

In the Matter of:

James Balars
_____ /

Exclusion and Ruling Off Order

James Balars (Balars) is a licensee operating under the authority of the Horse Racing Law of 1995¹ (Racing Act). The Executive Director of the Michigan Gaming Control Board (Board) is the person charged by the Michigan Legislature with the powers and duties to regulate horse racing under the Racing Act.² The Executive Director has the power and duty to protect and preserve the integrity of horse racing in the State of Michigan and to protect the public health, safety and welfare.³

An investigation by the then Office of the Racing Commissioner in collaboration with the Swartz Creek Police Department revealed that Balars, from 2008 through 2010, embezzled as much as \$273,000.00 from Sports Creek Raceway, a licensed pari-mutuel race track under the Board's jurisdiction. During that time period, Balars handled all financial transactions at the Sports Creek Raceway, including bank deposits. But rather than making all bank deposits on behalf of Sports Creek Raceway, Balars kept the monies for his own personal use. The thefts went undetected for two years.

Section 7 of the Racing Act provides the Executive Director with the authority to issue sanctions against a licensee, including revocation or suspension of a license or exclusion from racetrack grounds.⁴ Additionally, the Executive Director may, for cause, remove any employee or official involved in or having to do with horse racing, simulcasting, or pari-mutuel wagering being conducted at a licensed race meeting.⁵ Administrative Rule 1130 provides that a person, whether licensed or unlicensed, may be ruled off for a conviction involving fraud or deception in the conduct of racing or pari-mutuel wagering or in the reporting of pari-mutuel gambling winnings to federal or state government tax authority.⁶ Further, the Rule 1130 provides that a person may be

¹ MCL 431.101 *et seq.*

² Executive Order No. 2009-45 transferred the powers and duties of the Office of Racing Commissioner to the Executive Director of the Michigan Gaming Control Board. The Order provided that all powers and duties transferred from the Office of Racing Commissioner must be performed under the direction of the Executive Director who is to perform all functions and exercise all powers of the Racing Commissioner including regulating pari-mutuel wagering, licensing, issuing final agency decisions on all contested case hearings, and the promulgation of agency rules.

³ MCL 431.307; MCL 24.292.

⁴ MCL 431.307(3).

⁵ MCL 431.307(6).

⁶ R 431.1130(1)(d).

ruled off if the person's participation in an activity or conduct reasonably threatens or undermines public confidence in the integrity of racing or pari-mutuel wagering in the state.⁷

On October 11, 2010, Balars plead guilty to Embezzlement over \$1000 > \$20,000, a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the money or property embezzled, whichever is greater, or both imprisonment and a fine.⁸


Maintaining Balars, a convicted felon for Embezzlement, as a licensee of a licensed pari-mutuel race track under the Board's jurisdiction, completely undermines racetrack operations, does not advance the state's economic interests in the horse racing business, and undermines the public confidence in the integrity and regulation of horse racing and pari-mutuel wagering. There exists a strong public interest justifying strict and close regulation of horse racing and its operations. Horse racing is accompanied by legalized gambling, making the activity especially susceptible to fraud and corruption.

Therefore, IT IS ORDERED THAT:

- James Balars is suspended from any and all licensure in the State of Michigan under the Racing Act.
- James Balars is excluded from access to the grounds of all race meeting licensees, simulcast and live racing, and all facilities under the jurisdiction of the Executive Director of the Michigan Gaming Control Board.
- James Balars is prohibited from working for any person or entity holding a race meeting license issued under the Racing Act.
- James Balars is prohibited from working for any person holding an occupational licensee issued under the Racing Act.

Upon written request, Mr. Balars has a right to a hearing de novo before the Executive Director. If an appeal is requested, the proceedings will be commenced and determined.⁹

IT IS SO ORDERED THIS 9 DAY OF November 2010


Richard Kalm, Executive Director

Date: November 9, 2010

⁷ R 431.1130(1)(q).

⁸ MCL 750.174(4).

⁹ See MCL 431.307(3) and R 431.1130(3).