

*New Mexico Horsemen's Association*  
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*Albuquerque, New Mexico 87198*  
*(505) 266-7056*

February 8, 2024

Mr. Daniel Rubin  
Assistant Attorney General  
New Mexico Office of the Attorney General

This letter is in response to the letter which your office has sent to affiliates around the country regarding their individual decision to rescind their signal from going to New Mexico.

Your letter states that horsemen's groups in other states may have based its decision to rescind their signals based on the lack of a simulcast contract "between these New Mexico racetracks and the New Mexico Horsebreeders' Association ("NMHBPA")."

- The New Mexico Horse Breeders Association is known as the "NMHBA."
- There is no such entity who goes by the name "NMHBPA."

The New Mexico Horsemen's Association **agrees** with the statements in your letter to certain horsemen's groups that the ***New Mexico Horsebreeders Association*** has nothing to do with any contracts between the New Mexico Racetracks and the New Mexico horsemen. No court has ever recognized the New Mexico Horsebreeders Association as the "Horsemen's Group" under the Interstate Horseracing Act. Therefore, ***we agree and adopt*** your legal admission that "the NMHBPA" is not the Horsemen's Group for any of these racetracks". We ***also agree*** with your legal admission as the attorney for the New Mexico Racing Commission that "...neither the observation, nor the Commission's opinion, establishes that the NMHBPA is the authorized New Mexico Horsemen's Group for purposes of a simulcasting contract."

As you know from history, the New Mexico Horsemen's Association ("NMHA") is and has been the authorized "Horsemen's Group" to negotiate the rights for simulcast signals with New Mexico Racetracks for decades. Your office should be intimately familiar with the ruling in *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, whereupon on September 5, 2023, the Hon Daniel Bryant specifically found 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 New Mexico Horsemen’s Association finds it quite odd if not disturbing that your office would put out a letter placing such emphasis on a group that has never existed and does not represent the New Mexico Horsemen. ***To be clear, the New Mexico HorseBreeders Association, is known as the NMHBA not NMHBPA.*** You do realize that your letter talks about a phantom group, the NMHBPA which has never existed, and everyone agrees has never existed. It is this type of misinformation and misdirection that hurts New Mexico’s reputation in the racing industry.

Your letter also attempts to provide calculated confusion by stating “it appears the NMHA is portraying itself also as the NMHBPA”. You then use two websites to make your point by asking the reader to see and compare <https://www.nmharacing.com/> and <https://nationalhbpa.com/affiliate-directory/new-mexico-horsemens-association/>. There is no possible way that your office compared the two websites and came to this conclusion. You had to have merely hoped that no one would look at the two sites. The first website [www.nmharacing.com](http://www.nmharacing.com) is the official website of the New Mexico Horsemen’s Association and clearly identified our name, mission and board membership. The second website you referenced comes from the National HBPA website.

For your education purposes, that stands for National Horsemen’s Benevolent and Protective Association. ***It has nothing to do with any Horsebreeders Association.*** Once you click on the link you referenced in your letter to the National HBPA website, it clearly provides the New Mexico Horsemen’s Association by our name, and provides our general information. Therefore, your entire discussion about the New Mexico Horsemen’s Association portraying itself as the NMHBPA has no merit and is either intentionally misleading or stems from a complete lack of understanding from facts created in your letter. Either way, there is no confusion. The NMHA is the group that represents the majority of the horsemen in New Mexico and has done since 1966.

Perhaps horsemen’s groups in other states decided to rescind their signal when they learned that the actions of the New Mexico Racing Commission, from the ruling in the matter of *New Mexico Horsemen’s Association v. New Mexico Racing Commission, et al*, No. D-202-CV-2020-06564 County of Bernalillo, Second Judicial District Court, whereupon the Hon. Judge Victor S. Lopez found that the actions of the New Mexico Racing Commission ***exceed the terms of its rule promulgating authority and circumvented the New Mexico Legislature.***

**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 horsemen and horsewomen racing in New Mexico over the past few years have been “shorted” more than **\$9 million dollars (\$9,000,000.00)** in purse money. Perhaps the horsemen’s groups in other states did not want to send their signal to a State where the New Mexico Racing Commission allow and condones such abuses to take place. Further, the New Mexico Racing Commission and Gaming Control Board’s retaliation against the New Mexico Horsemen’s Association for protesting in Court the wrongful taking of Gaming Purse money has not gone unnoticed by other states’ racing industries.

The Interstate Horseracing Act of 1978 provides the following language:

**15 U.S.C. 57 Sec. §3002 defines a horsemen’s group as follows:**

(12) "horsemen's group" means, with reference to the applicable host racing association, ***the group which represents the majority of owners and trainers racing there***, for the races subject to the interstate off-track wager on any racing day;

Because the New Mexico Horsemen’s Association represents the majority of the horsemen, it is not possible for a New Mexico racetrack to attempt to negotiate with any other horsemen’s group. Your own language in your letter incorrectly interprets and seems to improperly believe that a New Mexico racetrack can simply choose individuals to sign a simulcast contract. Perhaps because of the reckless and callous manner in which the New Mexico Racing Commission allows such negotiations to occur, other horsemen’s groups became concerned that the New Mexico Racing Commission was allowing racetracks to allow these simulcast contracts to exist and other state horsemen’s groups took issue that these actions are illegal and/or improper, hence their individual decision to rescind or not provide consent for their respective signals to go to New Mexico.

We also want to point out two incorrect statements in your letter. The first concerns the statement that the New Mexico Racing Commission had nothing to do with the decision of the New Mexico racetracks not to negotiate with the NMHA concerning their simulcast signal under the Act. Your letter states as follows:

***“[T]he Commission takes no part in the decision as to which group meets the Act’s requirements at a host track.”***

This statement is not consistent with the evidence. On September 5, 2023, 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 found as follows:

“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.”



Rick Baugh the general manager of Ruidoso Downs Racetrack & Casino, testified *he was instructed* not to negotiate the simulcast contract with the New Mexico Horsemen's Association, by yet unnamed members of the New Mexico Racing Commission. Thus, you are providing false information in an effort to influence horsemen's groups who do not agree with the actions of the New Mexico Racing Commission and we request that you immediately cease and desist doing so.

Second, your letter states

"these tracks are complying with the Act, and otherwise act in the best interests of the owners and trainers represented through their respective groups".

Is it really the position of the New Mexico Department of Justice *as a legal branch of government* that *hand-selected individuals chosen by a New Mexico Racetrack is sufficient to satisfy the requirement that they* "represent the majority of owners and trainers racing there" without any proof? What evidence does the New Mexico Racing Commission possess that any of these randomly, hand-chosen individuals are representatives of the *majority* of the owners and trainers racing at each track? Perhaps the New Mexico Racing Commission allowing these types of rogue practices to occur, *in derogation to federal and state law*, is another in a long list of reasons why horsemen's groups in other states have decided to stop sending their simulcast signals to New Mexico.

The Horsemen believe false information is being provided to horsemen's groups from a yet-unnamed member of the New Mexico Racing Commission who has, upon information and belief, had discussions with at least one horsemen's group and provided false, defamatory statements about one or more members of the New Mexico Horsemen's Association. Specifically, this commission member made statements that the NMRC was going to rescind a member's license for not disclosing information on their application – a fact which is knowingly false, and patently untrue. The NMRC Commissioner's statements were made with malice in an attempt to improperly influence horsemen's groups to reconsider their decision and the contents of the conversation, meant solely as continued intimidation tactics against New Mexico Horsemen and members of the New Mexico Horsemen's Association who continue to be targets of the New Mexico Racing Commission as the NMRC threatens the civil rights of our members.

As an attorney representing the New Mexico Racing Commission, you are aware of the fact that a lawsuit is currently pending against the New Mexico Racing Commission for civil rights abuses. We believe you should be concerned as an attorney for the New Mexico Department of Justice, funded by taxpayers such as our members, that the information you are providing to horsemen's groups who have rescinded their signal is incorrect. Furthermore, promoting such incorrect information creates an ethical quagmire by continuing to defend the actions of individuals of the New Mexico Racing Commission who are breaking laws and committing violations against the taxpayers of New Mexico, despite your office's pledge and position to defend New Mexico citizens and uphold the law.

You should be aware by now at least one racetrack has not paid the owners of horses their earned income from winning or placing in races. Several horsemen have for over two

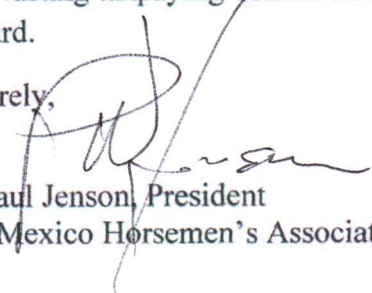


months not been paid. This is an act the New Mexico Racing Commission and Gaming Control should be aware of and do something about. As you should know for well over 20 years the New Mexico Horsemen's Association *at our own expense* collected, accounted for, dispensed and disbursed the gaming control monies and never lost a penny, paid with approval timely and properly and did not write checks which were returned or could not be cashed. It was the NMRC along with Gaming Control and your office that *forced* the NMHA to turn over all such monies to the various racetracks. Now horsemen are not getting paid, not getting paid timely and the great transparency the NMHA had is gone. Who is watching over the millions of dollars of purse money? Apparently no state agency is properly doing its job, otherwise the latest failure to timely and properly pay out the earned income to owners, jockeys and trainers would not have occurred. Again, this misconduct and failure of state agencies to correct the problem damages New Mexico's reputation. We, the New Mexico Horsemen's Association warned you and the agencies this would occur.

Seriously, the Attorney General we are told is a very capable, honest and experienced lawyer but the failure to protect the thousands of families such as our members who depend on horse racing to feed their families make us seriously question what is going on. We especially question why the Attorney General would go after the very group, the New Mexico Horsemen's Association, which stopped the wrongful taking of purse money by the racetracks and protected that money for well over 20 years.

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