

**STATE OF ILLINOIS  
ILLINOIS RACING BOARD**

**IN THE MATTER OF THE ISSUANCE OF ORGANIZATION LICENSES  
AND THE ALLOTMENT OF THOROUGHBRED AND STANDARD BRED RACING  
DATES FOR CALENDAR YEAR 2020**

**ORDER**

This matter came to be heard on the applications of Arlington Park Racecourse, LLC (“Arlington”), Fairmount Park, Inc. (“Fairmount”), and Hawthorne Race Course, Inc. (“Hawthorne”) for organization licenses and 2020 thoroughbred racing dates; and the applications of Suburban Downs, Inc. (“SDI”) and Playing in the Park, LLC (“PIP”) for organization licenses and 2020 standardbred racing dates.

Each applicant submitted a written waiver of the contested case provisions of the Illinois Administrative Procedure Act (5 ILCS 100/1, *et seq.*) with its submitted application and elected to present evidence to the Illinois Racing Board (“Board”) at an open meeting conducted on September 17, 2019 (“2020 Dates Hearing”) at the James R. Thompson Center and concluded on September 24, 2019. The Board heard testimony from witnesses for each of the applicants and considered the applications and exhibits submitted by each of them. In addition, the Board heard public comments from representatives of the Illinois Thoroughbred Horsemen’s Association (“ITHA”) and the Illinois Thoroughbred Breeders and Owners Foundation (“ITBOF”). At the 2020 Dates Hearing, the Board voted on the applications for organization licenses and race dates for 2020. At the next monthly scheduled Board meeting held on October 15, 2019, the Board voted to amend the motion passed at the 2020 Dates Hearing.

It is the public policy of this State to: (a) support and enhance Illinois’ horse racing industry, which is a significant component within the agribusiness industry; (b) ensure Illinois’ horse racing industry remains competitive with neighboring states; (c) stimulate growth within Illinois’ horse

racetrack industry, thereby encouraging new investment and development to produce additional tax revenues and to create additional jobs; (d) promote the further growth of tourism; (e) encourage the breeding of thoroughbred and standardbred horses in Illinois, and (f) ensure that public confidence and trust in the credibility and integrity of Illinois horse racing operations and the regulatory process is maintained. (230 ILCS 5/1.2).

In granting organization licenses and allocating dates for horse race meetings<sup>1</sup>, Section 20(e-5) of the Illinois Horse Racing Act of 1975 ("Act") vests the Board with the discretion to determine an overall racing schedule which is conducive to the best interest of the sport of Illinois horse racing and Illinois public. (230 ILCS 5/20(e-5)). In making this determination, the Board must consider the following factors enumerated in Section 20(e-5):

- The character, reputation, experience and financial integrity of the applicant and of any other person that controls such applicant, directly or indirectly;
- The facilities or proposed facilities for the conduct of horse racing;
- The total revenue to be derived by the State and horsemen from the applicant conducting a race meeting (without regard to Section 32.1);
- The good faith affirmative action plan of each applicant to recruit, train and upgrade minorities in all employment classifications;
- The applicant's financial ability to purchase and maintain adequate liability and casualty insurance;
- The applicant's proposed promotional and marketing budget and prior year's promotional and marketing activities and expenditures for those activities;
- Any agreement among applicants for the issuance of racing dates; and,
- The extent to which applicants meet or exceed other standards adopted by the Board. *Id.*

The Board has carefully reviewed each of the applications, exhibits, and supplemental

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<sup>1</sup> "Horse race meeting" or "race meeting" or "meeting" shall mean the whole period of time, whether consecutive dates or those instances where nonconsecutive dates are granted, for which an organization license to race has been granted to any one organization licensee by the Board (230 ILCS 5/3.07).

information submitted by the applicants; all the testimony and evidence; and the Board has officially noticed other materials in its possession including, but not limited to, the Board’s Annual Reports, past Dates Orders, and the 2020 Staff Report. With respect to each application, the Board has considered all the statutory criteria listed in Section 20(e-5) of the Act. Being fully advised in the premises, the Board makes the following findings of fact and conclusions of law:

1) Each applicant except Playing in the Park demonstrated the financial ability to purchase the necessary casualty and liability insurance. (2020 Apps., Ex. 10). Playing in the Park stated in their application that the “certificate of insurance is pending completion of the buildout.” (PIP App., Ex. 20)

2) The following applicants own or have a lease for the possession of the following racetracks:

<u>ASSOCIATION</u>	<u>TRACK</u>
Arlington Park Racecourse, LLC	Arlington Park
Fairmount Park, Inc.	Fairmount Park
Hawthorne Race Course, Inc.	Hawthorne Race Course
Suburban Downs, Inc.	Hawthorne Race Course

3) None of the applicants is in default in the payment of any obligation or debt due the State.

4) The mileage between Arlington Park and Hawthorne Race Course is 30.4 miles. The mileage between Playing in the Park’s proposed facility (7400 to 7600 W. 183<sup>rd</sup> Street, Tinley Park, Illinois) and Hawthorne Race Course is less than 35 miles.

Fairmount Park is located more than 225 miles from the racetracks at which all other applicants seek to conduct race meetings.

5) Each applicant submitted a summary of its workforce and affirmative action plan to recruit, train and promote female and minority employees. (2020 Apps., Ex. 14); (Staff Report, Ex. 8).

6) The racing dates awarded by the Board for 2019 were as follows:

Arlington Park - 71 live thoroughbred programs and 215 host programs.

Dark host January 1 through January 3; January 6 through January 10; and January 13 through March 5;

April 29 through June 30 - Racing 3 days per week on Fridays, Saturdays and Sundays. Racing on May 27. Dark on May 5 and May 19; and

July 1 through September 30 - Racing 4 days per week on Thursdays, Fridays, Saturdays and Sundays. Racing on September 2 and September 18. Dark on August 29, September 5, September 8, September 15, and September 22 through September 30.

Hawthorne Race Course - 52 live thoroughbred programs and 150 host programs.

Racing on January 4, January 5, January 11 and January 12;

March 6 through April 6 - Racing 2 days per week on Fridays and Saturdays. Dark on March 8 and 9;

April 7 through April 28 - Racing 3 days per week on Thursdays, Fridays and Saturdays;

October 1 through November 30 - Racing 3 days per week Thursdays, Fridays and Saturdays. Dark on October 3, October 4, October 5 and November 28; and

December 1 through December 31 - Racing 2 days per week on Fridays and Saturdays.

Fairmount Park - 41 live thoroughbred programs.

April 16 through September 14 - Racing 2 days per week on Tuesdays and Saturdays. Racing on September 2. Dark on April 20, April 27, August 31 and September 3.

Suburban Downs - 71 live harness programs and 365 host programs.

May 3 through June 15 - Racing 3 nights per week on Fridays, Saturdays and Sundays;

June 16 through July 31 - Racing 4 nights per week on Thursdays, Fridays, Saturdays and Sundays. Dark on July 4;

August 1 through August 31 - Racing 3 nights per week on Fridays, Saturdays and Sundays; and

September 1 through September 22 - Racing 4 nights per week on Thursdays, Fridays, Saturdays and Sundays.

(2019 Dates Order, Par. 23-26); (Staff Report, Ex. 1).

7) The average daily handle (live and simulcast), State revenue generated, commingled handle (e.g., out-of-state handle on Illinois races) and on-track attendance at each 2019 race meeting through August 31, 2019 are set forth below:

<b>THOROUGHBRED</b>	Average Daily Handle	Average Daily State Gov. Revenue*	Average Commingled Handle**
Arlington Park	\$1,580,764	\$23,711	\$1,581,003
Fairmount Park	\$119,577	\$896	\$205,274
Hawthorne Race Course (Spring)	\$1,205,748	\$18,086	\$746,404
<b>STANDARD BRED</b>			
Suburban Downs	\$391,020	\$5,865	\$595,242

\*This reflects only the 1.5 percent pari-mutuel tax and not local government revenue.

\*\*The State of Illinois does not generate revenue on commingled handle.

(Staff Report, Ex. 3)

8) The Board considered the total revenue to be derived by the State and horsemen from the conduct of race meetings, without regard to Section 32.1 of the Act (pari-mutuel tax credit due to paid real estate taxes). Purses earned are a statutory percentage of, and proportionate to, handle generated. (230 ILCS 5/26, 26.2, 29).

9) **Consideration of Financial Integrity.** The Board carefully considered the financial integrity of each applicant. In doing so, the Board took into consideration the economic climate in which the applicants, equine and agricultural participants, and the Board all must operate. The decline in handle and revenues from wagering since 1997 has caused concern over the financial health of each applicant. (2000-2018 Annual Reports).

In assessing the financial integrity of the applicants, the Board has reviewed each applicant's independently audited financial statements (2020 Apps., Ex. 2); (Staff Report, Ex. 5). The Board also considered a Financial Analysis of each applicant by IRB's Chief Fiscal Officer, Vitto Okoye, as well as the General Financial Statement Review Checklist ("Checklist"), which is a summary of the information contained in each applicant's financial statements (Staff Report, Ex. 5). The Checklist includes a Z-score calculation for each applicant, of which the Board took official notice. A Z-score is a tool used to determine the potential risk of a business filing bankruptcy. *Id.* The Z-score factors in components of debt, equity, assets, and liabilities to determine a final Z-score. *Id.*

The Z-score is then compared to historical information to evaluate the potential of bankruptcy. *Id.* A safe Z-score is greater than 2.60 with the potential for bankruptcy reflected by a score less than 1.10. *Id.* The Z-score does not account for collateral or pledged assets that are not reflected on an entity's balance sheet. *Id.* Arlington's current year (2018) Z-score is 3.755 compared to its prior year (2017) Z-score of 3.17; Hawthorne, -11.113 compared to -7.310; Fairmount, 10.722 compared to 8.945; and SDI, -4.787 compared to -0.265. *Id.*

With respect to Hawthorne's negative 11.113 (-11.113) Z-score for calendar year 2018, the Board notes Hawthorne and SDI each received a "clean opinion" and did not receive a "going concern" disclosure from their respective independent auditor. (Staff Report, Ex. 5). A lease agreement between Hawthorne and SDI for use of Hawthorne Race Course requires SDI to pay substantially all of SDI's profits, as defined, to Hawthorne as additional rents for use of the facility. (SDI App., Ex. 2, Consolidated Financial Statements for 2018, Note 16).

10) Members of the Board have visited each Illinois racetrack and are familiar with the facilities and accommodations of each applicant. The Board notes the following about Illinois' three racetracks:

**Arlington Park**

- a) Arlington Park has a 1 1/8-mile main course with a synthetic racing surface (Polytrack) and a one-mile turf course. Both are ideal for thoroughbred racing.
- b) For its main course, Arlington utilizes the Fontana safety rail, which is preferred by thoroughbred jockeys.
- c) Arlington's public facilities and accommodations are superior for warm weather racing.
- d) Arlington's backside facilities are conducive for warm weather racing.
- e) Arlington has sufficient stall space to accommodate all race dates requested.

**Fairmount Park**

- a) Fairmount Park has a one-mile dirt course and utilizes the Fontana Safety rail, which

is preferred by thoroughbred jockeys.

- b) Fairmount's public facilities and accommodations are adequate.
- c) Fairmount's backside facilities are adequate.
- d) Fairmount has sufficient stall space to accommodate all race dates requested.

#### **Hawthorne Race Course**

- a) Hawthorne's accommodations for the public are adequate for all weather conditions.
- b) Hawthorne Race Course has a one-mile dirt course, equipped with lights, and a 7/8-mile turf course, which is ideal for thoroughbred racing.
- c) Hawthorne uses a removable, modified Fontana safety rail system, for thoroughbred racing and the "hubless hubrail" for standardbred racing. Thoroughbred jockeys prefer the Fontana safety rail and standardbred drivers prefer the hubless hubrail.
- d) Hawthorne's backside facilities and accommodations are adequate for all weather conditions. Hawthorne provides and maintains off-site housing for backstretch workers.
- e) Hawthorne has sufficient stall space to accommodate all race days requested.

#### **STANDARD BRED**

11) **Suburban Downs, Inc. at Hawthorne Race Course** in Stickney, Illinois has been in the standardbred horse racing business on and off since 1956. Hawthorne Race Course has a one-mile limestone course, which is excellent for standardbred racing.

12) Tim Carey, President of Hawthorne and SDI testified in support of the 2020 joint agreement between Arlington, Hawthorne and SDI ("Joint Agreement") and proposed racing schedule with Hawthorne, SDI and Arlington<sup>2</sup>. (9/17/19 Tr., 32-42); The Joint Agreement stated that the schedule of dates proposed and agreed upon by the three applicants would serve the best interests of racing. (Staff Report, Ex. 1) Mr. Carey provided testimony that they were undergoing a \$450 million development and applying for a license from the Illinois Gaming Board. (9/17/19 Tr. 32). Mr. Carey

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<sup>2</sup> Although the Joint Agreement is between Arlington, Hawthorne and SDI because they are the only racetracks within 100 miles of each other (see Section 21(b) of the Act), Fairmount has worked with the aforementioned applicants and all Illinois racetracks support the schedules presented in their respective applications. This is further corroborated by the testimony they provided to the Board for 2020 Race Dates.

further testified that the dates they proposed were in agreement with both horsemen's groups due to the construction time frame. (9/17/19 Tr. 87). Mr. Carey advised, regarding race dates at Hawthorne and SDI for 2020 and the future,

“we are submitting, with the support of both horsemen associations, a racing schedule that will continue to offer live race dates at Hawthorne for both breeds in 2020, while also allowing for immediate investment into and development of or facility for the future of Illinois horseracing. Additionally, this schedule will allow us to accrue thoroughbred purse money during springtime dark host periods that can be immediately benefit horsemen during the fall meet. But make no mistake, this is a temporary racing calendar for a transitional year in the ongoing history of Illinois Racing. With the completion of a casino we intend to host some of the most competitive racing in the country at Hawthorn Race Course.”

(Hawthorne App, Intro Ltr); (Staff Report, Ex. 1). The Joint Agreement would provide for standardbred racing three (3) to four (4) days per week for five (5) months. (Staff Report, Ex. 1). In its 2020 application, SDI proposed a marketing and promotions budget of \$13,520. (SDI App., Ex. 13); (Staff Report, Ex. 7). In 2018, actual marketing expenditures were \$66,800. *Id.*

The Board commends Arlington, Hawthorne and SDI in coming together for a fifth straight year and presenting the Joint Agreement for 2020 race dates with the goal of sustaining themselves, pursuing joint marketing efforts and willingness to work with the horseman associations to ensure the best interests of Illinois horse racing. (9/17/19 Tr. 46, 49, 57). Section 21(b) of the Act provides in pertinent part:

[t]he Board may exercise discretion in granting racing dates to qualified applicants different from those requested by the applicants in their applications. However, if all eligible applicants for organization licenses whose tracks are located within 100 miles of each other execute and submit to the Board a written agreement among such applicants as to the award of racing dates, including where applicable racing programs, . . . the Board may grant such dates and programs to such applicants as so agreed by them if the Board determines that the grant of these racing dates is in the best interests of racing. The Board shall treat any such agreement as the agreement signatories' joint and several applications for racing dates

during the term of the agreement.

(230 ILCS 5/21(b)). The Board finds the granting of racing dates requested pursuant to the Joint Agreement is in the best interests of Illinois horse racing. For 2020, SDI has requested 92 nights of standardbred racing to be conducted at Hawthorne Race Course from February 15 through February 29, 2020, two nights per week and March 1 through September 20, 2020, three nights per week (Staff Report, Ex. 1).

13) **Playing in the Park, LLC**, is an Illinois limited liability company formed on July 23, 2019 with a principal address of 5277 Trillium Blvd, Hoffman Estates, Illinois. Ownership of the applicant is Alisa Heidner, 50% and Suburban Downs, Inc. 50%. Managers of the LLC are Rick Heidner and Tim Carey.

Pursuant to Section 19.5 of the Illinois Horse Racing Act, the Board shall issue an organization license limited to standardbred racing to a racetrack located in one of the following townships of Cook County: Bloom, Bremen, Calumet, Orland, Rich, Thornton, or Worth. This organization license shall not be issued within a 35-mile radius of another organization license issued by the Board (Hawthorne) unless the person having operating control has given written consent to the applicant (PIP). The organization license (PIP) shall be granted upon application, and the licensee shall have all of the current and future rights of existing Illinois racetracks, including, but not limited to, the ability to obtain an inter-track wagering license, the ability to obtain inter-track wagering location licenses, the ability to obtain an organization gaming license pursuant to the Illinois Gambling Act with 1,200 gaming positions, and the ability to offer Internet wagering on horse racing.

The consent required by Section 19.5 of the Illinois Horse Racing Act has been given and is on file with the Board. The 280-acre property located at 7400 -7600 W. 183<sup>rd</sup> Street, Tinley Park, Illinois is owned by the State of Illinois and managed by the Department of Central

Management Services (CMS). Playing in the Park, LLC, submitted with their application a “Letter of Intent” between Heidner Properties and the Village of Tinley Park regarding the acquisition and redevelopment of the property. The property is located in the Orland Township.

Pursuant to Section 21(a) of the Act, the Board shall examine the application within 21 days after the date allowed for filing with respect to their conformity with the Act and the rules and regulations prescribed by the Board. Within 21 days of the receipt of the application, the Board advised the applicant of the deficiencies of the application. If it is found to be in compliance with the Act and the rules and regulations of the Board, the Board may then issue an organization license.

On Wednesday, July 31, 2019, the Illinois Racing Board received a completed application from Playing in the Park, LLC. On August 20, 2019, Board staff sent an email to Playing in the Park's registered agent identifying exhibits in the application that were either deficient or required further clarification. On August 29, 2019, the Board received additional information and clarification from the registered agent.

In support of its application and 2020 proposed dates, Tim Carey and Rick Heidner, managers of Playing in the Park, LLC provided testimony about the investment they are making and the proposed new race track and racing schedule. (9/1719 Tr. Pg. 43-77). Mr. Carey testified that due to the construction schedule they intend to start racing in “December, certainly with the intent, though, that December would lead into January, February” of 2021 and would be a part of their 2021 dates application. Mr. Carey further provided that for 2020 the temporary facility will have a 200-stall barn and ultimately this race track will be a ship-in, ship-out facility. (9/1719 Tr. Pg. 62).

However, on October 15, 2019, the Board received a copy of a letter from CMS addressed to the Village of Tinley Park indicating that the State would not be selling the property at this

time.

## **THOROUGHBRED**

14) **Fairmount Park**, located in Collinsville, Illinois provides racing opportunities for downstate Illinois horsemen and racing fans. Fairmount has experienced financial difficulty in recent years that has caused it to voluntarily reduce race days. Under Section 26(g) (7.1) of the Act, Fairmount must apply for at least as many live racing days as it conducted in calendar year 2000 in order to qualify for thoroughbred purses from simulcast and intertrack wagering. (230 ILCS 5/26(g) (7.1)). Fairmount has met this requirement by requesting 150 race dates for 2020. (Fairmount App., Intro Ltr). The statute does not, however, require the Board to award any specific number of live racing days to Fairmount. *Id.* As they have done for the last twelve years, Fairmount and the HBPA submitted a joint request for 2020 thoroughbred race dates from March 3 through September 7 with a minimum of seven (7) races per day. (Staff Report, Ex. 1). Brian Zander, President of Fairmount Park and Jim Watkins, President of Illinois HBPA provided joint testimony in support of Fairmont's dates proposal. Mr. Zander testified,

“When we sat down with the horsemen in talking about 2020, we said, Well, what exactly can we do? Because there is a provision in the Act that if the horsemen and the track agree on a different number of days, then the Board can permit that and can allow that. So this year, we ended up racing 40 days, roughly 7 races a day. We certainly want to increase it for 2020, and because that's really what the intent of the Act is. And so sitting down with Jim and his board of directors, we came up with a schedule that would actually increase racing by 50 percent, which would go from 40 days to 60 days just for the year 2020.”

(9/17/19 Tr., 78-79). In its 2020 application, Fairmount proposed a marketing and promotions budget of \$345,396. (Fairmount App., Ex. 13); (Staff Report, Ex. 7). In 2018, actual marketing expenditures were \$340,361. *Id.*

15) Sections 20(e-3) and 20(e-4.5) requires an organization licensee in Madison County to run at least 700 thoroughbred races each year unless, among other reasons, there is an agreement in

place between the licensee and the breed association representing the largest number of thoroughbred owners and trainers who race horses at the licensee's racing meeting so long as the agreement does not compromise the integrity of the sport of horse racing. The HBPA agreed with Fairmount to conduct fewer than 100 live days of racing at Fairmount in 2020, thus, allowing Fairmount to qualify for an intertrack wagering license and inter-track wagering location licenses pursuant to Section 26(h)(1)(iii)(B) of the Act. (9/17/19 Tr., 79, 83); (Fairmount & HBPA Ltr dated 8/29/19); (Staff Report, Ex. 1). The Board determines that the agreement between HBPA and Fairmount does not compromise the integrity of the sport of horse racing and satisfies the statutory requirements of the Act.

The agreement between Fairmount Park and the HBPA, provides in relevant part:

At the close of business on, August 25, 2019 the Horseman's Purse balance was overpaid, \$896,294

(Fairmount & HBPA Ltr dtd 8/29/19); (Staff Report, Ex. 1). Mr. Zander and Mr. Watkins presented that the factors that contribute to Fairmount running fewer than 100 days of racing include: the average field size in 2019 so far is 6.07 starters per race, the lowest it has ever been; and, Fairmount being able to increase its number of racing days compared to 2019 by starting in the Spring due to Hawthorne's decision not to apply for spring racing dates for 2020. Despite these difficulties, Fairmount continues to work with its horsemen and provide better racing conditions, as racing two (2) days per week is difficult for all parties, including the horsemen and their ability to keep help for the equine athletes. (9/17/19 Tr., 80). Mr. Zander added that because a two (2) day per week schedule was tough on everyone, Fairmount proposed six (6) Fridays beginning on June 5, 2020 so that "if we edge into a three-day week, that might be one of the ways that we eventually get to 700 races, which is what the Act calls for." (9/17/19 Tr., 80)

Pursuant to Section 26(h)(1)(iii)(C) of the Act, the Board finds because of the insufficient level of purses available, that extraordinary circumstances exist, and that it is in the best interests

of the sport of Illinois horse racing and Illinois public to conduct fewer than 100 live days of racing at Fairmount. (9/17/19 Tr., 78-83); (Fairmount & HBPA Ltr dtd 8/29/19); (Staff Report, Ex. 1).

16) **Hawthorne Race Course** in Stickney, Illinois has been in the thoroughbred horse racing business for 110 years. Hawthorne Race Course has a one-mile dirt course and a 7/8-mile turf course, which are both excellent for thoroughbred racing.

17) Representatives from Hawthorne and SDI (Tim Carey, President and Robert Molaro, Legislative Consultant) presented their Joint Agreement to the Board. (9/17/19 Tr., 86-97); (Staff Report, Ex. 1). Mr. Carey advised the Board regarding spring thoroughbred racing at Hawthorne that, in consultation with the ITHA, they determined that it would be imprudent to host a spring thoroughbred meet due to construction significantly disrupting racing, training and general care of these horses.” (Hawthorne App, Intro Ltr); (9/17/19 Tr., 87) The Joint Agreement proposes 37 live and 151 dark host days for Hawthorne. (Staff Report, Ex. 1). In its 2020 application, Hawthorne proposed a marketing and promotions budget of \$106,264. (Hawthorne App., Ex. 13); (Staff Report, Ex. 7). The total marketing expenditures for 2018 were \$352,548. *Id.*

The Joint Agreement provides for live racing in Illinois for twelve (12) months in 2020 (Staff Report, Ex. 1). For 2020, Hawthorne has requested 37 thoroughbred race dates, January 3 and 4 and from October 1 through December 31, racing three days per week on Thursdays, Fridays and Saturdays. (Staff Report, Ex. 1); (Hawthorne App.).

18) **Arlington Park**, located in Arlington Heights, Illinois is viewed nationally and internationally as a premier racing facility and has been successful in attracting world-class horses and horsemen. The Board has historically awarded Arlington a thoroughbred race meeting that spans the entire summer. Arlington’s on-track attendance has traditionally been the strongest in the state. Arlington’s stakes program includes its centerpiece, the Grade I Arlington Million, which generates substantial fan interest in Illinois, nationwide, and internationally. Arlington has a

synthetic surface race track, installed in 2007 and a first-class turf course. Arlington requested 68 live race dates in 2020. (Arlington App.); (Staff Report, Ex. 1). Arlington's 2020 application proposed a marketing and promotions budget exceeding \$1.6 million and 2018 actual expenditures exceeded \$1.6 million. (Arlington App., Ex. 13); (Staff Report, Ex. 7).

19) Tony Petrillo from Arlington presented the Joint Agreement to the Board. (9/17/19 Tr., 98-143). The Joint Agreement proposes 68 live and 215 dark host days for Arlington in 2020. (Staff Report, Ex. 1). The Joint Agreement designates dark host track status (no live racing) from January 5 through March 2. Mr. Petrillo testified during his presentation that they signed the Joint Agreement "under the intentions that it is within the best interest of racing in 2020. (9/17/19 Tr., 101). Mr. Petrillo explained,

[i]f Arlington is granted the race dates for which it has applied, each live race date conducted at Arlington will continue to provide significant revenues for the IRB to regulate racing and will provide racing opportunities and attractive purses for the owners of thoroughbred horses.

(Arlington App, Intro Ltr); (Staff Report, Ex. 1).

20) Section 3.075(a) needs to be waived so an Organization Licensee<sup>3</sup> can be eligible for simulcast host track status through December 31, 2020, if racing fewer than five (5) days per week and fewer than nine (9) races per day in 2020. "Host track" is defined in Section 3.075(a) of the Act. (230 ILCS 5/3.075(a)).

21) The Illinois Horsemen's Benevolent and Protective Association ("HBPA") did testify at the 2020 Dates Hearing and submitted a joint letter and schedule for 2020 race dates with Fairmount Park. (9/17/19 Tr., 78-86); (Fairmount & HBPA Ltr dtd 8/29/19); (Staff Report, Ex. 1). The joint letter included the HBPA's consent to Fairmount, so Fairmount could run less than 100 race days

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<sup>3</sup> "Organization Licensee" means any person receiving an organization license from the Board to conduct a race meeting or meetings. (230 ILCS 5/3.09).

in 2020. *Id.*

22) The Board finds that although total Illinois wagering was down in 2019 by 4.6%, this was far less than the decline in live race programs of 15.3% (209 programs in 2018 through September 1 vs 177 in 2019 through August 31). Out of state wagering on Illinois Races was down 17.8% which was slightly more the reduced number of programs of 15.3%. This year the increase in total ADW tax of 1.9% over last year was not enough to make up for the loss of 8.3% of tax revenue from brick and mortar locations over last year. Suburban downs was the only meet year over year that showed an increase in average all source handle of 1.9%.

23) The Board has considered each of the applications consistent with the factors enumerated in Section 20(e-5) of the Act. Considering all the evidence, the Board finds that adopting the Joint Agreement is necessary to sustain and promote Illinois' horse racing industry; ensure Illinois' horse racing industry remains competitive with neighboring and other states; to ensure the integrity of Illinois' horse racing; and, to serve the best interests of the Illinois public. (230 ILCS 5/21(b)). Consistent with its obligation to act in the best interest of the sport of Illinois horse racing and Illinois public; to determine an overall schedule which enhances and supports Illinois' horse racing industry, ensures that Illinois' horse racing industry remains competitive with neighboring and other states, promotes tourism, stimulates growth within Illinois' horse racing industry, encourages the breeding of horses in Illinois, and ensures that public confidence and trust in the credibility and integrity of Illinois' horse racing operations; and, the regulatory process is maintained, based on the applications, exhibits, and testimony,

**IT IS HEREBY ORDERED FOR CALENDAR YEAR 2019:**

24) Sixty (60) days of thoroughbred racing are allotted to Fairmount Park Inc. to be conducted at Fairmount Park from March 3 through May 31, racing two days per week on Tuesdays and Saturdays. June 1 through July 11, racing three days per week on Tuesdays, Fridays and Saturdays.

July 12 through September 7, racing two days week on Tuesdays and Saturdays. Dark September 5, racing September 7. (9/24/19 Tr., 52-53). Fairmount shall card no less than seven races per race program. *Id.* Post-time shall be 1:00 p.m. on Mondays and Tuesdays. On Saturdays 1:00 p.m. or 7:30 p.m. On Fridays 7:30 p.m. (Fairmount Agreement letter); (Staff Report, Ex. 1).

25) Sixty-eight (68) days of thoroughbred racing are allotted to Arlington Park Racecourse, LLC to be conducted at Arlington Park. Arlington is awarded dark host track status from January 5 through March 2. April 27 through May 31, racing two days per week on Fridays and Saturdays and May 10. Dark April 27 through April 30 and May 8. *Id.* June 1 through July 12, racing three days per week on Fridays, Saturdays, and Sundays. July 13 through September 6, racing four days per week Thursdays, Fridays, Saturdays, and Sundays. Dark September 3 and 4. September 7 through September 30, racing three days per week on Thursdays, Fridays, and Saturdays. Dark September 27 through September 30. Racing September 23. (9/24/19 Tr. 53-54) Post-times shall be 1:15 p.m. to 1:25 p.m., except Kentucky Derby Day and Million Day, post times shall be 12 noon to 1:20 p.m. Post-time on Fridays shall be 3:15 p.m. (Arlington App., Pg. 1). Arlington shall conclude its Friday afternoon program (last race declared official) by 7:30 p.m. so as not to conflict with SDI's evening program. Arlington shall operate as the Illinois host track for the entirety of its race meeting, even on days and during weeks when no live racing occurs.

26) Thirty-seven (37) days of thoroughbred racing are allotted to Hawthorne Race course Inc., to be conducted at Hawthorne Race Course on January 3 and 4. Hawthorne is awarded dark host track status from March 3 through April 26. October 1 through December 31, racing three days per week, Thursdays, Fridays, and Saturdays. Dark October 1, November 26, December 24, 25, and 31. (9/24/19 Tr. 54) During live racing, post-times shall be 3:10 p.m. October 2 through November 28 and 12:50 p.m. December 3 through December 26 (Hawthorne App., Pg. 1). On March 8 through March 12, March 15 through March 19, March 22 through March 26 and March 29 and 30, purse

commissions earned by Hawthorne shall be transferred to Arlington's purse account per the Joint Agreement. *Id.*; (Staff Report Ex. 1).

27) Ninety-two (92) nights of standardbred racing are allotted to Suburban Downs Inc. to be conducted at Hawthorne Race Course. February 15 through February 29, racing two nights per week on Saturdays and Sundays. March 1 through September 20, racing three nights per week on Fridays, Saturdays, and Sundays. Dark April 12. (9/24/19 Tr. 54-55) In addition, SDI shall operate as the Illinois nighttime host track for the entirety of its race meeting from January 1, 2020-December 31, 2020, even on days and during weeks when no live racing occurs. Post-time shall be 7:20 p.m. (SDI App., Pg. 1).

28) Due to the fact that Playing in the Park, LLC cannot secure the property that was part of its application and the securing of the property was to be a condition precedent to licensure, the consideration of their application cannot proceed.

29) No Organization Licensee receiving racing dates pursuant to this order shall be deemed to have a vested interest, property right or future expectation to receive an organization license in any subsequent year as a result of the granting of an organization license for the calendar year 2020. (230 ILCS 5/20(f)).

30) Each Organization Licensee shall adhere to their published post times for each race, except when minor adjustments are necessary; provided, however, Board staff is sent reasonable written notice of such change.

31) Each Organization Licensee shall maintain an open backstretch for the entirety of its respective race meeting and sufficient temporary living units for back stretch workers and stall space to accommodate horses for all race dates awarded. (9/24/19 Tr. 56). Temporary living units shall be consistent with the applicable state and local occupancy statutes and ordinances.

32) Each Organization Licensee shall have a written contract with their respective horsemen's

association no later than ninety (90) days before the commencement of their respective race meeting. If no agreement is reached by the 90-day deadline, the Organization Licensee shall immediately notify the Board's Executive Director who shall notify the Board's Chairman, who will either serve as a mediator or designate a mediator for the resolution of the dispute. (9/24/19 Tr. 55)

33) Pursuant to Section 3.075(a) of the Act, each organization licensee shall have a written agreement with the respective horsemen's association to allow a lesser schedule than five days of racing and less than nine races per day. (9/24/19 Tr. 55-56)

34) On 17 non-racing days, March 8 through 12, March 15 through 19, March 22 through 26, and March 29 and 30, purse commissions earned by Hawthorne shall be transferred to Arlington's purse account, per the Joint Agreement.

35) Board staff may provide separately a list of general maintenance items that must be completed; property, plant or equipment obtained and/or installed; or services provided, which in the sole discretion of Board staff, is required to conduct, regulate, or promote horse racing at its facilities.<sup>4</sup> Each Organization Licensee must have the work completed, items obtained and/or installed, or services implemented by the deadline set by Board staff and to its sole satisfaction, including any written extensions.

36) Each Organization Licensee shall:

- a) Post signage and print a statement in the racing program pursuant to the following statutory requirements:
  - i. assistance with gambling problems. (230 ILCS 5/34.1); and
  - ii. delinquent child support. (230 ILCS 5/34.2).
- b). Make available no less than two automated external defibrillators (AEDs) that are operational and accessible when backstretch workers are present at their racing facilities. At least one AED shall be placed in the paddock and at least one on the backstretch. (230 ILCS 5/31.2).

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<sup>4</sup> "Facilities" means the offices, racetracks and all related grounds and structures, and other building improvements or fixtures associated with the activities of a licensee under this Act. (230 ILCS 5/3.21)

- c). **Post required Search and Seizure signage required pursuant to section 200.40(c) of the Board's Rules. (11 Ill. Admin. Code 200.40(c)).**

**37) Each Organization Licensee shall establish and maintain security staffing at a level that is satisfactory to the Board and ensure compliance with the Act and the Board's Rules, including, but not limited to, section 15(a) of the Act and sections 502.30, 1408.60 and 1424.270 of the Board's Rules. (230 ILCS 5/15(a)); (11 Ill. Admin. Code 502.30, 1408.60, and 1424.270).**

**38) Each Organization Licensee shall furnish to the Board annually the following inspection reports:**

- a) **A report from the Health Department of the municipality in which the track is located, or the Health Department of the County or State if the municipality lacks jurisdiction. This inspection report shall include, but not be limited to, an inspection of kitchen and concession equipment, water supply, sewage, drainage, housing and sanitation facilities of both the backside and the public areas. This report shall state that the facilities inspected at the particular track are in satisfactory compliance with the applicable health code provisions.**
- b) **A report from the Building Department of the municipality in which the track is located, or the Health Department of the County or State if the municipality lacks jurisdiction, stating that all the buildings located on the physical plant of the particular track are in satisfactory compliance with the applicable building code provisions.**
- c) **A satisfactory report from the State Fire Marshal's Office. This report shall detail any corrective action required in the areas of fire prevention, detection, suppression, construction, or health and safety addressed by the State Fire Marshal, the Board's Fire Safety rules (11 Ill. Adm. Code 403), or any state statutes which may be applicable. If the track appeals the findings of the Office of the State Fire Marshal, a copy of said appeal shall be filed with the Board in lieu of the Statement of Satisfactory Compliance. All tracks shall keep Board staff apprised of the status of any appeals.**
- d) **Copies of all interim inspection reports, citing code and fire rule violations, if any, shall be submitted to the Board by the Organization Licensee within three (3) working days of receipt by the Organization Licensee. In the event of successive race meetings of the same breed at the same track, only the first Organization Licensee need submit the inspection reports required in this paragraph, unless any applicable rules require additional inspections.**

39) Prior to the issuance of an organization license, each Organization Licensee (including inter-track wagering licensees, when applicable) shall file an admission tax bond in the amount of \$25,000, except Arlington, which shall be \$50,000, and a pari-mutuel tax bond in the amount of \$200,000. (230 ILCS 5/21(e), 25(b)). However, if an organization license secures an organization gaming license, the amount of the bond required under section 230 ILCS 5/21(e) shall be \$500,000. (230 ILCS 5/21(e)). Said bonds shall be filed with the Board not less than 20 calendar days prior to each applicant's race meeting. (230 ILCS 5/20(h)).

40) Each Organization Licensee, within 10 (ten) days of receipt of this final executed Dates Order, shall file with the Board an acceptance of the award, and pay to the Board one hundred ten dollars (\$110) for each racing date awarded. *Id.*

41) Each thoroughbred Organization Licensee shall submit its proposed stakes schedule to the Board, including proposed purses, at least sixty (60) days prior to the first (1st) live race day of its race meeting.

42) Each Organization Licensee accepting thoroughbred race dates under this order shall publish condition books covering at least the first seven (7) days of the race meeting and make them available to horsemen at least three (3) weeks prior to the first (1st) live race day of its race meeting; except Hawthorne and Fairmount, which shall provide such books no later than six (6) weeks prior to the first (1st) live race day of its race meeting. Thereafter, condition books shall be provided no later than three (3) weeks prior to the effective date of the first day of racing provided in such subsequent condition books.

43) Each Licensee<sup>5</sup> shall make pari-mutuel settlements for a fifteen (15) day cycle, mutually agreed upon by the 2020 Organization Licensees. Pari-mutuel settlements include, but are not

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<sup>5</sup> "Licensee" means an individual organization licensee, an inter-track wagering licensee, an inter-track wagering location licensee, or an advance deposit wagering licensee, as the context of this Act requires. (230 ILCS 5/3.20).

limited to, track commissions, purse commissions, breakage, surcharges, and interstate host fees. Custodial outs shall be settled on a monthly cycle.

44) A completed audit of the financial transactions and condition of the Licensee's total operations, including presentation of a two (2) year comparative analysis, shall be received by the Board within one hundred twenty (120) days after the end of its fiscal year (e.g. April 30, 2020). (230 ILCS 5/9(g)).

45) Each Organization Licensee shall submit its emergency medical services plan required pursuant to Board's Rules section 1305.140 or 1424.170 to the Board, for its approval, thirty (30) calendar days prior to the start of its race meeting. Each plan shall also be certified by the Illinois Department of Public Health, Division of Emergency Medical Services. (11 Ill. Admin. 1305.140, 1424.170).

46) The failure of any Organization Licensee to satisfy any of the requirements of this order to Board staff's satisfaction may result in civil penalties being assessed against them, rescission of their racing dates, and revocation of their organization license by the Board. (230 ILCS 5/9(1)).

47) All notices required to be given pursuant to this Dates Order to the Board or its designee, shall be in writing and addressed to the Parties or their successors by sending via electronic mail ("e-mail") transmission. Notices sent via e-mail, shall be effective as of the date and time of the e-mail transmission when sent as follows:

**Executive Director**  
e-mail: [domenic.dicera@illinois.gov](mailto:domenic.dicera@illinois.gov)

**with a copy to:**

**General Counsel**  
e-mail: [john.gay@illinois.gov](mailto:john.gay@illinois.gov)

48) Attached as Appendix A and made a part hereof is a chart of the 2020 race dates awarded.

49) The Board's Commissioners unanimously approved the 2020 racing schedule by a vote of 9 to 0. (9/24/19 Tr. 56-57)

50) This is a final administrative decision subject to the Administrative Review Law. (230 ILCS 5/46). This decision may be challenged by the filing of an action for administrative review within thirty-five (35) days of deposit in the U.S. mail. (735 ILCS 5/3-103).

51) This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one document. Signatures may be transmitted by e-mail, facsimile, or hard copy.

52) Per 5 ILCS 100/10-50(b) and Board Rule 205.60, the Board and below parties of record to the 2020 Dates Hearing may be served with pleadings, notices or service of process for any review or further proceedings, as follows:

Richard Duchossois  
Arlington Park Racecourse, LLC  
2200 West Euclid Avenue  
Arlington Heights, Illinois 60006

Tony Petrillo, President  
Arlington Park Racecourse, LLC  
2200 West Euclid Avenue  
Arlington Heights, Illinois 60006

Brian Zander, President  
Fairmount Park, Inc.  
9301 Collinsville Road  
Collinsville, Illinois 62234

Domenic DiCera, Executive Director  
Illinois Racing Board  
100 West Randolph Street, Suite 5-700  
Chicago, Illinois 60601

Tim Carey, President  
Hawthorne Race Course, Inc.  
Suburban Downs, Inc.  
3501 South Laramie Avenue  
Cicero, Illinois 60804

Alisa Heidner  
Playing in the Park, LLC  
5277 Trillium Blvd.  
Hoffman Estates, IL 60192

[Signature Pages to Follow]

## APPENDIX A

### 2020 LIVE RACING DATES SCHEDULE


#### THOROUGHBRED

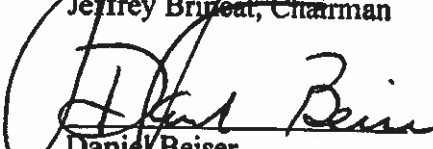
	<u>Host Days</u>	<u>Live</u>	<u>Dark</u>
<b>Arlington Park</b> April 27 through September 30	215	68	147
<b>Fairmount Park</b> March 3 through September 7	n/a	60	n/a
<b>Hawthorne Race Course</b> January 3 and January 4 October 1 through December 31	151	37	114


#### STANDARD BRED

	<u>Host Days</u>	<u>Live</u>	<u>Dark</u>
<b>Suburban Downs</b> February 15 through September 20	366	92	274

**BOARD ORDER SIGNATURES  
RACING DATES FOR 2020**

  
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Jeffrey Brineat, Chairman

  
\_\_\_\_\_  
Daniel Beiser

  
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Marcus Davis

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Thomas McCauley

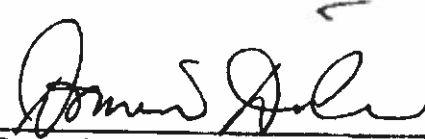
  
\_\_\_\_\_  
Arlene Mulder

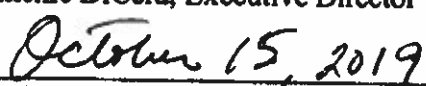
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Edgar Ramirez

  
\_\_\_\_\_  
Benjamin Reyes

\_\_\_\_\_  
Gregory Sronce

Action taken by the Board at its  
September 24, 2019 meeting

  
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Domenic DiCera, Executive Director

  
\_\_\_\_\_  
Date Executed

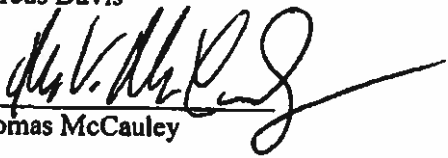
**BOARD ORDER SIGNATURES  
RACING DATES FOR 2020**

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Jeffrey Brincat, Chairman

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Daniel Beiser

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Marcus Davis

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Thomas McCauley



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Arlene Mulder

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Edgar Ramirez

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Benjamin Reyes

\_\_\_\_\_  
Gregory Sronce

Action taken by the Board at its  
September 24, 2019 meeting

\_\_\_\_\_  
Domenic DiCera, Executive Director

\_\_\_\_\_  
Date Executed

**BOARD ORDER SIGNATURES  
RACING DATES FOR 2020**

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Jeffrey Brincat, Chairman

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Daniel Beiser

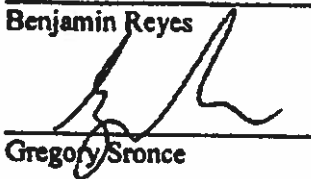
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Marcus Davis

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Thomas McCauley

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Arlene Mulder

  
Edgar Ramirez

\_\_\_\_\_  
Benjamin Reyes

  
Gregory Sronce

Action taken by the Board at its  
September 24, 2019 meeting

\_\_\_\_\_  
Domenic DiCera, Executive Director

\_\_\_\_\_  
Date Executed