

Minnesota Racing Commission

SUMMARY

The Minnesota Racing Commission provides thorough and multi-layered oversight of horse racing but needs to do more to effectively oversee card club activities. The commission, through its stewards, veterinarians, barn technicians, investigators, and other staff, adequately protects the integrity of horse racing in the state. In contrast, the commission relies heavily on Canterbury Park to oversee card club activities. The commission uses significant resources to license personnel associated with the racetrack and card club. However, due to timing delays inherent in processing fingerprint information, ineligible applicants can be licensed for as much as six weeks before complete criminal history information is available. Finally, the commission would benefit from increased use of technology and should take a more active role in reviewing Canterbury Park's purse allocations and the card club's players' pool.

The Racing Commission regulates horse racing and the card club at Canterbury Park.

The Minnesota Racing Commission, a nine-member citizen board supported by seven staff members, oversees all horse racing in the state and any card clubs that are located at Minnesota racetracks. Currently, Canterbury Park in Shakopee is the only state-authorized card club and pari-mutuel racetrack in Minnesota. Overseeing horse racing and card club activities includes ensuring that (1) only eligible applicants are licensed; (2) races are conducted fairly and in accordance with statutes and rules; (3) the card club operates according to the card club plan of operations;¹ and (4) proceeds from horse racing and the card club are distributed properly to racing purses, breeders' fund awards, and taxes.

To examine how well the commission oversees racing and card club activities, this chapter addresses the following questions:

- **To what extent does the Racing Commission ensure the integrity of horse racing and card club activities?**
- **To what extent does the Racing Commission ensure that proceeds from horse racing and card club activities are allocated correctly?**

To answer these questions, we interviewed Racing Commission members and staff and Canterbury Park personnel; reviewed Minnesota statutes and rules; examined Canterbury Park surveillance, security, and financial documents;

¹ As required by statutes, the Canterbury Park card club's plan of operation governs card club operations.

evaluated commission procedures, documents, and databases; and attended commission and subcommittee meetings.

This chapter is divided into two sections: game integrity and allocation of racing and card club proceeds. The discussion of game integrity focuses on three primary areas—licensing, which relates to both horse racing and card club oversight; responsibilities specific to horse racing; and oversight specific to the card club. The chapter ends with our overall conclusions and recommendations for improvement.

GAME INTEGRITY

Minnesota statutes empower the Racing Commission to “take all necessary steps to ensure the integrity of racing in Minnesota.”² This includes licensing personnel associated with the racetrack, enforcing all laws and rules governing horse racing, and conducting necessary investigations and inquiries.³ Protecting the integrity of horse racing also includes overseeing card club activities. As Minnesota statutes state: “Card club activities are deemed to be relevant to the integrity of horse racing activities in Minnesota.”⁴

Licensing

In effect, licensing is the “gateway” to the racetrack and card club. Licensing is the means by which the commission controls who has access to the racetrack’s “backside” (the stables, barns, practice areas, and dormitories at the racetrack) during the 17-week racing season, and who can work at Canterbury Park.⁵ By law, the Racing Commission screens and licenses all personnel working at and for the racetrack, including jockeys, owners, trainers, grooms, card club dealers, chip runners, vendor employees, and others.

Statutes require that all licensees: (1) not have a felony conviction of record or felony charges pending; (2) are not and never have been connected with an illegal business; (3) have never been found guilty of fraud or misrepresentation in connection with racing or breeding; (4) have never been found guilty of a violation of law or rule relating to horse racing, pari-mutuel betting, or any other form of gambling; and (5) have never knowingly violated a rule or order of the commission or a law of Minnesota relating to racing.⁶

The Racing Commission licenses all personnel that work at or for Canterbury Park.

² *Minn. Stat.* (2004), §240.03 (9).

³ *Minn. Stat.* (2004), §240.03.

⁴ *Minn. Stat.* (2004), §240.30, subd. 7(b).

⁵ In 2005, Canterbury Park plans to have an 18-week racing season.

⁶ *Minn. Stat.* (2004), §§240.06, subd. 1(d); 240.07, subd. 1(d); and 240.08, subd. 2.

We found that:

- **Racing Commission licensing procedures are designed to ensure that only eligible applicants are licensed. However, timing delays inherent in the system mean that ineligible licensees can work at the racetrack for a substantial portion of the racing season.**

The Racing Commission uses significant resources to ensure that applicants are eligible for licensing and has issued an average of 3,650 licenses each year since fiscal year 2000. Commission staff estimated that they spend 25 percent of their seven staff resources on licensing-related activities, including reviewing applications, obtaining fingerprints, and meeting with applicants. Most applicants with arrest records must meet with the commission's security personnel to discuss the nature and disposition of the arrests.⁷ In addition, applicants with a history of racing-related problems at Canterbury Park or other racetracks must also meet with the commission's security personnel and indicate how past problems have been resolved. We agree with the Racing Commission that it is important to have ongoing oversight of applicants and licensees to ensure that only eligible personnel are employed at Canterbury Park and that rules are being followed.

**The
commission's
security staff
interview most
license applicants
with arrest
records.**

The Racing Commission may give applicants a provisional license to work at Canterbury Park while awaiting the results of criminal history checks, which take approximately six weeks. First-time applicants are required to submit fingerprints to the commission, and returning applicants every five years thereafter.⁸ Applicants are given a provisional license upon submission of their fingerprints, which are subsequently sent to the Federal Bureau of Investigation (FBI). However, it generally takes six weeks for the FBI to return the results of the criminal history check to the commission. Because the racing season is relatively short (17 weeks in 2004), an ineligible person who is provisionally licensed can work at the track for a significant portion of the racing season. The delay in receiving the results of criminal history checks is of particular concern when an applicant applies for a license midway through the racing season, as the FBI information may not be available until the racing season is over and the applicant has already left Canterbury Park. This is also true for dealers or other card club employees who are hired only for short-term special events, such as a two-week poker tournament. In fiscal year 2004, the Racing Commission provisionally licensed 38 people who did not disclose an arrest record but whose FBI checks indicated a criminal history.

In addition to obtaining background checks from the FBI, commission staff conduct an average of 162 investigations each year. A large portion of these investigations focuses on verifying applicants' eligibility for a license. Specifically, in fiscal year 2004, 25 percent of the commission's investigations stemmed from FBI reports indicating a criminal history for applicants who had not disclosed an arrest record on their license applications. As discussed earlier, another 13 percent of the investigations involved meeting with applicants who had disclosed an arrest record on their applications, and 11 percent involved applicant

⁷ Applicants with only "minor" previous infractions, such as one arrest due to driving under the influence of alcohol, do not have to meet with Racing Commission security personnel.

⁸ For license renewals, applicants can submit fingerprints or an affidavit stating that they have submitted fingerprints to one of nine "reciprocity" states in the last five years.

or licensee immigration issues. Most of the remaining investigations relate to current licensees' compliance with commission rules. These investigations include reviewing financial complaints, allegations of drug or alcohol abuse, and incidents of illegal wagering.

Horse Racing

Horse racing is heavily regulated across the country and state regulatory agencies play an accepted role in ensuring its integrity. Regulation includes evaluating the health of horses, monitoring the use of allowed medications, protecting against illegal drug use, and ensuring a fair race. We found that:

- **The Racing Commission provides adequate and multi-layered oversight of horse racing at Canterbury Park.**

Regulatory agencies across the country, including the Minnesota Racing Commission, employ various personnel to oversee racing, including stewards, veterinarians, and barn technicians. Each person has a specific role in ensuring the integrity of horse racing, as discussed below.

Specialized staff, including racing stewards and veterinarians, help the commission protect the integrity of horse racing.

The commission hires three stewards each year who are responsible for ensuring that races are run in accordance with commission rules. In essence, the stewards act as a panel of judges for a variety of issues involving the integrity of horse racing. Among other things, stewards determine the official order of finish in a race, resolve problems that occur on the track during a race, hold hearings to resolve alleged license violations, and issue suspensions and fines for these and other infractions.

Stewards' hearings cover a wide range of issues, and their decisions are rarely appealed. The issues that come before the stewards originate from many sources, including the stewards' own observations of conduct on the racetrack, laboratory test results indicating the use of illegal drugs or unauthorized amounts of medication in a horse, and reports from Canterbury Park security or the commission's investigation personnel regarding violations of commission rules. Between fiscal years 2000 and 2004, the stewards made an average of 90 rulings each racing season. Table 3.1 illustrates the types of infractions the stewards have addressed over the past five fiscal years. Fourteen percent of the rulings regarded people who failed to complete license requirements within an allotted period of time, almost 13 percent regarded horses with elevated or disallowed levels of medication, and over 9 percent regarded applicants who falsified their applications. Between fiscal years 2000 and 2004, only 11 of the 449 stewards' rulings were appealed to a commission appeal panel. The appeal panel, which is composed of three Racing Commissioners, upheld all 11 of the rulings. Given the low number of appeals and the absence of reversals in the last five years, it appears that the stewards make reasonable rulings.

Racing Commission veterinarians help to ensure that the horses scheduled to race are healthy and physically able to run in a race through their pre-race exams, observations of the horses in the paddock, and observations on the track prior to and during each race. For a race to be fair, the horses must be healthy and in the condition "advertised" to the betting public, and pre-race exams help meet this

Table 3.1: Steward Rulings, FY 2000-04

<u>Reason Case Brought Before Stewards</u>	<u>Rulings</u>	<u>Percentage of Total Rulings</u>
Individual failed to obtain a license	63	14.0%
Horse found to have a medication violation	58	12.9
Licensee restored to good standing after complying with stewards' ruling	51	11.4
Licensee demonstrated improper conduct, such as misusing alcohol or participating in altercations	47	10.5
Licensee conducted business in an improper manner, including jockeys failing to fulfill riding obligations and trainers not having horses on the grounds at the required times	47	10.5
Applicant falsified license application	42	9.4
Licensee conducted riding-related infractions, including jockeys allowing a horse to impede other horses during a race and misusing a whip during a race	42	9.4
Licensee possessed unauthorized paraphernalia, including needles, syringes, and electrical devices	21	4.7
License suspended or terminated for a variety of reasons, including not submitting fingerprints and failing to complete a license application	17	3.8
Licensee entered an ineligible horse in a race	11	2.4
Licensee failed to meet financial obligations, including not paying Racing Commission fines or racing-related expenses	9	2.0
Other	<u>41</u>	<u>9.1</u>
Total	449	100.0%

NOTE: "Other" includes a variety of racing-related incidents, including not having a horse in a designated place (such as the paddock barn), employing unlicensed help, and a licensee failing to pass a drug test.

SOURCE: Office of the Legislative Auditor analysis of Minnesota Racing Commission licensing database for fiscal years 2000-04.

Stewards act as a panel of judges to resolve problems related to racing, licensing, and other rule infractions.

Very few horses racing at Canterbury Park have had catastrophic race-related injuries.

goal. These examinations and observations of the horses prior to a race also help the veterinarians minimize the number of race-related horse injuries at Canterbury Park. (Veterinarians are able to disqualify, or "scratch," a horse at any time up to the start of a race.) In the period we reviewed (fiscal years 2000 through 2004), the annual incidence of catastrophic race-related injuries at Canterbury Park was below the accepted range of 0.15 to 0.5 percent of racing starts.⁹ In 2003, only 4 of the 5,254 horses that entered and started a race had a catastrophic race-related

⁹ Generally accepted industry rates of breakdown injuries range from 0.22 to 2.1 percent of horses that entered and started a race. The commission holds itself to a more stringent standard. See J.G. Peloso, DVM, MS; G.D. Mundy, DVM; and N.D. Cohen, VMD, PhD; "Prevalence of, and Factors Associated with, Musculoskeletal Racing Injuries of Thoroughbreds," *JAVMA* 204, no. 4 (February 1994): 620-626.

injury, yielding an incidence rate of 0.076 percent; in 2004, the incidence rate was 0.056 percent.

Commission test barn technicians provide another layer of oversight by ensuring that horses receive the proper amount of allowable medication prior to a race, another component of a “fair” race. The test barn technicians oversee and control the administration of one medication in particular, furosemide (also called Lasix), because it can mask the presence of other drugs in the horse’s system. Specifically, all Lasix medication, syringes, and other supplies are stored in a locked container in the “Lasix Barn,” under the control of the commission’s barn technicians. Each horse that races with Lasix is scheduled to receive the drug four hours prior to the race. Although private veterinarians actually administer the Lasix to the horse, a commission technician accompanies the veterinarian to ensure that the correct horse is receiving the permitted amount of medication. While it is still possible for a veterinarian to administer Lasix outside of these controlled circumstances, post-race drug tests on the winners would likely disclose unauthorized use of the drug.

Drug violations are an industry problem nationwide, and Racing Commission drug testing procedures have detected drug-related violations at Canterbury Park. After each race, horses that finish first, and generally those that finish second, are subject to blood and urine

drug tests.¹⁰ One of the state veterinarians, along with a test barn technician, ensures that the samples follow prescribed chain of custody protocol. In 2004, 2 percent of 1,446 horses tested had positive urine tests for either an unallowed drug or an unauthorized amount of a medication. Trainers of horses that return a positive test can have the sample re-tested at another laboratory. If the sample again yields a positive result, the trainer must go before the stewards. Between fiscal years 2000 and 2004, the stewards ruled on 58 medication violations (13 percent of all hearings in this time period); 3 resulted in 30-day suspensions and 55 resulted in a fine (generally between \$100 and \$300).¹¹



In 2004, 2 percent of horses tested at Canterbury Park had positive tests for either an unallowed drug or an unauthorized amount of a medication.

Finally, Racing Commission investigation and Canterbury Park security personnel have a presence on the backside of the racetrack to help detect and deter problems. Specifically, security personnel patrol the barns to ensure that licensees comply with Canterbury Park’s and the commission’s rules and procedures. In addition, commission investigative staff circulate among the various racing venues

¹⁰ The stewards or commission veterinarians may also request that other horses be tested.

¹¹ Trainers with small first-time medication offenses involving specific medications (phenylbutazone or oxyphenbutazone) generally received warnings and were therefore neither suspended nor fined. These offenses are not included in the 58 medication violation rulings discussed above.

(the backside, paddock, winners' circle, test barn, etc.) to ensure that no unauthorized people are present. Commission staff also work with the stewards to determine if licensees have violated commission rules and conduct spot checks of the jockeys' room, barns, and equipment rooms to ensure that all rules are being followed.

Card Club

Because the Canterbury Park card club is located at the racetrack and was authorized to help support horse racing, the Minnesota Racing Commission has statutory oversight of it. As outlined in Minnesota statutes, "a racetrack may operate a card club at the racetrack...only if the commission has authorized the licensee to operate a card club operation and the commission has approved the licensee's plan of operation."¹² Statutes also state that the commission may withdraw its authorization for the card club "at any time for a violation of a law or rule governing card club operation."¹³ In addition, the Canterbury Park card club's plan of operation, which governs card club activities, gives the Racing Commission the ability to "deny, suspend, revoke or refuse to renew the Plan of Operation [or] the authorization to conduct a card club" for a variety of reasons, including if Canterbury Park or its management have "engaged in conduct that is contrary to the public health, welfare, or safety or to the integrity of card club activities."¹⁴ Statutes hold the authorized licensee (Canterbury Park) responsible for "conducting and supervising the card games, providing all necessary equipment, services, and personnel, and reimbursing the commission for costs related to card club regulation and enforcement."¹⁵

As evidenced by the legislative history that led to the card club's legal authorization, the state has determined that it is important for the Racing Commission to oversee the card club. However, we found that:

- **The Racing Commission does not adequately oversee Canterbury Park card club activities.**

The Racing Commission is overly reliant on Canterbury Park surveillance and does little to independently verify Canterbury Park compliance with the card club's plan of operation.

The Racing Commission relies too heavily upon Canterbury Park surveillance personnel for card club oversight. Commission staff have access to Canterbury Park's surveillance room and records, but do not actively participate in surveillance operations.¹⁶ According to commission staff, they do not regularly oversee surveillance activities during live racing months, although they spend more time on the card club during the winter months. Instead, Canterbury Park surveillance and security staff notify the commission of problems as they arise.

The detailed rules governing Canterbury's card club are defined in a commission-approved "plan of operation."

In overseeing the card club, the Racing Commission relies too heavily on Canterbury's surveillance personnel.

¹² *Minn. Stat.* (2004), §240.30, subd. 1.

¹³ *Ibid.*

¹⁴ Canterbury Park, *Card Club Operations Manual* (Shakopee, MN, 2004), Section C.10.A.

¹⁵ *Minn. Stat.* (2004), §240.30, subd. 2.

¹⁶ The surveillance room is where Canterbury Park surveillance personnel observe card club activities through the use of cameras, video monitors, and video recording devices.

Canterbury Park may not be notifying the commission of all relevant card club incidents involving rule violations, security, cheating, and theft.

The majority of Canterbury Park surveillance activity does not involve incidents that concern the commission. We reviewed Canterbury Park's February and June 2004 surveillance logs and, as detailed in Table 3.2, identified surveillance activities that involved the play of the game, card club oversight, or potential cheating.¹⁷ These included verifying jackpots, resolving pot disputes, ensuring proper collections or chip purchases, and reviewing instances of player or employee theft. For the two months we reviewed, Canterbury Park surveillance was involved in an average of 245 of these types of incidents each month. While at first glance this seemed like a large number of incidents, Canterbury Park officials indicated that there are likely over 1 million card game hands dealt each month. In that context, 245 surveillance incidents a month represent only 0.02 percent of all hands dealt. Commission staff did not think it was necessary for them to be involved with much of this surveillance activity and indicated that they are primarily interested in those incidents involving commission rules, security, cheating, and theft.



The Racing Commission may not be sufficiently aware of all relevant surveillance observations. Commission staff rely on Canterbury surveillance to notify them of incidents that occur, and they are especially interested in those that involve rules, security, cheating, and theft. To determine the extent to which this communication takes place, we reviewed Canterbury Park's surveillance logs for all of fiscal year 2004. We found five non-routine incidents about which commission staff did not remember being notified, but should have been. These five incidents included potential employee theft and dealers violating procedures. According to commission staff, it is possible that Canterbury Park notified them about these incidents, but neither their records nor personal recollections could substantiate whether the communication had taken place. Still, the Racing Commission believes that Canterbury Park staff would notify them of all serious incidents.

The commission does not regularly review card club compliance with the club's approved plan of operation.

In addition to over-relying on Canterbury Park surveillance staff, the Racing Commission does not regularly review card club compliance with the club's plan of operation. For example, commission staff do not routinely observe card club dealers to see if they follow procedures or systematically check that Canterbury Park does not exceed the statutorily set maximum number of card tables. The executive director periodically observes dealers during the winter, but has less time to do so in the summer when live racing occurs. Similarly, commission staff have never analyzed the number or type of surveillance incidents that have occurred since the card club has opened, nor have commission staff systematically

¹⁷ We selected one month to represent surveillance activity during live racing (June) and a second month to represent surveillance activity when there is no live racing (February).

Table 3.2: Canterbury Park Surveillance Activity of Interest to the Racing Commission, February and June 2004

<u>Type of Incident</u>	<u>Incidents</u>	<u>Explanation of Surveillance Staff's Role</u>
Proper Play	265	Verifying that proper play is conducted, including ensuring proper shuffling, verifying the winner of a hand, and verifying that the dealer offered "insurance" to players when appropriate
Proper Payout	58	Ensuring that players are paid the proper amount and resolving pot disputes (when two players both claim they won a hand)
Security	35	Resolving problems with security cameras and recording devices
Rules	32	Identifying instances in which dealers or other employees do not follow commission rules, including handling tips at the card tables and not properly displaying Racing Commission licenses
Chip Purchase	29	Verifying that players receive the proper amount of chips
Rake or Collection	17	Verifying that dealers charged, and patrons paid, the proper fee to play a hand of cards
Currency Transaction Report ^a	13	Monitoring patrons that wager over \$10,000 and ensuring that they report these transactions to the Internal Revenue Service
Illegal Wagers	12	Observing and tracking patrons engaged in suspicious behavior that resembles book making or side wagers
Cards	12	Addressing problems with playing cards, including lost and found cards
Player Theft	8	Investigating claims of missing or stolen chips
Employee Theft	4	Investigating claims of employee theft of chips
Counterfeit and Fraud	2	Investigating incidents of counterfeit currency or check cashing fraud
Other	<u>4</u>	Addressing miscellaneous problems including issues with jockeys and underage patrons
Total	491	

NOTE: The table includes only those activities related to the Racing Commission's regulation of the card club. It excludes other activities, such as patron exclusion from the card club, employee and patron medical problems, and overuse of alcohol by patrons.

^aThe United States Internal Revenue Service (IRS) requires that every cash-in or cash-out transaction involving more than \$10,000 be reported to the IRS through a currency transaction report.

SOURCE: Office of the Legislative Auditor analysis of Canterbury Park surveillance logs for February and June 2004.

Commission staff have limited expertise to identify cheating and improper play in the card room.

reviewed surveillance logs to ensure that they are being notified of all relevant incidents.

Finally, the Racing Commission has not paid sufficient attention to card club activities given the dollar value of gambling conducted in the card club. In 2003, card club activities generated approximately 53 percent of Canterbury Park's gambling revenues, compared with approximately 47 percent from horse racing activities. However, commission staff estimated that only about 20 percent of their time is spent on card club related activities while over 80 percent is spent on racing related activities. Perhaps even more important than allocation of time is staff expertise. Commission staff indicated that they have limited expertise to identify cheating and improper play in the card room.

HORSE RACING AND CARD CLUB PROCEEDS

The allocation of racing and card club revenues is complicated. Table 3.3 provides definitions for many of the terms used when discussing racing and card club revenues. In addition to returning money to bettors in the form of prizes, revenues are allocated to horse race purses, the breeders' fund, the state, and the players' pool. Each of these allocations is described below.

Table 3.3: Racing Commission Terms and Definitions

Breakage	The cents not paid to winning pari-mutuel bettors due to rounding down to the nearest 10 cents
Handle	Total amount wagered at a licensed racetrack on horse racing
Pari-Mutuel	The system of betting on horse races where those with winning bets share in the total amount bet, less deductions required or permitted by law
Purse	The amount of money to be paid the participants of a race
Rake or Collection	The fee that patrons pay to play a hand in the card club
Simulcasting	The televised display, for pari-mutuel wagering purposes, of one or more horse races conducted at another location wherein the televised display occurs simultaneously with the race being televised
Takeout	Total amount bet in all pari-mutuel pools less prizes returned to bettors. That is, the handle minus prizes.
Tote System	The system by which pari-mutuel activity, including selling and cashing of tickets, compiling of wagers, and displaying of pari-mutuel information, is accomplished. The tote provider is the company that calculates and reports this information.

SOURCES: *Minn. Stat.* (2004), §240.01; *Minn. Rules* (2003), ch. 7869.0100; and Office of the Legislative Auditor.

The Racing Commission oversees the complicated allocations of racing and card club revenues.

- **Purse Allocation.** Purses for live racing at Canterbury Park are funded through a variety of sources, including pari-mutuel wagers placed at Canterbury Park on live and simulcast races and the per-hand fee patrons pay to play in the card club (the “collection” or “rake”). By law, 8.4 percent of the handle wagered on live races at Canterbury Park or on simulcast races that are concurrent with live races is allocated to purses.¹⁸ A portion of wagers placed on simulcast races that are not concurrent with live races is also allocated to purses through a complicated formula outlined in statute.¹⁹ Canterbury Park and the horsepersons’ organization agreed to set aside 15 percent of the card club “rake” for purse payments and the breeders’ fund in 2004.²⁰ Statutes require that 90 percent of the agreed upon amount be allocated to purse payments.
- **Breeders’ Fund.** The purpose of the breeders’ fund is to “provide incentive monies to enhance the horse racing industry in the State of Minnesota and to encourage Minnesotans to participate in the racing and breeding industry.”²¹ The breeders’ fund receives 5.5 percent of simulcast takeout, 1 percent of live racing handle, and 10 percent of the set-aside for purses and breeders’ fund from the card club rake.²² While exact percentages vary by breed of horse, breeders’ fund revenues must be allocated to equine research, purse supplements for Minnesota-bred horses, breeders’ and stallion awards, and other financial incentives to encourage the horse breeding industry in Minnesota.²³
- **Pari-Mutuel Tax.** Canterbury Park must pay a 6 percent pari-mutuel tax to the state on takeout in excess of \$12 million.²⁴ In fiscal year 2004, the total pari-mutuel takeout was almost \$16.2 million. Canterbury Park started paying fiscal year 2004 pari-mutuel tax in April and paid the state just over \$260,000. Canterbury Park does not pay taxes on its largest source of revenue—the card club rake—which totaled over \$25 million in fiscal year 2004.
- **Players’ Pool.** The players’ pool is a fund generated from players’ losses at card club casino games tables, such as blackjack and pai gow poker. Canterbury Park can only use the players’ pool for promotions and incentives for card game players.²⁵

¹⁸ *Minn. Stat.* (2004), §240.13, subds. 4-5.

¹⁹ *Ibid.*

²⁰ The horsepersons’ organization is the organization that represents the majority of horsepersons racing the breed of horse involved at the licensee’s facility. *Minn. Stat.* (2004), §240.135(a), requires the set-aside for purse payments and breeders’ fund to be 10 percent of the first \$6 million of rake and 14 percent thereafter. However, the statutes allow the licensee and the horsepersons’ organization to negotiate a different percentage, which they did for 2004.

²¹ Minnesota Racing Commission, *2003 Annual Report* (Shakopee, MN, February 2004), 17.

²² *Minn. Stat.* (2004), §§240.13, subd. 5; 240.135; and 240.15, subd. 1.

²³ *Minn. Stat.* (2004), §§240.15, subd. 6 and 240.18; and *Minn. Rules* (2003 and 2004 Supplement Number 1), chaps. 7895.0110, 7895.0250, 7895.0300, and 7895.0400.

²⁴ Once this \$12 million takeout threshold has been met, Canterbury Park must also pay pari-mutuel tax on any breakage it subsequently receives.

²⁵ *Minn. Stat.* (2004), §240.01, subd. 27.

The Racing Commission has the statutory authority to administer and enforce the allocation of pari-mutuel revenues to purses, administer the breeders' fund, collect and distribute all taxes, and ensure that players' pool revenues are used properly.²⁶ At the very least, we think it is important that the commission actively monitor Canterbury Park's allocation of racing revenues to its various purposes. We found that:

- **For the most part, the Racing Commission has adequate procedures in place to ensure that horse racing and card club proceeds are properly distributed. However, there are some shortcomings in how it exercises its responsibilities.**

The Racing Commission monitors Canterbury Park's revenues to determine when pari-mutuel taxes are due and administers the breeders' fund to ensure that the proper amount is collected and distributed to each breed. However, the commission does not regularly verify that the proper amount of revenue is allocated to purses for live races at Canterbury Park or that players' pool funds are used appropriately.

Racing Commission staff monitor and enforce the proper allocation of revenue to pari-mutuel taxes and also actively administer distribution of revenue to the breeders' fund. Commission staff regularly monitor Canterbury Park revenues to determine when and how much pari-mutuel tax must be paid. To administer breeders' fund distributions, commission staff obtain daily reports containing race-specific wager information for all races (live and simulcast) at Canterbury Park. Staff review these data to determine which type of breed ran in each race, calculate the breeders' fund contributions for each breed of horse, and verify the calculations with data from Canterbury Park. Commission staff also ensure eligibility for and oversee distribution of breeders' fund awards. Every spring, commission staff conduct farm inspections to ensure that Minnesota horses registered as intending to produce offspring (broodmares) actually give birth in Minnesota. Every fall, commission staff determine the distribution of breeders' funds awards, which are based on the percentage of total Minnesota-bred purse money each horse earned.

The commission needs to pay more attention to purse contributions and expenditures from the card club players' pool.

On the other hand, the Racing Commission has not paid sufficient attention to the allocation of revenue to purses. The commission relies on Canterbury Park to ensure that funds are properly allocated to purses for live races held at Canterbury Park. Canterbury Park provides a weekly report to the commission detailing contributions to the "escrow purse fund" account, but commission staff do not review the report or verify that the proper amount is distributed.

The Racing Commission also does not closely monitor Canterbury Park expenditures from the players' pool. We found three Canterbury Park card club promotions in which players' pool money could have been given to non-card playing patrons, a violation of Minnesota statutes. We reviewed all player pool transactions since the inception of the card club and found problems with promotions that were for both racing and card club patrons. In general, these promotions were funded in part by the players' pool and in part by Canterbury

²⁶ *Minn. Stat.* (2004), §§240.03 (3), (4), and (6); 240.13 subd. 5(3); 240.135; 240.18; and 240.30, subd. 7(b).

Neither the commission nor Canterbury Park has required an independent security audit of the pari-mutuel tote system.

Park's general marketing funds. In these promotions, it was possible that non-card playing patrons could receive prizes funded by the players' pool.²⁷ Although Canterbury Park officials often ask the Racing Commission to review upcoming promotions funded by the players' pool, the commission does not require this. In addition, commission staff have never reviewed player pool expenditures to verify that the players' pool funds are used only for card club purposes, even though the commission's responsibility includes ensuring that players' pool funds are properly used.

Finally, neither the Racing Commission nor Canterbury Park has required Autotote, the tote service provider at Canterbury Park, to provide assurances that its systems operate properly. The commission relies on Autotote data for many things, including verifying bettor payout, monitoring Canterbury Park finances (including state pari-mutuel tax due), and breeders' fund allocations. However, neither commission staff nor Canterbury Park has ever received independent assurance that the system is accurate, secure, and reliable. In 2002, Autotote was involved in a scandal in which one of its computer programmers manipulated a ticket on a major horse race. If the fraud had not been discovered, it would have netted over \$3 million to the perpetrators. As a result of this incident, the Illinois Racing Board required a security audit of Autotote's information technology systems as a condition of its 2004 Illinois license. The Illinois Board has not determined its future audit requirements for Autotote, but a board representative anticipates a periodic information systems audit becoming a condition of licensure.



While assessing the extent to which the Racing Commission ensures proper allocation of proceeds, we observed that:

- **The lack of automation for some Racing Commission procedures causes inefficiencies in accounting for and monitoring the distribution of gambling proceeds.**

The Racing Commission relies on too many manual procedures to do its work. Unlike Canterbury Park, which receives an automatic download of pari-mutuel wager information from Autotote, commission staff manually enter all wager information into their systems. For example, to determine the amount of revenue to be allocated to the different breeders' fund accounts, commission staff request a

²⁷ In response to our questions about this, Canterbury Park has already made some changes in how they handle these promotions.

paper report from Canterbury Park, which it generates from automatically downloaded data from Autotote. Commission staff then manually enter the takeout data from the report into the commission's computer system for all of the races at Canterbury Park on a given day. From these data, commission staff calculate the proper breeders' fund contribution amounts. Once the breeders' fund allocations are determined, another commission staff member re-enters the breeders' fund allocations into the commission's breeders' fund database.

CONCLUSIONS

The Racing Commission needs to do a better job balancing its responsibilities for horse racing and the card club. The commission focuses its regulatory resources primarily on racing oversight, and does a good job overseeing racing activities. However, since its inception in 2000, the card club has become an increasingly large presence at Canterbury Park. It makes sense for the Racing Commission to focus more regulatory resources on the card club due to the nature of card club activities, including the use of cash, opportunities for cheating, the lack of automated controls, and the amount of dollars gambled. This will likely require an additional staff person with appropriate card club oversight expertise.

Overall, Racing Commission oversight relies too heavily on relationships with Canterbury Park personnel. Commission staff do not independently oversee card club activities, ensure that the proper amount of revenue is allocated to purses, or monitor players' pool expenditures. While there is no evidence of large-scale problems as a result of this reliance on Canterbury Park, we think that the commission should rely more on systems and automatic procedures to maintain an arms-length distance from the industry it regulates.

Overall, horse racing is well regulated, but the commission needs to improve its oversight of the card club.

RECOMMENDATIONS

Streamline Licensing Procedures

RECOMMENDATION

To ensure that the Racing Commission licenses only eligible applicants, the commission should consider obtaining an electronic fingerprinting system to shorten the turn-around time for receiving criminal history information.

Having the ability to submit electronic fingerprints to the Department of Public Safety and the Federal Bureau of Investigation would reduce the turn-around time for receiving criminal history information from six weeks to approximately three days. With criminal history information in its hands sooner, the commission could better ensure that only eligible applicants are licensed. This would prove especially useful for screening applicants that apply for a license toward the end of the racing season or for short-term assignments during card club tournaments. Racing Commission officials would like to purchase an electronic fingerprint

system, although they worry that the cost is prohibitive. However, the commission may have little choice in the matter. The Department of Public Safety has indicated that it will require electronic submission of fingerprints as of August 2005, so the commission will need to make obtaining an electronic fingerprinting device a priority.

Expand Card Club Oversight

RECOMMENDATIONS

To improve oversight of the card club, the Racing Commission should:

- *Have a trained, knowledgeable, and regular presence in the surveillance room;*
 - *Conduct routine compliance checks of card club activities;*
 - *Regularly review players' pool expenditures; and*
 - *Review all promotions using players' pool funds.*
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The Racing Commission relies too heavily on Canterbury Park to provide surveillance and other daily oversight of the card club, in part because commission staff do not have the expertise to do so directly. While the commission and Canterbury Park staff have a good working relationship, we found several instances in which the commission may not have been informed of incidents that could affect the integrity of the card club. Conversations with commission staff revealed that they have considered increasing their presence in the card club, but have been reluctant to incur additional costs. Our recommendation to expand card club oversight would likely require the commission to hire an additional staff person, resulting in increased expenses. However, by law, the licensee (in this case, Canterbury Park) is responsible for reimbursing the commission for any costs related to card club regulation and enforcement. As a result, if the commission hired a staff person for card club oversight, Canterbury Park, not the Racing Commission, would bear the cost.

In addition to direct card club oversight, the Racing Commission should provide additional oversight of the card club players' pool. The commission should review all players' pool expenditures and any questionable promotions should be reviewed with the Minnesota Attorney General's Office. In response to our questioning of certain players' pool expenditures, Canterbury Park has already made some changes in how they use the players' pool for promotions that are open to all patrons. As a result of these changes, Canterbury Park's practices better conform to the laws governing the use of the players' pool funds.

Verify Purse Contributions

RECOMMENDATION

To ensure that the proper amount is allocated to horseracing purses, the Racing Commission should conduct periodic reviews of Canterbury Park's purse contributions.

In its annual report, Canterbury Park states that the purse expense is one of its "largest single expense items," totaling over \$7.4 million in 2003.²⁸ However, Racing Commission staff do not verify that Canterbury Park is contributing the proper amount to horseracing purses. As outlined earlier, statutes specify the percentage of total amount wagered that must be allocated to purses and give the commission the authority to enforce the laws governing purse contributions. Using information the commission already receives on a weekly basis, staff should periodically verify that Canterbury Park is contributing the proper amount to purses.

Monitor Autotote Reliability and Improve Technology Use

RECOMMENDATIONS

To ensure that it can comfortably rely on information provided by Autotote, the Racing Commission should require regular and comprehensive audits of Autotote's information systems that meet industry standards for information technology security audits.

To more efficiently use its resources, the Racing Commission should make the necessary investments to automatically download the pari-mutuel wager information from Autotote.

In addition, the Racing Commission should revise its current technology systems so staff do not manually enter the same data into the system more than once.

The Racing Commission relies heavily on Autotote information to monitor Canterbury Park, allocate revenue to the breeders' fund, and determine pari-mutuel tax obligations. However, the commission has never required Autotote to provide assurance that its systems are accurate and reliable. In 2004, as a condition of licensure, the Illinois Racing Board required Autotote to conduct a comprehensive information systems technology audit of its Chicago hub operation, which is the same data hub that serves Canterbury Park. The Minnesota Racing Commission should work with its Illinois counterpart (and others) to require a regular audit of Autotote's information technology systems as a condition for licensure.

²⁸ Canterbury Park Holding Corporation, *2003 Annual Report* (Shakopee, MN, 2004), 18 and 28.

The Racing Commission should also improve its own use of technology. Canterbury Park uses software that enables it to receive daily electronic downloads of the Autotote information. Commission staff manually enter these data into the commission's system to perform some calculations, and then re-enter these calculated data into a different part of the system. The commission could achieve some efficiencies if it better used technology. Commission staff would like to update the commission's technology systems, but do not feel that they have the expertise or funding to implement these improvements.