



*New Mexico Horsemen's Association  
P.O. Box 8695  
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February 11, 2024

Mr. Ismael Trejo  
Executive Director  
New Mexico Racing Commission  
4900 Alameda Boulevard NE  
Albuquerque, NM 87113

Dear Mr. Trejo:

On February 2, 2024, Mr. Don Cook, the President of Racing at The Downs at Albuquerque forwarded you correspondence requesting that the New Mexico Racing Commission approve reducing two (2) race days and reducing weekend races from ten (10) races per day to nine (9) races per day.

Mr. Cook provided you with inaccurate and false information. For example, Mr. Cook projected that The Downs at Albuquerque would lose the following amounts wagered at The Downs at Albuquerque:

Belmont:	\$ 577,055.00
Del Mar	\$ 584,363.00
Aqueduct	\$ 480,081.00
Oaklawn	\$ 621,229.00

Neither California, New York nor Arkansas horsemen's groups have refused to give consent to their signal to New Mexico racetracks. Mr. Cook's "projections" concerning Oaklawn, Aqueduct, Del Mar and Belmont are nothing more than "scare tactics" meant to benefit The Downs at Albuquerque from running their mandated and agreed upon race dates and races.

You should be keenly aware of the difference between simulcast handle versus revenue. Mr. Cook's correspondence intentionally fails to provide you with the fact that only a ***fraction of***

*the handle* is kept by the host racetrack. That fraction of the handle is called the revenue. The revenue affects the track and horsemen differently. For example, if you add up Mr. Cook's numbers for the actual handle, it adds up to about \$2,000,000.00. Typically, the track will retain about 15% of that handle or \$300,000.00 which is the revenue. Of that \$300,000.00 revenue, the track keeps \$150,000.00 in profits and is required to turn over the other 50% or \$150,000.00 to horsemen's purses. The \$150,000.00 in horsemen's purses is divided over the course of the 40 day meet and the 8-10 races per day. Thus, if the horsemen run 300 races over that time it amounts to a loss of purses for the horsemen of about \$500.00 per race. Because Mr. Cook's February 2, 2024 letter *admits* that he expects "revenue to the purses from gaming to be similar to 2023", the effect of this loss of simulcast signal, is nominal among horsemen and does not give rise to any concern to reduce race dates or live races.

In sharp contrast, however, the effect of the loss of simulcast revenue has a significant affect upon The Downs at Albuquerque in their net operations. Thus, the loss of any signals and simulcast revenue has more of an adverse effect on the overall profitability on The Downs at Albuquerque than the purse structure for the New Mexico Horsemen.

Next, Mr. Cook's February 2, 2024, letter erroneously claims that "correspondence between the NMHA and Horsemen's Associations in Kentucky, Oklahoma, Ohio and Arizona have caused the interruption of these simulcast signals." Mr. Cook goes on to state "And we understand that the former NMHA intends to continue and expand its efforts to *sabotage* our simulcast business."

The Downs at Albuquerque is a victim of its own ill-advised decisions and advice in refusing to negotiate its simulcast contract with the NMHA. As a result, The Downs at Albuquerque's actions to *sabotage* the horsemen of New Mexico in refusing to negotiate simulcast contracts, other states' horsemen's groups made an independent decision to withdraw their signals. To be clear, the NMHA vehemently objects to any reduction in race days or races offered by The Downs at Albuquerque!

Let us remind everyone of the recent finding 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 [New Mexico Horsemen's Association] 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."***

Let us also remind the New Mexico Racing Commission of the finding in that same case where the Hon. Daniel Bryant found:

“17. There is a substantial likelihood that Plaintiff will prevail as the testimony is *the primary reason Respondent has not entered into a consent agreement under the IHA with the Petitioner is that Respondent was directed not to by the New Mexico Racing Commission* and historically Petitioner and Respondent have successfully come to terms on consent agreements.”

The NMHA has not **sabotaged** anything. We have exposed and will continue to expose what is happening within the NMRC and its member racetracks, including The Downs at Albuquerque. The NMHA **will not** stay silent and will continue to educate and provide information and facts to every single person, New Mexico legislator, the Governor of New Mexico, the New Mexico Gaming Control Board, and any person involved in racing around the world of these collective actions by the NMRC and its member racetracks until they start following and complying with the law. ***The NMRC is entrusted with the power to comply with the law and foster racing - not destroy it!***

Mr. Cook's correspondence erroneously states that ***Churchill Downs will withhold sending their signal*** to New Mexico which will prevent racing fans in New Mexico from watching and wagering on the 2024 Kentucky Derby. The erroneous statement only highlights the inability of The Downs at Albuquerque to understand how the Interstate Horseracing Act of 1978 works. It was the decision of the Kentucky Horsemen's Group to shut down the simulcast signal from all tracks in the State of Kentucky from going to New Mexico, ***not Churchill Downs***. Furthermore, I refer all parties to the recent Blood Horse article of January 31, 2024. In that article, Rick Hiles, the President of the Kentucky Horsemen's Benevolent and Protective Association discussed his decision to withhold the simulcast signal from Kentucky and stated:

***“I shut it down.”*** Hiles went on to state ***“The New Mexico Racing Commission is circumventing the Interstate Horseracing Act. When the commission took it upon itself to get around federal law, then we will stand up to this – forever.”***

Mr. Trejo, you were also quoted in that article stating:

***“It is a shame that there is someone out there misrepresenting the historical relationship between the New Mexico Racing Commission and the New Mexico Horsemen's Association.”***

Your quote is in direct derogation to the finding by Judge Bryant who found that it was the NMRC actions that “unrecognized” the NMHA. Should you place any actual value in your quote and the decades of peace and productivity which occurred between the NMHA and NMRC prior to the retaliatory acts of the NMRC, then we stand willing and ready to mediate and resolve **all differences** – any time and any place.

You need to recall that members of the NMRC have **refused** to allow its member racetracks to negotiate with the NMHA. This is the identical behavior exhibited by the NMRC which compelled Judge Bryant to find that members of your commission interfered with the contractual relationship between the horsemen and the racetracks for the simulcast signals. So, you are correct, it's a shame that someone is out there misrepresenting the relationship between

the NMRC and the NMHA. Rest assured, our crusade is in its infancy stage to expose the truth of who has destroyed that historical relationship and obtain the justice the New Mexico horsemen and horsewomen are owed.

Let us be crystal clear. It is the actions of New Mexico racetracks such as the Downs at Albuquerque and other tracks, who refuse to negotiate their simulcast signal with the NMHA that have sabotaged their own signals. The actions of The Downs at Albuquerque, combined with the retaliatory actions of the New Mexico Racing Commission, who have been actively involved in participating in a conspiracy to deprive horsemen of their civil rights and rights under the Interstate Horseracing Act of 1978 are *the compelling reasons for the loss of these simulcast signals*.

In closing, on behalf of the 5,000 members of our association who are actively involved in horseracing, we continue to offer to resolve all differences between the New Mexico Horsemen's Association and the New Mexico Racing Commission and Gaming Control and its five (5) racetracks. We have made this offer on numerous occasions only to have it fall upon deaf ears as the New Mexico Racing Commission refuses to promote horseracing in this state by negotiating a compromise and insists on using taxpayers' dollars to advance its personal agenda. Perhaps your intervention to do what is in the best interest of the New Mexico citizens and taxpayers can find the right channels to allow diplomacy to be of paramount importance rather than wasting taxpaying dollars on needless litigation. We remain available to discuss moving forward.

Sincerely,



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