

***New Mexico Horsemen's  
Association  
P.O. Box 8695  
Albuquerque, New Mexico 87198  
(505) 266-7056***

**January 26, 2024**

**Dear Governor Michelle Lujan-Grisham and  
Members of the New Mexico Legislature:**

We are the New Mexico Horsemen's Association – a not for profit group which was originally formed back in 1966. We represent more than 5,000 individuals who actively participate in thoroughbred and quarter horse racing in the State of New Mexico. Thoroughbred and Quarter-Horse racing in New Mexico is a substantial economic engine in the State and the third largest economic revenue generator behind Oil & Gas and Agriculture.

The ***sole purpose*** of the New Mexico Horsemen's Association ("NMHA") is to promote the livelihood, welfare and health of our 5,000 members racing in the great state of New Mexico. For more than a half-century, we have actively protected and promoted the rights and interests of New Mexico horsemen and women.

Over the past 18 months the horsemen and horsewomen of the State of New Mexico have come under attack for performing our duty and protecting our members and following the laws as set by the New Mexico legislature! By simply performing the functions it has done for the past 60 years, the NMHA has been retaliated against by the New Mexico Racing Commission ("NMRC"), who continues to make rules and regulations which circumvent the laws which passed by this legislature!

The NMRC's actions stem from a lawsuit the NMHA was forced to file because the racetracks were improperly, and illegally absconding monies statutorily dedicated to the 5,000 horsemen racing in New Mexico and diverting its use to the financial benefit of the racetracks as part of their expenses.

One lawsuit filed by the NMHA sought to stop the abuses and *pilfering* of horsemen's purse money was filed in state court. The case of *New Mexico Horsemen's Association v. New Mexico Racing Commission, et al*, No. D-202-CV-2020-0564 County of Bernalillo, Second Judicial District Court. In September 20, 2022, the Hon. Judge Victor S. Lopez found that the actions of the NMRC exceed the terms of its rule promulgating authority and circumvented the New Mexico Legislature. The actions of the NMRC were found to be unlawful.

**The Hon. Judge Lopez specifically found:**

*"It is not the Commission's role to decide and implement policy which would essentially **allow the skimming of racing revenue.**"*

Consequently, the New Mexico horsemen were "shorted" more than **\$9 million dollars (\$9,000,000.00)** in purse money dedicated to the hardworking men and women who participate in horse racing in New Mexico!

***Rather than follow the law***, in retaliation, the NMRC passed a rule specifically aimed at stopping the New Mexico Horsemen's Association from funding itself – essentially cutting off the self-funding procedures for our association which have been in place for decades. This retaliatory measure was performed in an effort to stop the NMHA from filing additional lawsuits to stop the improper practices being allowed by the NMRC which are in derogation to New Mexico law.

As part of its retaliatory measure, the NMRC passed a rule which specifically "de-recognizes" the NMHA's existence of almost 60 years! The specific rule, shows the red-line version of what the racing commission did in striking the New Mexico Horsemen's Association from performing the duties it has fulfilled for more than 40 years. The new rule reads as follows:

15.2.7.10 Simulcast Wagering:

A. General Provisions: No person shall conduct or attempt to conduct interstate, or intrastate simulcast wagering unless authorized and permitted to do so by the commission.

- (1) No person shall attempt to conduct wagering on the results of a simulcast unless an agreement has been executed between the host and guest track operators, the agreement has been approved by ~~[the New Mexico Horsemen's Association]~~ a representative of the horsemen's group as defined in the Interstate Horse Racing Act and the agreement is filed with the commission.
- (2) ~~In the event the New Mexico horsemen's association withholds its approval of an agreement submitted, reasons for non-approval will be-~~



~~detailed to the commission in writing, with the final decision to be made by the commission.]~~

The Interstate Horseracing Act ("IHA") of 1979, a federal law, provides the horsemen of New Mexico, **through the New Mexico Horsemen's Association**, to enter into contract negotiations to allow simulcast contracts with each track in New Mexico. This contract provides the New Mexico Horsemen to contractually determine the manner in which host race meets are conducted and other matters such as the conduct of race meets, race days, backside improvements and all other manners in which racing is conducted.

The New Mexico Racing Commission now holds the distinction as being the sole racing jurisdiction in the United States to disregard federal law and takes away the collective bargaining power of the horsemen and horsewomen racing in New Mexico.

The NMRC and/or someone acting on their behalf, then contacted individual(s) with the New Mexico racetracks and informed them not to engage in contractual negotiations with the NMHA. These actions were in violation of federal law, under the Interstate Horseracing Act of 1979. The actions of the New Mexico Racing Commission combined with the actions of some of the participating tracks to follow this improper course of action resulted in the State of New Mexico losing the simulcast signals from other states. One of the states who now **refuses** to send their signal to the State of New Mexico, until these matters are resolved, is the State of Kentucky. ***This means that not a single person in the State of New Mexico will be allowed to legally wager on the 2024 Kentucky Derby!*** Neighboring states such as Arizona and Oklahoma have also refused to send their signals to the State of New Mexico. These actions which stem from the unlawful actions of the New Mexico Racing Commission will result in a significant loss of tax revenue to the citizens of New Mexico. The effects from these actions will be ongoing.

The actions of the New Mexico Racing Commission were specifically found to be in violation of law. In the matter of *New Mexico Horsemen's Association v. All American Ruidoso Downs, LLC, et al*, No. D-1226-CV-2023-00110 State of New Mexico, County of Lincoln, 12<sup>th</sup> Judicial District Court, the Hon Daniel Bryant specifically found on September 5, 2023, that:

*"Petitioner is a horsemen's group or association that represents a majority of the horsemen in the State of New Mexico and at Respondent's racetrack and casino participating in the 2023 race meet."*

The court also found the following:

*"The New Mexico Racing Commission "unrecognized" the Petitioner."*

Despite the specific rulings, the NMRC continues their assault against the horsemen of New Mexico with their latest attempts to abuse the powers instilled and bestowed upon them.

Rather than correct the problem and allow transparency into the purse structure of New Mexico racetracks, the New Mexico Racing Commission, has engaged in a pattern of retaliatory assault against the NMHA. The New Mexico Racing Commission changed the text of Rule 15.2.2.9 (A) & (B) (1) – to **exclude** any mention of the New Mexico Horsemen's Association and restrict and limit the ability of the New Mexico Horsemen's Association to participate in and act as a "watchdog" over the purse monies statutorily dedicated to the 5,000 horsemen and horsewomen racing in New Mexico. The NMRC Rules now read as follows:

15.2.2.9

A. **Associations financial requirements:**

(5) The twenty-percent of the net take to purses shall be distributed as follows:

Nineteen and three tenths percent of the net daily take deposited by the associations will be distributed weekly by the ~~New Mexico Horsemen's~~ **associations** to the *New Mexico horsebreeders association* to the purse fund; eighty and seven tenths percent of the net daily take deposited by the association will be distributed to the existing purse structures determined and approved by the commission

No longer existing in the very purse structure is the ability of the NMHA to monitor or control its own purses. The commission then changed the rules in 15.2.2.9 B as follows:

B. **Organizations' financial requirements:**

(1) The ~~New Mexico Horsemen's~~ associations shall establish **interest-bearing accounts**, designated as gaming funds for purses. The associations shall deposit, by 1:00 o'clock p.m. Monday of each week except for legal holiday which will be deposited on the next business day, twenty percent of the daily net take as defined by the gaming control act.

(2) The ~~New Mexico Horsemen's~~ associations and **the New Mexico horsebreeders association** shall keep accurate, complete and legible records with reports to the commission to include:

- (a) monthly reconciliation of amounts collected to account statements
- (b) copy of account authorization signatures;



- (c) any changes in authorizing signatures; and
- (d) detail of disbursements from the accounts

These rules are now set as the framework to place the New Mexico Horsebreeders Association as the entity to monitor the purse structure. Originally, the New Mexico Horsebreeders Association in a letter dated August 24, 2022, informed the New Mexico Racing Commission that it **does not have the infrastructure nor the desire** to take on this responsibility. The New Mexico Horsebreeders Association chose to “stay in their lane” and stick strictly to the breeding duties they exist to foster and grow in New Mexico.

The New Mexico Horsebreeders Association is unaware that they have been tasked with the duties to oversee the purse structure and as their letter indicates, never took the job. Yet, the New Mexico Racing Commission did nothing. Instead, there is currently no oversight and the NMRC has failed in one of their main objectives.

Consequently, Zia Park Casino - Hotel & Racetrack has taken advantage of this egregious and lawless situation! Even though monies for purses are to be escrowed and paid in advance, numerous owners of horses who won races found that their checks from Zia Park Casino - Hotel & Racetrack were delayed, never sent or returned for insufficient funds. This is tantamount to an attorney writing a bad check to a client from their trust account. Not only has this unprecedented embarrassment left a “bad taste” in the mouths of New Mexico residents, but it has also caused ***nationwide embarrassment*** to the State of New Mexico.

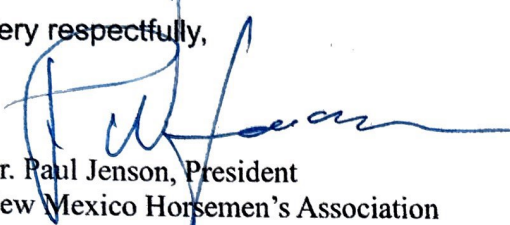
The New Mexico Legislative Finance Committee **and** the New Mexico State Auditor have consistently pointed out the multi-million-dollar discrepancies in reporting from the New Mexico Gaming Control Board, New Mexico Racing Commission and the state’s 5 racinos for over a decade – *and yet it continues without any oversight.*

These are just a sampling of the improprieties and atrocities which are occurring within the NMRC and its retaliatory actions. We respectfully ask for and in fact, beg the New Mexico legislature to take immediate action. We also request that New Mexico’s Legislature Auditor perform a forensic audit of the improper actions and pilfering of statutorily dedicated purse monies and to report its findings to this legislature and the general public.

Finally, the 5,000 plus members of the NMHA call upon Governor Michelle Lujan-Grisham to take immediate and meaningful actions within the New Mexico Racing Commission, to formally request that the NMRC cease and desist its retaliatory actions against the New Mexico horsemen and horsewomen as well as the thousands of family members who have been impacted by the personal vendetta of a select group. The actions of the New Mexico Racing Commission have and will continue to cost the

taxpayers of the State of New Mexico **millions of dollars** in legal fees, expenses as well as lost revenue.

Very respectfully,



Dr. Paul Jenson, President  
New Mexico Horsemen's Association