commission Staff. It should also be understood that the Commission will take official notice of any record of prior related hearings (including Final Orders) involving the Applicant, pursuant to Indiana Code section 4-21.5-3-26(c). The Applicant must notify the Commission in writing of any exhibit to which it objects on or before noon on Friday, December 5, 2020. If no objection is timely made, all specified exhibits will be made a part of the record at the commencement of the hearing. The Commission may expand that list prior to or at the scheduled hearing, however, the Applicant will be given an opportunity to make an objection to any such additional materials.

e. Witness and Exhibit Lists of Applicants.

Unless the Applicant intends to submit an additional filing or supplement to the Application, no Witness List is contemplated. In the event that the Applicant does submit an additional filing, or otherwise determines that witness testimony is necessary, any such Witness and Exhibit List are to be filed with the Commission on or before noon on Friday, December 5, 2020. When the Applicant files the Witness and Exhibit List, copies of the exhibits are to be left with the Commission so that they can be marked sequentially by the court reporter. While the Applicant may retain its oversized exhibits, reduced copies must be made available to the Commission on or before noon on Friday, December 5, 2020. Documents or exhibits not identified on Applicant's Exhibit List may not be introduced by Applicant.

f. Request for Official Notice.

The Applicant should submit in writing any request for matters to be officially noticed pursuant to Indiana Code section 4-21.5-3-26(f) on or before noon on Friday, December 5, 2020.

g. Issuance of Subpoenas.

The Applicant should submit proposed subpoenas to be issued by the Commission no later than the time that the Witness and Exhibit Lists are filed so that they can be issued pursuant to Indiana Code section 4-21.5-3-22. Subpoenas shall be issued on the signature of the Chair, or on the signature of the Vice Chairman in the event the Chair is unavailable.

III. Matters Relating to the Conduct of the Hearing.

a. The Commission will be sitting as an Administrative Law Judge at the Hearing.

The Commission is sitting both as an Administrative Law Judge and as “ultimate authority” (pursuant to Indiana Code section 4-21.5-1-15) with respect to this Application for Registration. Indiana Code section 4-21.5-3-11 provides in part that an Administrative Law Judge serving in a proceeding may not communicate directly or indirectly, regarding any issue in the proceeding while the proceeding is pending with any party or any individual who has a direct or indirect interest in the outcome of the proceeding. Such communications are prohibited and are referred to as “ex parte communications.” Additionally, while a Commission Member may communicate separately with another Commission Member and may receive aid from members of the Commission Staff, the Commission Staff is prohibited from having ex parte communications with a Commission member which contain information that would furnish, augment, diminish, or modify the evidence in the record. If the Commission receives an ex parte communication in violation of this statute, please contact counsel for the Commission so that an appropriate public disclosure can be prepared pursuant to the Administrative Orders and Procedures Act. In appropriate circumstances, a Commission Member receiving or otherwise participating in such a prohibited communication can be disqualified from acting further on the Application before the Commission.

Additionally, when acting as an Administrative Law Judge, each Commission Member is prohibited (pursuant to Indiana Codes section 4-21.5-3-12) from commenting publicly, except as to hearing schedules or procedures, about pending proceedings. Accordingly, both the Commission Members and the members of the public are to be mindful of this limitation as the Commission moves forward to consider the evidence and to make a decision on the Application.

b. Hearing to be Conducted under Oath.

The hearing will be conducted under oath or affirmation pursuant to Indiana Code section 4-21.5-3-26(b). In order to insure consistency, any non-party statements are to be given under oath or affirmation pursuant to Indiana Code section 4-21.5-3-25(f).

c. Staff Review and Presentation of Findings.

The Commission Staff is conducting a review of the Application and may speak to its report (*see* II.d., *supra*) at the hearing.

d. Application Hearing Time Schedule.

The maximum time allotted for each part of the hearing is as follows:

Opening Statement of Applicant	Up to 10 minutes
Oral Presentation by Applicant	Up to 15 minutes
Testimony of Commission Staff	Up to 10 minutes
Testimony of Interested Persons And Organizations	Up to 10 minutes
Rebuttal and Final Statements	Up to 5 minutes

e. Chairman to Rule on Procedural Issues.

The Chair will rule on any procedural issues requiring an immediate ruling which are raised at the hearing on the Application.

f. Commission Free to Ask Questions.

During the hearing on the Applicant’s presentation, any Commissioner, the Commission’s counsel, or the Commission’s Executive Director may ask questions of any witness in the nature of cross-examination or to assist the Commission’s understanding of the issues relevant to the Application and any appropriate action to be taken.

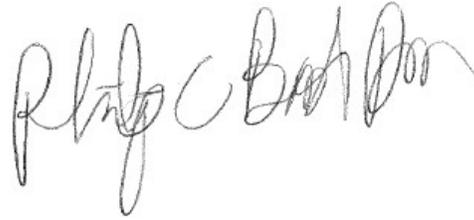
g. Individuals Requesting Time to Speak to the Application.

A sign-up sheet will be made available on the date of the hearing for those interested in speaking during the time allotted for Testimony of Interested Persons and Organizations. An appropriate amount of time will be determined by the Chair at the hearing with consideration of the number of individuals who wish to speak and the total amount of time available in which to do so.

IV. Notice of Pre-Hearing Order

The Applicant is advised that if it fails to attend or participate in the scheduled hearing, or any other stage of the proceeding, the proceeding may be dismissed pursuant to Indiana Code section 4-21.5-3-24.

This Pre-Hearing Order is issued by the Indiana Horse Racing Commission this 2nd day of December, 2020.

A handwritten signature in black ink, appearing to read "Philip C. Borst". The signature is written in a cursive, flowing style.

Philip Borst, DVM
Chairman
Indiana Horse Racing Commission

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the following parties by email and by first class United States mail, postage prepaid, this 2nd day of December, 2020.

Indiana Horse Racing Commission:
Philip Borst, Chairman
Greg Schenkel, Vice Chair
George E. Pillow, Jr., Member
Susie Lightle, Member
William D. McCarty, Member
1302 N. Meridian Street
Ste. 175
Indianapolis, IN 46202

Deena Pitman, Executive Director
Indiana Horse Racing Commission
1302 N. Meridian St. Ste. 175
Indianapolis, IN 46202

Bruce Murphy
ITOBA President
2730 N 175 W
Crawfordsville, IN 47933

Pete Sacopulos
Sacopulos Johnson & Sacopulos
676 Ohio Street
Terre Haute, IN 47807

/s/ Noah Jackson
Noah Jackson
General Counsel

Agenda Item #4

STATE OF INDIANA
BEFORE THE INDIANA HORSE RACING COMMISSION

IN RE:

2021 Application for Registration of)
Indiana Standardbred Association)
Pursuant to 71 IAC 13-1-1 *et seq.*)

**NOTICE OF HEARING AND PRE-HEARING ORDER ON 2021 APPLICATION FOR
REGISTRATION OF INDIANA STANDARDBRED ASSOCIATION
PURSUANT TO 71 IAC 13-1-1 ET SEQ.**

This matter comes before the Indiana Horse Racing Commission (hereinafter “the Commission”) on an Application for Approval as a Registered Horsemen’s Association pursuant to 71 IAC 13-1-1 *et seq.* for the calendar year 2021 (hereinafter “the Application”), submitted by the Indiana Standardbred Association (hereinafter “the Applicant” or “ISA”) on or about August 27, 2020. The Commission, by its Chair, issues this notice and order pursuant to the provisions of the Indiana Administrative Orders and Procedures Act, Indiana Code sections 4-21.5-1-1 *et seq.*

NOTICE OF HEARING

The Indiana Horse Racing Commission will hold a hearing on Thursday, December 10, 2020, to begin as soon as this matter advances on the Commission’s agenda during its regularly scheduled meeting which will commence at 10:30am EST, at Indiana Grand Racing & Casino, 4300 N. Michigan Road, Shelbyville, IN 46176 (Room TBA). The Hearing will relate to the following Application that was filed with the Commission on or about August 27, 2020:

2021 Application for Registration of the Indiana Standardbred
Association Pursuant to 71 IAC 13-1-1 *et seq.*

The Hearing will be held for the purpose of providing an opportunity for the Applicant to make a presentation of its Application to the Indiana Horse Racing Commission; an opportunity for the Commission to ask questions of any party representatives and witnesses who may testify at the Hearing; and an opportunity for interested nonparty organizations and persons to provide testimony in support of or adverse to the Application.

The Hearing is to be held by the Indiana Horse Racing Commission pursuant to the authority granted to it by Indiana Code section 4-31-1-1, Indiana Code section 4-35-7-12, 71 IAC sections 13-1-1 *et seq.* and Indiana Code sections 4-21.5-3-1 *et seq.* All members of the Indiana Horse Racing Commission intend to act as the Administrative Law Judge for the Hearing. The members include: Philip Borst, Chairman; Greg Schenkel, Vice Chairman (electronic); George Pillow, Bill Estes, and Bill McCarty (by phone), Members. Deena Pitman, Executive Director, will also appear for the Indiana Horse Racing Commission Staff. Noah Jackson is and will act as legal counsel to the IHRC Staff during these proceedings. Mr. Pennycuff may be contacted for

information concerning the proposed Hearing schedule, the procedure to be followed at the Hearing, and for inspection of copies of the notice to the parties, at the offices of the Indiana Horse Racing Commission, 1302 N. Meridian St., Ste. 175, Indianapolis, Indiana 46204 (tel. no. 317-233-3119).

PRE-HEARING ORDER

The Commission, by its Chairman, Philip Borst, pursuant to Indiana Code section 4-21.5-3-19(d), issues the following Pre-Hearing Order with respect to the matters described herein:

I. Purpose of the Hearing on Applicant's Petition.

The Commission will consider ISA's 2021 Application for Registration as a Registered Horsemen's Association Pursuant to 71 IAC 13-1-1 *et seq.* filed with the Commission on or about August 27, 2020, requesting Commission approval to serve as the registered horsemen's association for the calendar year 2021 to receive the monies specified by Indiana Code section 4-35-7-12 to be distributed for the benefit of thoroughbred owners and trainers.

II. Application Process Time Line.

a. Hearing Date and Time

The hearing will commence in the (Room TBA) at Indiana Grand Racing & Casino, as soon as it advances on the agenda of the Commission meeting at 10:30am EST. This matter will be heard and will continue, with appropriate recesses, until completed. The record will be closed at the conclusion of the hearing. Thereafter, the Commission will deliberate on and decide whether the Application will be approved or denied and does not comprehend discussion during the deliberation with the Applicant or other interested parties.

b. Incorporation by Reference of ISA's 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and 2020 Applications and Related Materials.

The Application incorporates by reference any documents submitted, considered or generated with respect to ISA's 2011-2020 Applications for Registration, including, but not limited to, any amended commission staff reports. Note: No substantive changes to the Application made after Monday, November 30, 2020, will be considered as part of the Application.

c. Report of the Commission Staff.

The Commission Staff will review the Application and related information provided and may submit a Staff Report on the Application, which would be distributed to the Applicant on or before the close of business on Monday, November 30, 2020.

d. Exhibits the Commission Proposes to Make a Part of the Record.

A list of exhibits which the Commission intends to make a part of the record may be prepared by the Commission's counsel and distributed to the Applicant's representative or counsel for the Applicant on or before the close of business on Monday, November 30, 2020. It should be understood that even in the absence of filing a list of exhibits, the Commission will offer into evidence the Application, any supplements thereto timely filed by the Applicant and any Staff Report issued by the Commission Staff. It should also be understood that the Commission will take official notice of any record of prior related hearings (including Final Orders) involving the Applicant, pursuant to Indiana Code section 4-21.5-3-26(c). The Applicant must notify the Commission in writing of any exhibit to which it objects on or before noon on Friday, December 5, 2020. If no objection is timely made, all specified exhibits will be made a part of the record at the commencement of the hearing. The Commission may expand that list prior to or at the scheduled hearing, however, the Applicant will be given an opportunity to make an objection to any such additional materials.

e. Witness and Exhibit Lists of Applicants.

Unless the Applicant intends to submit an additional filing or supplement to the Application, no Witness List is contemplated. In the event that the Applicant does submit an additional filing, or otherwise determines that witness testimony is necessary, any such Witness and Exhibit List are to be filed with the Commission on or before noon on Friday, December 5, 2020. When the Applicant files the Witness and Exhibit List, copies of the exhibits are to be left with the Commission so that they can be marked sequentially by the court reporter. While the Applicant may retain its oversized exhibits, reduced copies must be made available to the Commission on or before noon on Friday, December 5, 2020. Documents or exhibits not identified on Applicant's Exhibit List may not be introduced by Applicant.

f. Request for Official Notice.

The Applicant should submit in writing any request for matters to be officially noticed pursuant to Indiana Code section 4-21.5-3-26(f) on or before noon on Friday, December 5, 2020.

g. Issuance of Subpoenas.

The Applicant should submit proposed subpoenas to be issued by the Commission no later than the time that the Witness and Exhibit Lists are filed so that they can be issued pursuant to Indiana Code section 4-21.5-3-22. Subpoenas shall be issued

on the signature of the Chair, or on the signature of the Vice Chairman in the event the Chair is unavailable.

III. Matters Relating to the Conduct of the Hearing.

a. The Commission will be sitting as an Administrative Law Judge at the Hearing.

The Commission is sitting both as an Administrative Law Judge and as “ultimate authority” (pursuant to Indiana Code section 4-21.5-1-15) with respect to this Application for Registration. Indiana Code section 4-21.5-3-11 provides in part that an Administrative Law Judge serving in a proceeding may not communicate directly or indirectly, regarding any issue in the proceeding while the proceeding is pending with any party or any individual who has a direct or indirect interest in the outcome of the proceeding. Such communications are prohibited and are referred to as “ex parte communications.” Additionally, while a Commission Member may communicate separately with another Commission Member and may receive aid from members of the Commission Staff, the Commission Staff is prohibited from having ex parte communications with a Commission member which contain information that would furnish, augment, diminish, or modify the evidence in the record. If the Commission receives an ex parte communication in violation of this statute, please contact counsel for the Commission so that an appropriate public disclosure can be prepared pursuant to the Administrative Orders and Procedures Act. In appropriate circumstances, a Commission Member receiving or otherwise participating in such a prohibited communication can be disqualified from acting further on the Application before the Commission.

Additionally, when acting as an Administrative Law Judge, each Commission Member is prohibited (pursuant to Indiana Codes section 4-21.5-3-12) from commenting publicly, except as to hearing schedules or procedures, about pending proceedings. Accordingly, both the Commission Members and the members of the public are to be mindful of this limitation as the Commission moves forward to consider the evidence and to make a decision on the Application.

b. Hearing to be Conducted under Oath.

The hearing will be conducted under oath or affirmation pursuant to Indiana Code section 4-21.5-3-26(b). In order to insure consistency, any non-party statements are to be given under oath or affirmation pursuant to Indiana Code section 4-21.5-3-25(f).

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Philip Borst, DVM
Chairman
Indiana Horse Racing Commission

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Deena Pitman, Executive Director
Indiana Horse Racing Commission
1302 N. Meridian St. Ste. 175
Indianapolis, IN 46202

Roger Young, Esq.
40 W. Court St., Ste. D
Franklin, IN 46131

Joe Putnam
ISA President
311 American Legion Place
Greenfield, IN 46140

/s/ Noah Jackson
Noah Jackson
General Counsel